WV Retail Food Program
New Sanitarian Training

2013 Food Code
Chapter 3
Food

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## 2013 Food Code

### Chapter 3

#### Food

<table>
<thead>
<tr>
<th>Section</th>
<th>Title</th>
<th>Subparts</th>
</tr>
</thead>
<tbody>
<tr>
<td>3-1</td>
<td>CHARACTERISTICS</td>
<td>3-101 Condition</td>
</tr>
<tr>
<td>3-2</td>
<td>SOURCES, SPECIFICATIONS, AND ORIGINAL CONTAINERS AND RECORDS</td>
<td>3-201 Sources, 3-202 Specifications for Receiving, 3-203 Original Containers and Records</td>
</tr>
<tr>
<td>3-3</td>
<td>PROTECTION FROM CONTAMINATION AFTER RECEIVING</td>
<td>3-301 Preventing Contamination by Employees, 3-302 Preventing Food and Ingredient Contamination, 3-303 Preventing Contamination from Food Used as a Coolant, 3-304 Preventing Contamination from Equipment, Utensils, and Linens, 3-305 Preventing Contamination from the Premises, 3-306 Preventing Contamination by Consumers, 3-307 Preventing Contamination from Other Sources</td>
</tr>
<tr>
<td>3-4</td>
<td>DESTRUCTION OF ORGANISMS OF PUBLIC HEALTH CONCERN</td>
<td>Subparts 3-401 Cooking, 3-402 Freezing, 3-403 Reheating, 3-404 Other Methods</td>
</tr>
<tr>
<td>3-5</td>
<td>LIMITATION OF GROWTH OF ORGANISMS OF PUBLIC HEALTH CONCERN</td>
<td>Subparts 3-501 Temperature and Time Control, 3-502 Specialized Processing Methods</td>
</tr>
<tr>
<td>3-6</td>
<td>FOOD IDENTIFY, PRESENTATION, AND ON-PREMISES LABELING</td>
<td>Subparts 3-601 Accurate Representation, 3-602 Labeling, 3-603 Consumer Advisory</td>
</tr>
<tr>
<td>3-7</td>
<td>CONTAMINATED FOOD</td>
<td>Subpart 3-701 Disposition</td>
</tr>
<tr>
<td>3-8</td>
<td>SPECIAL REQUIREMENTS FOR HIGHLY SUSCEPTIBLE POPULATIONS</td>
<td>Subpart 3-801 Additional Safeguards</td>
</tr>
<tr>
<td>3-1</td>
<td>CHARACTERISTICS</td>
<td></td>
</tr>
<tr>
<td>-------</td>
<td>-----------------</td>
<td></td>
</tr>
<tr>
<td></td>
<td>Subparts</td>
<td></td>
</tr>
<tr>
<td>3-101</td>
<td>Condition</td>
<td></td>
</tr>
</tbody>
</table>
3-1 Condition

- 3-101.11 Safe, Unadulterated, and Honestly Presented $^P$
2013 Food Code
Chapter 3
Food

3-2 SOURCES, SPECIFICATIONS, AND ORIGINAL CONTAINERS AND RECORDS

Subparts

3-201 Sources
3-202 Specifications for Receiving
3-203 Original Containers and Records
• 3-201.11 Sources compliance with food law
  • Compliance with law \(^p\)
  • Not from private home \(^p\)
  • Sushi grade fish from an approved supplier
  • Whole-muscle, intact beef steaks served under cooked shall be:
    • Obtained from a food processing plant packages and labels to indicate whole-muscle, intact beef, \(^pf\) or
    • Regulatory authority deemed acceptable based evidence, written buyer specifications or invoices, that indicates that the steaks meet the definition, \(^pf\) and
  • If individually cut in a food establishment:
    • From whole-muscle intact beef that is labeled by a food processing, \(^pf\)
    • Prepared so they remain intact, \(^pf\) and
    • If PACKAGED for undercooking in a FOOD ESTABLISHMENT, labeled as specified. \(^pf\)
  • Meat and poultry not a ready-to-eat food shall be labeled to include safe handling instructions as specified in law, including 9 CFR 317.2(l) and 9 CFR 381.125(b).
  • Eggs that have not been specifically treated to destroy all viable Salmonellae shall be labeled to include safe handling instructions as specified in LAW, including 21 CFR 101.17(h).
• **3-201.12 Food in a Hermetically Sealed Container** P
  • Shall be from a food processing plant

• **3-201.13 Fluid Milk and Milk Products** P
  • Comply with Grade A Standards

• **3-201.14 Fish** P
  • Fish that are received for sale or service shall be:
    • Commercially and legally caught or harvested; or
    • Approved for sale or service.
    • Molluscan shellfish that are recreationally caught may not be received for sale or service.
3-2 SOURCES, SPECIFICATIONS, AND ORIGINAL CONTAINERS AND RECORDS

- **3-201.15  Molluscan Shellfish**
  - National Shellfish Sanitation Program Guide for the Control of Molluscan Shellfish.
  - Interstate Certified Shellfish Shippers List.

