

2013 Food Code Changes

Definitions:

Noncritical violations are now **Core Items to be corrected no later than 90 calendar days after the inspection.**

"**Core item**" means a provision in this Code that is not designated as a priority item or a priority foundation item.

"**Core item**" includes an item that usually relates to general sanitation, operational controls, sanitation standard operating procedures (SSOPs), facilities or structures, equipment design, or general maintenance.

Critical violations are now **Priority Items and Priority Foundation Items with 3 days to correct Priority and 10 days to correct Priority Foundation items.**

"**Priority item**" means a provision in this Code whose application contributes directly to the elimination, prevention or reduction to an acceptable level, hazards associated with foodborne illness or injury and there is no other provision that more directly controls the hazard.

"**Priority item**" includes items with a quantifiable measure to show control of hazards such as cooking, reheating, cooling, handwashing; and

"**Priority item**" is an item that is denoted in this Code with a superscript P- ^P.

"**Priority foundation item**" means a provision in this Code whose application supports, facilitates or enables one or more priority items.

"**Priority foundation item**" includes an item that requires the purposeful incorporation of specific actions, equipment or procedures by industry management to attain control of risk factors that contribute to foodborne illness or injury such as personnel training, infrastructure or necessary equipment, HACCP plans, documentation or record keeping, and labeling; and

"**Priority foundation item**" is an item that is denoted in this Code with a superscript Pf - ^{Pf}

Dealer means a PERSON who is authorized by a SHELLFISH CONTROL AUTHORITY for the activities of SHELLSTOCK shipper, shucker-packer, repacker, reshipper, or depuration processor of MOLLUSCAN SHELLFISH according to the provisions of the National Shellfish Sanitation Program.

Food Establishment/FE is not new but defined in WV 64CSR17

Game animal includes mammals such as reindeer, elk, deer, antelope, water buffalo, bison, rabbit, squirrel, opossum, raccoon, nutria, or muskrat, and nonaquatic reptiles such as land snakes. (Not NEW)

Time /Temperature Control for Safety Food (TCS) replaces PHF and includes:

"**Cut leafy greens**": means fresh leafy greens whose leaves have been cut, shredded, sliced, chopped, or torn. The term "leafy greens" includes iceberg lettuce, romaine lettuce, leaf lettuce, butter lettuce, baby leaf lettuce (i.e., immature lettuce or leafy greens), escarole, endive, spring mix, spinach, cabbage, kale, arugula and chard. The term "leafy greens" **does not include herbs** such as cilantro or parsley. (**Groceries would have 5 yrs to comply with holding these foods at 41°F.**)

Cut tomatoes including tomatoes mixtures that have not been modified Items in Tables where Product Assessment (PA) is required:

Table A. Interaction of pH and AW for control of spores in FOOD heat-treated to destroy vegetative cells and subsequently PACKAGED

AW values	pH: 4.6 or less	pH: > 4.6 - 5.6	pH: > 5.6
< 0.92	non-TCS FOOD*	non-TCS FOOD	non-TCS FOOD
> 0.92 - 0.95	non-TCS FOOD	non-TCS FOOD	PA**
> 0.95	non-TCS FOOD	PA	PA

Table B. Interaction of pH and AW for control of vegetative cells and spores in FOOD not heat-treated or heat-treated but not PACKAGED

AW values	pH: <4.2	pH: 4.2 - 4.6	pH: > 4.6 - 5.0	pH: > 5.0
< 0.88	non-TCS FOOD*	non-TCS FOOD	non-TCS FOOD	non-TCS FOOD
0.88 - 0.90	non-TCS FOOD	non-TCS FOOD	non-TCS FOOD	PA**
> 0.90 - 0.92	non-TCS FOOD	non-TCS FOOD	PA	PA
> 0.92	non-TCS FOOD	PA	PA	PA

Mechanically tenderized & injected meats must be cooked the same as ground meat.

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

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

Kitchenware means FOOD preparation and storage UTENSILS and **Tableware** means eating, drinking, and serving UTENSILS for table use.

Packaged means bottled, canned, cartoned, bagged or wrapped whether in the FE or food processing plant. It does not include consumer requested carry-out containers or wraps.

Shiga toxin-producing Escherichia coli (STEC) means any E. coli capable of producing Shiga toxins (also called verocytotoxins) and includes EHEC.

SECTIONS:

2-101.11 Assignment (PIC). New B

(B) In a food establishment with two or more separately permitted departments that are the legal responsibility of the same permit holder and that are located on the same premises, the permit holder may, **during specific time periods when food is not being prepared, packaged, or served**, designate a single person in charge who is present on the premises during all hours of operation, and who is responsible for each separately permitted food establishment on the premises.^{Pf}

2-103.11 Person in Charge. New F, M, N O

The person in charge shall ensure that:

(F) Employees are verifying that foods delivered to the food establishment during non-operating hours are from approved sources and are placed into appropriate storage locations such that they are maintained at the required temperatures, protected from contamination, unadulterated, and accurately presented;^{Pf}

(M) Employees are properly trained in food safety, including food allergy awareness, as it relates to their assigned duties;^{Pf} **(This also occurs in our FW Training)** and

(N) Food employees and conditional employees are informed in a verifiable manner **(Form 1-B)** of their responsibility to report in accordance with law, to the person in charge, information about their health and activities as they relate to diseases that are transmissible through food, as specified under § 2-201.11(A);^{Pf} and

(O) Written procedures and plans, where specified by this Code and as developed by the food establishment, are maintained and implemented as required.^{Pf}

2-102.12 Certified Food Protection Manager (CFPM)^P

(A) At least one EMPLOYEE that has supervisory and management responsibility and the authority to direct and control FOOD preparation and service shall be a certified FOOD protection manager who has shown proficiency of required information through passing a