- **3-201.16  Wild Mushrooms**
  - Not used unless...
    - Cultivated wild mushroom grown/processed from regulated
    - Wild mushroom species packaged product of a regulated food processing plant.
• 3-201.17 Game Animals
  • According to law of Federal or State
  • No animals on the Endangered List of 50 CFR 17

• 3-202.11 Specifications for Receiving: Temperature Refrigerated
  • Food at 41°F or below internal temperature unless specified differently in law (milk & shellfish
  • Raw eggs at 45°F or below ambient air temperature
  • Hot food at 135°F or above
  • Frozen food shall be frozen
  • Upon receipt all TCS food shall be free of time/temperature abuse
3-2 SOURCES, SPECIFICATIONS, AND ORIGINAL CONTAINERS AND RECORDS

- **3-202.12 Specifications for Receiving: Additives**
  - No unapproved additives
  - No excessive additives
  - No excessive amounts of pesticides or radiation

- **3-202.13 Specifications for Receiving: Eggs**
  - Clean
  - Not exceed Grade B

- **3-202.14 Specifications for Receiving: Pasteurized Eggs and Milk Products**
  - Egg Products, fluid milk, dry milk, and milk products shall be pasteurized.
  - All milk shall comply with Grade A Standards
  - Frozen Milk Products shall be pasteurized and comply with 21 CFR 135.
  - Cheese shall be pasteurized unless it complies with 21 CFR 133 or similar instance.
• 3-202.15 Specifications for Receiving: Package Integrity Pf
  • Good condition to prevent adulteration or contamination
• 3-202.16 Specifications for Receiving: Ice P
  • From drinking water
• 3-202.17 Specifications for Receiving: Shucked Shellfish, Packaging and Identification
  • Nonreturnable packages with... Pf
    • Name, address, and certification number Pf
    • Sell by or best if used by date if less than ½ gallon or shuck date if ½ gallon or more. Pf
  • Packages without this shall be held or seized and destroyed according to law.
“A Pocket Guide to Can Defects”

Can be used to determine compliance with 3-101.11, 3-202.15, and helps make decisions about 3-701.11

**Hermetic Seal** – air tight, maintains commercial sterility (precludes entrance of bacteria & maintains vacuum or pressure).

**Swells** – both ends bulged. Soft swell yields. Caused by positive pressure in can due to spoilage or chemical reaction.

**Flippers** – One end slack or slightly bulged; remain flat if pressed in. Cause is lack of vacuum.
**Springers** – One end bulges. With pressure, springs in and out or forces other end out. Also, both ends bulge but only one will remain flatten with pressure. Results from moderate positive pressure in can.

**Hydrogen Swell** – Bulged, closed metal can caused by hydrogen produced by reaction of the metal with the content of the can.

**False Seam** – Cover and body hooks not overlapped or engaged. Not always detectable by simple external examination.
Classification for Defective/Damaged Canned Goods

Class I – Significant Defects
Potential Public Health Hazard

Class II – Other Serious Defects
Potential Public Health Hazard

Class III – Aesthetic Defects
No Apparent Public Health Hazard

Class I – Significant Defects

- Potential Public Health Hazard
- Not to be sold, distributed or consumed
- Evidence the can may have lost hermetic seal (holes, fracture, punctures, product leakage, etc.)  OR
- Evidence of microbial growth
1. Bulged and/or swollen ends from gas formation in can which causes one or both ends to swell producing a flipper, soft swell, hard swell, or blown can.
Class I – Significant Defects

2. Can with likely loss of hermetic seal and normally a leaker due to the mislocked side seam.
Class I – Significant Defects

3. An opening below the double seam or plate fracture.
Class I – Significant Defects

4. Plate fracture in double seam or can body. (Note position of red pointer).
Class I – Significant Defects

5. Severe double seam dent plate fracture.
Class I – Significant Defects

6. Puncture in can body. Pinholes in can body plate also cause loss of hermetic seal.
Class I – Significant Defects

7. Closure on end of can reflects incomplete double seam (Double seaming operation not completed by manufacturer).
Defect in end of closure on can (torn flange). Note arrow pointer.
Class I – Significant Defects

Depicts a false seam with loss of hermetic seal. Seam is formed but not engaged properly. (Note knocked down flange.)
Class I – Significant Defects

Example of **cable cut** on can end. Red pointer shows "significant defect," i.e., cut through double seam. Blue pointer depicts cut/abrasion not through double seam.
Class II – Other Serious Defects

- Potential Public Health Hazard
- Not to be sold, distributed, or consumed without detail inspection & sampling
- Potential for loss of hermetic seal
  - Reveal no visible or external signs of seal loss
  - However, defects of such magnitude that they may have lost their hermetic seal
  - Obvious fractures or evidence of loss of hermetic seal are Class I defects
11. Severely rusted with deep pits near point of perforation.
Class II – Other Serious Defects

12. Major body dent which has impacted on double seam. (Plate may be fractured with loss of hermetic seal).
13. Major dent in center of can body. (Plate may be fractured with loss of hermetic seal).
Class II – Other Serious Defects

14. “Cut-over” depicting sharp seam. (Observe for potential plate fracture or loss of hermetic seal).
Defect shown termed a “vee” or “spur” with end curl knocked down. Can is a potential leaker.
Class II – Other Serious Defects

16. Pointer indicates “knocked down flange.”
Class III – Aesthetic Defects

• No Apparent Public Health Hazard
• Generally considered safe
• Acceptable for distribution and sale if properly labeled
• Insignificant can defects – no harmful effect on hermetic seal
Class III – Aesthetic Defects

Surface rust and residue food cooked on end of can. (Minor external rust and light superficial pitting easily removeable by light buffing is considered an insignificant defect).
Class III – Aesthetic Defects

18. Paneled container without visible signs of loss of integrity, i.e., no plate fractures.
Class III – Aesthetic Defects

19. Obvious body dent on side of container body. Side seam and/or double seams appear not significantly affected.
Class III – Aesthetic Defects

20. Minor dent to double seam on end of can body, i.e., it does not appear creased or sharp.
Class III – Aesthetic Defects

21. Minor “buckle” just extending into double seam on end of can body. (Double seam does not appear significantly affected.)
• 3-202.18 Specifications for Receiving: Shellstock Identification
  - Must have tag(s) that bare information regarding harvester, shipper, and dealer information
  - Date of harvest
  - Location of harvest
  - Type and quantity
  - Statement “THIS TAG IS REQUIRED TO BE ATTACHED UNTIL CONTAINER IS EMPTY OR RETAGGED AND THEREAFTER KEPT ON FILE FOR 90 DAYS”

• 3-202.19 Specifications for Receiving: Shellstock Condition
  - Free of mud, dead shellfish and shellfish with broken shells
• **3-202.110 Commercially Processed: Juice Treated**
  • Processor with HACCP system as specified in 21 CFR Part 120 Pf
  • Pasteurized or treated with 5-log reductions of resistant microorganisms of public health significance.

• **3-203.11 Molluscan Shellfish, Original Containers Pf**
  • May not be removed until sale
  • Unless on drained ice and identified as specified and protected from contamination

• **3-203.12 Shellstock, Maintaining Identification Pf**
  • Tags attached until container empty and kept on file for 90 days
2013 Food Code
Chapter 3
Food

<table>
<thead>
<tr>
<th>Subparts</th>
<th>Description</th>
</tr>
</thead>
<tbody>
<tr>
<td>3-301</td>
<td>Preventing Contamination by Employees</td>
</tr>
<tr>
<td>3-302</td>
<td>Preventing Food and Ingredient Contamination</td>
</tr>
<tr>
<td>3-303</td>
<td>Preventing Contamination from Ice Used as a Coolant</td>
</tr>
<tr>
<td>3-304</td>
<td>Preventing Contamination from Equipment, Utensils, and Linens</td>
</tr>
<tr>
<td>3-305</td>
<td>Preventing Contamination from the Premises</td>
</tr>
<tr>
<td>3-306</td>
<td>Preventing Contamination by Consumers</td>
</tr>
<tr>
<td>3-307</td>
<td>Preventing Contamination from Other Sources</td>
</tr>
</tbody>
</table>
3-3 Protection from Contamination After Receiving

- 3-301.11 Preventing Contamination from Hands
  - Wash hands
  - No bare hand contact with RTE food
  - Minimal bare hand contact with non RTE food
  - No bare hand contact does not apply to foods that are going to be cooked further
  - No bare hand contact does not apply when there are written procedures and approval from the regulatory authority regarding this practice.

- 3-301.12 Preventing Contamination When Tasting
  - No double dipping!
• **3-301.11 Preventing Contamination from Hands**
  • Circumstances where bare hand contact is allowed...
    • Not serving a Highly Susceptible Population
    • Reg. approval
  • Written procedures that include:
    • Listing specific RTE food to be touched
    • Diagrams showing handwash facilities
    • Written employee health policy
    • Training for handwashing, prohibition of jewelry
    • Handwashing Documentation
    • Documentation of 2 or more safeguards
    • Documentation of corrective action
• **3-302.11** Packaged and Unpackaged Food – Separation, Packaging, and Segregation
  • Prevent Cross Contamination during storage and preparation by...
    • RTE separate from raw animal foods
    • Food Storage Hierarchy based on cooking temperatures: (Top to bottom storage or first to last prep)
      • RTE foods
      • Raw fish/Seafood
      • Raw whole cuts of meat
      • Raw comminuted meat and fish products
      • Raw eggs and poultry
  • This does not apply to frozen commercially processed and packaged raw animal foods.
• **3-302.11 Packaged and Unpackaged Food – Separation, Packaging, and Segregation**
  • Prevent Cross Contamination during storage and preparation by...
    • Cleaning hermetically sealed containers prior to opening
    • Covering food
    • Does not apply to whole uncut fruits and vegetables and nuts, Primal cuts of meat hung on hooks or on wracks, cooling food, or shellstock
    • Preventing cuts in packaging
• 3-302.12 Food Storage Containers, Identified with Common Name of Food
  • Working containers holding food or food ingredients shall be identified with the common name of the food.
  • Examples: oils, flour, herbs, potato flakes, salt, spices, and sugar
3-3 Protection from Contamination After Receiving

- **3-302.13 Pasteurized Eggs, Substitute for Raw Eggs for Certain Recipes**
  - Examples: Caesar salad dressing, hollandaise sauce, mayonnaise, meringue, eggnog, ice cream

- **3-302.14 Protection from Unapproved Additives**
  - Unsafe or unapproved food or color additives or unsafe levels of approved food or color additives.

- **3-302.15 Washing Fruits and Vegetables**
  - Whole fresh raw shall be washed before prepped or served
  - May be washed with chemicals
  - Devices for chemical generations shall be used according to manufactures instructions
3-3 Protection from Contamination After Receiving

- **3-303.11 Ice Used as Exterior Coolant, Prohibited as Ingredient.**

- **3-303.12 Storage or Display of Food in Contact with Water or Ice.**
  - Prohibited for...
    - Food in permeable packaging may not be stored this way
    - Unpackaged food
  - Allowed for...
    - Whole, raw fruits or vegetables
    - Raw poultry and fish
3-3 Protection from Contamination After Receiving

- **3-304.11 Food Contact with Equipment and Utensils**
  - Food contact with only cleaned and sanitized surfaces, Single service use articles, or lines as allowed in code.

- **3-304.12 In-use Utensils, Between-use Storage**
  - In food with handle up and out of container (TCS food)
  - In food with handle up (non TCS food like flour)
  - Clean food prep table
  - Running water
  - Clean protected location (non TCS food like ice)
  - Container of water that is at least 135° F.
• **3-304.13  Linens and Napkins, Use Limitation**
  • Only allowed to line a container for service of foods and must be replaced for each new consumer

• **3-304.14  Wiping Cloths, Use Limitation**
  • Food spill cloths shall be maintained and for no other purpose
  • Counter and equipment cloths shall be held in sanitizer solution and laundered daily
  • Cloths used for raw animal food contact surfaces shall be kept separate
  • Dry cloths and sanitizer solution free of food debris and visible soil
  • Sanitizer buckets off the floor
  • Single use wipes shall follow EPA label instructions
3-3 Protection from Contamination After Receiving

• **3-304.15 Gloves, Use Limitation**
  • Single Use Gloves
    • Used for 1 task
    • Discarded when damaged, soiled, or task interrupted
  • Slash-resistant Gloves
    • Should not contribute to cross-contamination
    • When needed for RTE food the gloves must be smooth, durable, non-absorbent or a single use glove should be worn over it.
  • Cloth gloves
    • Only for food such as frozen food or primal cuts of meat
3-3 Protection from Contamination After Receiving

- 3-304.16 Using Clean Tableware for Second Portions and Refills
  - May not re-use table ware for
    - Re-filling
    - Self Service
  - Exception for drinking cups in a contamination free process
3-3 Protection from Contamination After Receiving

- 3-304.17 Refilling Returnables.
  - Empty containers cleaned and refilled in a regulated food processing plant.
  - A take-home food container may be refilled at a food establishment with food if the food container is:
    - Designed and constructed for reuse; \(^p\)
    - Provided by food establishment for the purpose of being returned for reuse;
    - Returned to food establishment by the consumer after use;
    - Subject to the following steps before being refilled with food:
      - Cleaned,
      - Sanitized; \(^p\)
      - Visually inspected
3-3 Protection from Contamination After Receiving

- 3-304.17 Refilling Returnables.
  - A take-home food may be refilled at a food establishment with beverage if:
    - Not TCS food;
    - The design container and rinsing equipment and nature of beverage, allow effective cleaning
    - Facilities for rinsing before;
    - Same container, customer, and food establishment
    - The container is refilled by:
      - An employee, or
      - The owner of the container if system is designed to prevent contamination and tampering.
    - 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.
    - Consumer-owned containers that are not food-specific may be filled at a water vending machine or system.
3-3 Protection from Contamination After Receiving

• **3-305.11 Food Storage**
  • Clean, dry, protected from splash, 6 inches off the floor
  • Exceptions:
    • Palletized lots
    • Cans/bottles of soda & crates of milk

• **3-305.12 Food Storage, Prohibited Areas.**
  • In locker rooms;
  • In toilet rooms;
  • In dressing rooms;
  • In garbage rooms;
  • In mechanical rooms;
  • Under sewer lines that are not shielded;
  • Under leaking water lines, including leaking automatic fire sprinkler heads, or under lines on which water has condensed;
  • Under open stairwells; or
  • Under other sources of contamination.
3-3 Protection from Contamination After Receiving

- **3-305.13 Vended Time/Temperature Control for Safety Food, Original Container**
  - TCS food shall stay in the original package

- **3-305.14 Food Preparation**
  - Unpackaged food protected environmental contamination

- **3-306.11 Food Display P**
  - Protected from contamination.

- **3-306.12 Condiments, Protection**
  - Packaging and dispersal methods designed to prevent contamination.
• 3-306.13 Consumer Self-Service Operations.
  • No raw beef, lamb, pork, poultry, and fish at consumer self-service. \( ^p \) This paragraph does not apply to:
    1. Ready-to-eat Bars (sushi);
    2. Ready-to-cook individual portions for immediate cooking (Mongolian barbecue); or
    3. Raw, frozen, shell-on shrimp, or lobster.
  • Utensils suitable to prevent contamination. \( ^pf \)
  • Buffets monitored by trained food employees. \( ^pf \)
3-3 Protection from Contamination After Receiving

- **3-306.14 Returned Food and Re-Service of Food.**
  - Unused food may not be re-served. P
  - Except non TCS food:
    - Dispensed protected from contamination such as a narrow-neck bottle containing catsup, steak sauce, or wine; or
    - Unopened original containers.

- **3-307.11 Miscellaneous Sources of Contamination.**
  - Food shall be protected from contamination that may result from a factor or source not specified under Subparts 3-301 - 3-306.
2013 Food Code
Chapter 3
Food

<table>
<thead>
<tr>
<th>Subparts</th>
<th>Description</th>
</tr>
</thead>
<tbody>
<tr>
<td>3-401</td>
<td>Cooking</td>
</tr>
<tr>
<td>3-402</td>
<td>Freezing</td>
</tr>
<tr>
<td>3-403</td>
<td>Reheating</td>
</tr>
<tr>
<td>3-404</td>
<td>Other Methods</td>
</tr>
</tbody>
</table>
• **3-401.11 Raw Animal Foods**

  - Raw animal foods such as eggs, fish, meat, poultry, and foods containing these raw animal foods, shall be cooked to heat all parts of the food to a temperature and for a time that complies with one of the following methods based on the food that is being cooked:

  - **145° F** or above for 15 seconds for: $^p$
    - Raw eggs for immediate service, $^p$ and
    - Fish and meat; $^p$
  - **155° F** for 15 seconds $^p$
    - Ratites $^p$
    - Mechanically tenderized $^p$
    - Injected meats $^p$
    - Comminuted: fish, meat, game animals $^p$
3-4 DESTRUCTION OF ORGANISMS OF PUBLIC HEALTH CONCERN

3-401.11 Raw Animal Foods

Raw animal foods such as eggs, fish, meat, poultry, and foods containing these raw animal foods, shall be cooked to heat all parts of the food to a temperature and for a time that complies with one of the following methods based on the food that is being cooked:

- 165°F or above for 15 seconds
  - Poultry
  - Baluts
  - Wild Game Animals
  - Stuffed fish, meat, pasta, poultry, ratites, or
  - Stuffing containing fish, meat, poultry, or ratites.
• **3-401.11 Raw Animal Foods**
  • Whole meat roasts:
    • In an oven preheated as specified in chart: \(^{P_f}\)
    • As specified in the following chart, to heat all parts of the FOOD to a temperature and for the holding time that corresponds to that temperature: \(^{P}\)
3-4 DESTRUCTION OF ORGANISMS OF PUBLIC HEALTH CONCERN

• 3-401.11 Raw Animal Foods

  • A raw or undercooked whole-muscle, intact beef steak may be served or offered for sale in a ready-to-eat form if:
  • Not to a highly susceptible population,
  • Steak labeled "whole-muscle, intact beef”
  • Steak top and bottom cooked to 145° F w/ exterior color change.
• **3-401.11 Raw Animal Foods.**

  • A raw animal food such as raw egg, raw fish, raw-marinated fish, raw molluscan shellfish, or steak tartare; or a partially cooked food such as lightly cooked fish, soft cooked eggs, or rare meat other than whole-muscle, intact beef steaks as specified in ¶ (c) of this section, may be served or offered for sale upon consumer request or selection in a ready-to-eat form if:
    • Not to a highly susceptible population;
    • No comminuted meat on a children's menu; \(^{Pf}\)
    • Consumer informed to cook as necessary for safety or
    • Variance from safe cooking with a HACCP plan that is:
      • Approved,
      • Provides scientific dated that the process is safe
      • Verifies equipment, procedures, and training meet the conditions of the variance.
3-4 DESTRUCTION OF ORGANISMS OF PUBLIC HEALTH CONCERN

• **3-401.12 Microwave Cooking**
  • Raw animal foods cooked in a microwave shall be
    • Rotated/Stirred midway
    • Covered
    • Heated to 165° F
    • 2 minutes to reach temperature equilibrium

• **3-401.14 Non-Continuous Cooking of Raw animal Foods**
  • Shall be
    • Initially heated no longer than 60 min
    • Cooled correctly
    • Held correctly
    • Finished cooking prior to service as 3-401.11 (A)-(C)
    • Cooled or held correctly (if not served)
    • Under written procedures that
      • Are approved
      • Are maintained and available
      • Describe labeling of product so marked but not sold prior to complete cooking
      • Describe how to prevent cross-contamination of ready-to-eat foods
• **3-402.11 Parasite Destruction, Freezing**
  • Raw fish served ready-to-eat shall be frozen
    • Frozen and stored at -4°F for 168 hours
    • Frozen and stored at -31°F for 15 hours
    • Frozen at -31°F, and stored -4°F at for 24 hours
  • Does not apply to
    • Molluscan shellfish
    • Scallops
    • Specific Tuna species
    • Aquaculture raised fish from net pens or ponds/tanks and fed on pellets
    • Fish eggs
3-402.12 Records, Creation and Retention, Freezing.

- On site frozen record the freezing temperature and time and retain for 90 days $^{Pf}$
- Supplier frozen, documentation stating fish are frozen as required.
- If raw, raw-marinated, partially cooked, or marinated-partially cooked fish are served or sold in ready-to-eat form, and the fish are raised and fed as specified in subparagraph 3-402.11(b)(3), a written agreement or statement from the supplier or aquaculturist stipulating that the fish were raised and fed as specified in subparagraph 3-402.11(b)(3) shall be obtained by the person in charge and retained in the records of the food establishment for 90 calendar days beyond the time of service or sale of the fish. $^{Pf}$
• **3-403.10 Preparation for Immediate Service**
  • Food for immediate service can be cooked to any temperature

• **3-403.11 Reheating for hot hold**
  • Reheat to 165°F for 15 seconds
  • Using a microwave reheat to 165°F and allow to stand for 2 minutes
  • Commercially processed RTE food can be reheated to 135°F
  • Must reach minimum temperature within 2 hours and start at max of 41°F
  • Unsliced meat roast can use 3-401.11 (B)
• **3-404.11 Treating Juice.**
  
  • Juice packaged in a food establishment shall be:
    • 5-log reduction (99.999% reduction of microbes of concern, \( P \) or
    • Labeled, if not treated \( Pf \)
    • As specified under § 3-602.11, \( Pf \) and
    • “WARNING: This product has not been pasteurized and, therefore, may contain harmful bacteria that can cause serious illness in children, the elderly, and persons with weakened immune systems.” \( Pf \)
2013 Food Code

Chapter 3

Food

3-5  LIMITATION OF GROWTH OF ORGANISMS OF PUBLIC HEALTH CONCERN

Subparts

3-501  Temperature and Time Control
3-502  Specialized Processing Methods
3-5 Limitation of Growth of Organisms of Public Health Concern

- **3-501.11 Frozen Food**
  - Frozen foods shall be maintained frozen

- **3-501.12 Time/Temperature Control for Safety Food, Slacking**
  - Under cold hold refrigeration
  - Any temperature if the food remains frozen

- **3-501.13 Thawing**
  - Under refrigeration at 41°F or less
  - Completely submerged under running water
    - At 70°F or below
    - With velocity to rinse off particles
    - That does not allow temperature of 41°F and
    - Does not exceed time allowed in the danger zone to include cooking time.
  - As part of a cooking process if the food that is frozen is cooked correctly.
    - In a microwave if cooked immediately
  - Using any procedure if for immediate service to an individual consumer’s order.
  - ROP Fish with label “keep frozen until time of use” shall be removed from packaging:
    - Prior to thawing under refrigeration
    - Prior to, or Immediately thawing submerged under running water
3-5 Limitation of Growth of Organisms of Public Health Concern

- **3-501.14 Cooling.**
  - Cooked TCS food
    - 2 Hours from hot (starting at 135° F) to 70° F. \(^p\)
    - Within a total of 6 hours to 41° F. \(^p\)
  - Cold TCS food made from room temp foods shall be cooled within 4 hours to 41° F or less. \(^p\)
  - TCS food received above 41° F shall be cooled within 4 hours \(^p\)
    - Raw eggs placed in equipment has an ambient air temperature 45° F or less. \(^p\)
3-5 Limitation of Growth of Organisms of Public Health Concern

• 3-501.15 Cooling Methods
  • Under time and temperature control using:
    • Shallow pans $^p_f$
    • Smaller or thinner portions $^p_f$
    • Equipment to rapid cool $^p_f$
    • Ice water bath & stir $^p_f$
    • Heat transfer containers $^p_f$
    • Ice as an ingredient $^p_f$
    • Other effective methods $^p_f$
  • In cooling or cold holding equipment
    • Arranged for heat transfer (container walls)
    • Loosely or uncovered (product surface)
• **3-501.16 Time/Temperature Control for Safety Food, Hot and Cold Holding**
  • TCS food shall be maintained:
    • At 135°F or above \(^{\circ}\) or
    • At 41°F or less. \(^{\circ}\)
  • **WV 64 CSR 17-3.1.e** Replaces (B) of this with:
    • “Eggs that have not been treated to destroy viable Salmonellae shall be stored in refrigerated equipment that maintains an ambient air temperature of 41°F or less.”
  • TCS food in homogenous liquid from ANSI certified dispensing equipment does not have to be 41°F or lower.
3-5 Limitation of Growth of Organisms of Public Health Concern

• **3-501.17 Ready-to-Eat, Time/Temperature Control for Safety Food, Date Marking.**
  • Made on premises food RTE, TCS food prepared and held for more than 24 hours
    • shall be clearly marked to be consumed on the premises, sold, or discarded by a maximum of 7 days. Pf
    • The day of preparation shall be counted as Day 1. Pf
  • Commercially processed RTE, TCS food shall be clearly marked,
    • At the time the original container is opened if held for more than 24 hours,
    • With date or day food shall be consumed, sold, or discarded, based on the temperature and time combinations specified above and: Pf
      • The day the opened shall be counted as Day 1; Pf and
      • The day or date marked may not exceed a manufacturer’s use-by date if based on FOOD safety. Pf
  • A refrigerated RTE, TCS ingredient combined with additional ingredients or portions of food shall retain the earliest prepared date mark. Pf
3-5 Limitation of Growth of Organisms of Public Health Concern

3-501.17 Ready-to-Eat, Time/Temperature Control for Safety Food, Date Marking

- A date marking system may include:
  - Using a method APPROVED by the REGULATORY AUTHORITY for refrigerated, READY-TO-EAT TIME/TEMPERATURE CONTROL FOR SAFETY FOOD that is frequently rewrapped, such as lunchmeat or a roast, or for which date marking is impractical, such as soft serve mix or milk in a dispensing machine;
  - Marking the date or day of preparation, with a procedure to discard the FOOD on or before the last
  - Marking the date or day the original container is opened with a procedure to discard before the last day; or
  - Anything that can be easily explained or provided to Regulatory Authority.

- Does not apply to
  - Individual meal portions served or repackaged for sale from bulk container upon a consumer’s request.
  - Shellstock.

- Paragraph (B) of this section does not apply to the following commercially processed foods:
  - Deli salads, manufactured in accordance with 21 CFR 110;
  - Hard cheeses containing not more than 39% moisture as defined in 21 CFR 133;
  - Semi-soft cheeses containing more than 39% moisture, but not more than 50% moisture, as defined in 21 CFR 133
  - Cultured dairy products as defined in 21 CFR 131
  - Preserved FISH products defined in 21 CFR 114 Acidified foods;
  - Shelf stable, dry fermented sausages; and
  - Shelf stable salt-cured products.
Date Marking Exempt RTE, TCS Foods

- Deli Salads,
  - Ham Salad
  - Seafood Salad
  - Chicken Salad
  - Egg Salad
  - Pasta Salad
  - Potato Salad
  - Macaroni
- Cultured Dairy Products
  - Yogurt
  - Sour Cream
  - Buttermilk
- Preserved FISH Products
  - Pickled Herring
  - Dried Or Salted Cod
- Shelf Stable, Dry Fermented Sausages
  - Pepperoni
  - Genoa
- Shelf Stable Salt-cured Products
  - Prosciutto
  - Parma

<table>
<thead>
<tr>
<th>List of Hard Cheeses Exempt from Date Marking</th>
<th>List of Semi-Soft Cheeses Exempt from Date Marking</th>
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<tbody>
<tr>
<td>Asadero</td>
<td>Asiago soft</td>
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<tr>
<td>Abertam</td>
<td>Batteimatt</td>
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<tr>
<td>Appenzeller</td>
<td>Bellelay (blue veined)</td>
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<tr>
<td>Asiago medium or old</td>
<td>Blue</td>
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<td>Bra</td>
<td>Brick</td>
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<td>Cheddar</td>
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<td>Fontina</td>
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<td>Cotja</td>
<td>Gorgonzola (blue veined)</td>
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<td>Gouda</td>
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<td>Havarti</td>
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<td>Konigskaese</td>
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<td>Oka</td>
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<td>Port du Salut</td>
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<td>Parmesan</td>
<td>Queso de la Tierra</td>
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<td>Pecorino</td>
<td>Robbiole</td>
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<td>Queso Anejo</td>
<td>Roquefort (blue veined)</td>
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<td>Samsøe</td>
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<td>Queso de Prensa</td>
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<td>Trappist</td>
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<td>Tignard (blue veined)</td>
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<td>Vlze</td>
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<td>Wensleydale (blue veined)</td>
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3-5 Limitation of Growth of Organisms of Public Health Concern

- **3-501.18 Ready-to-Eat, Time/Temperature Control for Safety Food, Disposition**
  - RTE, TCS food shall be discarded if it:
    - Exceeds the temperature and time requirements; \(^P\)
    - Is not date marked as required; \(^P\) or
    - Exceeds the date mark \(^P\)
  - Vended RTE, TCS food from a food establishment shall be discarded if time/temperature or date mark is exceeded. \(^P\)
3-5 Limitation of Growth of Organisms of Public Health Concern

- **3-501.19 Time as a Public Health Control**
  - Not for raw eggs in a Highly Susceptible Population
  - Must have an approved procedure that can be supplied \( p_f \)
  - Food must be correctly stored, cooked, held prior to using time \( p_f \)

  **Two methods of using time**

  - **4 hour max**
    - Food temperature starts outside of the “Temperature Danger Zone” \( p \)
    - Marked to indicate when 4 hour limit is up \( p_f \)
    - Food shall be served or discarded after 4 hours \( p \)
    - Food past the 4 hours or not marked shall be discarded \( p \)

  - **6 hour max**
    - Food starts below the “Temperature Danger Zone” and does no exceed 70° F; \( p \)
    - Monitored to not exceed 70° F during holding; \( p_f \)
    - The FOOD shall be marked or otherwise identified to indicate: \( p_f \)
      - The time when the food is removed from refrigeration, \( p_f \) and
      - When 6 hours has passed; \( p_f \)
    - The FOOD shall be:
      - Discarded if over 70° F, \( p \) or
      - Served or discarded within 6 hours; \( p \) and
      - The food in unmarked containers or packages or marked with a time that exceeds the 6-hour limit shall be discarded. \( p \)
3-5 Limitation of Growth of Organisms of Public Health Concern

- **3-502.11 Variance Requirement.**
  - A variance from regulatory before: Pf
  - Smoking for preservation; Pf
  - Curing FOOD; Pf
  - Using food additives (like vinegar): Pf
    - For food preservation, Pf or
    - To acidify for shelf stability; Pf
  - Packaging TCS food using a ROP unless as under 3-502.12; Pf
  - Molluscan shellfish life-support system display tank; Pf
  - Custom processing animals; Pf
  - Preparing food by another method that is determined by the regulatory authority to require a variance; Pf or
  - Sprouting seeds or beans. Pf
3-5 Limitation of Growth of Organisms of Public Health Concern

3-502.12 Reduced Oxygen Packaging Without a Variance, Criteria.

- Without a Variance: ROP control growth and toxin formation of C. botulinum and growth of L. monocytogenes. \(^p\)

- Unless labeled, refrigerated and used within 48 hrs. HACCP Plan is required and must: \(^pf\)
  - ID the food; \(^pf\) and requires refrigeration at 41\(^°\) F or less and meet at least one of the following criteria: \(^pf\)
    - \(A_w\) of 0.91 or less, \(^pf\)
    - pH of 4.6 or less, \(^pf\)
    - Cured meat/poultry from an approved source received with intact package, \(^pf\) or
    - As a high level of competing organisms (raw meat & poultry and raw vegetables); \(^p\)
  - Describes how the package shall be labeled, with instructions to: \(^pf\)
    - Maintain at 41\(^°\) F or below, \(^pf\) and
    - Discard within 30 calendar days; \(^pf\)
  - Limits the refrigerated shelf life to 30 calendar days, unless frozen, or original “sell by” or “use by” date; \(^p\)
  - Includes operational procedures that:
    - Prohibit RTE bare hand contact, \(^pf\)
    - ID’s work area and methods that: \(^pf\)
      - Prevent cross-contamination, \(^pf\) and
      - Limit access to equipment to trained personnel to prevent hazards, \(^pf\)
    - Provides cleaning and sanitizing SOP’s for food contact surfaces \(^pf\)
    - Training program for ROP responsible individuals for understanding: \(^pf\)
      - Concepts for safe operation \(^pf\)
      - Equipment and facilities \(^pf\)
      - Procedures \(^pf\)
  - Is provided to Regulatory Authority prior
3-5 Limitation of Growth of Organisms of Public Health Concern

3-502.12 Reduced Oxygen Packaging Without a Variance, Criteria.

- Unless frozen fish may not be packaged ROP at a food establishment.  

- Cook-chill or sous vide process shall:
  - Provide HACCP plan to regulatory authority with necessary information; Pf
  - Ensure the food is:
    - Prepared and consumed on the business premises, Pf
    - Cooked correctly P
    - Protected from contamination, P
    - Oxygen Barrier & seal before cooking or reaching temp below 135° F
    - Cooled to 41° F P
      - Cooled to 34° F in 48 hours (30 days) P
      - Held at 41° F (7 days) P
      - Held frozen P
    - Refrigeration electronically monitored with 2x visual check Pf
    - Stays with same business if served off site with continual temp monitoring (electronic) Pf
    - Labeled product name and date packed Pf
    - Maintain cooling and cold hold records & Pf
      - Available Pf
      - Hold for 6 months Pf
    - Written procedures and training as required Pf
3-502.12 Reduced Oxygen Packaging Without a Variance, Criteria.

- Cheese ROP shall
  - Limit to those commercially manufactured approve source no ingredients added
  - Have a HACCP Plan
  - Labels to use discard 30 days from packed
  - Discard if not used in 30 days
- HACCP Plan not required win ROP food is
  - Labeled with product make date and time
  - Held at 41°F
  - Removed and used within 48 hours
2013 Food Code
Chapter 3
Food

3-6 FOOD IDENTITY, PRESENTATION, AND ON-PREMISES LABELING

Subparts

3-601 Accurate Representation
3-602 Labeling
3-603 Consumer Advisory
3-6 Food Identity, Presentation, and On-Premises Labeling

- 3-601.11 Standards of Identity
  - Complies with law

- 3-602.12 Honestly Presented
  - Does not mislead or misinform
  - Additives, colored overwraps, lights may not be used
3-6 Food Identity, Presentation, and On-Premises Labeling

- **3-602.11 Food Labels**
  - Labeled according to law 21 CFR 101
  - Label should include
    - Common name
    - List of ingredients
    - Accurate net quantity
    - Name place of manufacturer
    - Major allergens
    - Nutrition Label unless exempt
  - Bulk food self-dispensing
    - Manufacturer label or
    - Way to provide Common Name, Ingredients, Nutrition Label (if required)
  - Bulk unpacked foods (bakery products) need not be labeled
    - No health/ nutrient/ other claim
    - Manufactured by same business
3-603.11 Consumption of Animal Foods that are Raw, Undercooked, or Not Otherwise Processed to Eliminate Pathogens

- Except as specified in ¶ 3-401.11(C) and Subparagraph 3-401.11(D)(4) and under ¶ 3-801.11(C), if an animal FOOD such as beef, EGGS, FISH, lamb, milk, pork, POULTRY, or shellfish is served or sold raw, undercooked, or without otherwise being processed to eliminate pathogens, either in READY-TO-EAT form or as an ingredient in another READY-TO-EAT FOOD, the PERMIT HOLDER shall inform CONSUMERS of the significantly increased RISK of consuming such FOODS by way of a DISCLOSURE and REMINDER, as specified in ¶¶ (B) and (C) of this section using brochures, deli case or menu advisories, label statements, table tents, placards, or other effective written means.

- DISCLOSURE shall include:
  - A description of the animal-derived FOODS, such as “oysters on the half shell (raw oysters),” “raw-EGG Caesar salad,” and “hamburgers (can be cooked to order)”; 
Pf or
  - Identification of the animal-derived foods by asterisking them to a footnote that states that the items are served raw or undercooked, or contain (or may contain) raw or undercooked ingredients. 
Pf
  - Reminder shall include asterisking the animal-derived foods requiring disclosure to a footnote that states:
    - Regarding the safety of these items, written information is available upon request; 
Pf
    - Consuming raw or undercooked MEATS, POULTRY, seafood, shellfish, or EGGS may increase your RISK of foodborne illness; 
Pf or
    - WV 64 CSR 17-3.1.g: Consuming raw or undercooked meats, poultry, seafood, shellfish, or eggs may increase your risk of foodborne illness, especially for children, elderly, immunocompromised individuals, and persons with certain medical conditions. 
Pf
3-7 CONTAMINATED FOOD

Subpart

3-701 Disposition
3-7 Contaminated Food

• 3-701.11 Discarding or Recondition Unsafe Adulterated, or Contaminated Food
  • Discard food that...
    • Is unsafe, adulterated, or not honestly presented. P
    • Is not from an approved source. P
    • May have been contaminated by restricted/excluded employee P
    • Is contaminated by food employees, consumers, or other persons. P
2013 Food Code
Chapter 3
Food

3-8   SPECIAL REQUIREMENTS FOR HIGHLY SUSCEPTIBLE POPULATIONS

Subpart

3-801 Additional Safeguards
• 3-801.11 Pasteurized Foods, Prohibited Re-Service, and Prohibited Food.
  • Food in a highly susceptible population:
    • The following criteria apply to JUICE:
      • Children 9 and under are considered a highly susceptible population in school or daycare like facilities where juice is concerned;
      • Pre-packaged juice or juice containing beverages with warning label or not treated for pathogens may not be served or offered to highly susceptible populations; \(^\text{P}\) and
      • Unpackaged juice prepared on the premises RTE form shall be processed under a HACCP Plan that contains. \(^\text{P}\)
• 3-801.11 Pasteurized Foods, Prohibited Re-Service, and Prohibited Food.
  • Food in a highly susceptible population:
    • Pasteurized eggs or egg products shall be substituted for raw eggs in the preparation of: P
      • Foods such as Caesar salad, hollandaise or béarnaise sauce, mayonnaise, meringue, eggnog, ice cream, and egg-fortified beverages, P and
      • Recipes in which more than one egg is broken and the eggs are combined; P
    • Foods that may not be served or offered in RTE form: P
      • Raw animal foods such as raw fish, raw-marinated fish, raw molluscan shellfish, and steak tartare, P
      • A partially cooked animal food such as lightly cooked fish, rare meat, soft-cooked eggs that are made from raw eggs, and meringue; P and
      • Raw seed sprouts. P
• **3-801.11 Pasteurized Foods, Prohibited Re-Service, and Prohibited Food.**
  • **Food in a highly susceptible population:**
    • Subparagraph (B)(2) of this section does not apply if:
      • The raw eggs are combined immediately cooked and served to one consumer such as an omelet, soufflé, or scrambled EGGS;
      • The raw eggs are combined as an ingredient immediately before baking, such as a cake, muffin, or bread; or
      • The preparation of the food is conducted under a HACCP Plan that:
        • Identifies the food to be prepared,
        • Prohibits contacting RTE with bare hands,
        • Includes specifications and practices that ensure:
          • Control of Salmonella Enteritidis before and after cooking, and
          • Salmonella Enteritidis is destroyed by cooking the eggs,
        • Contains the information specified under ¶ 8-201.14(D) including procedures that:
          • Control cross contamination of RTE with raw eggs, and
          • Delineate cleaning and sanitization procedures for food-contact surfaces, and
        • Describes the training program.
• 3-801.11 Pasteurized Foods, Prohibited Re-Service, and Prohibited Food.

• Food in a highly susceptible population:
  • Food may be re-served if done per code.
  • FOOD may not be re-served under the following conditions:
    • Any food served to patients or clients who are under contact precautions in medical isolation or quarantine, or protective environment isolation may not be re-served to others outside.
    • Packages of food from any patients, clients, or other consumers should not be re-served to persons in protective environment isolation.
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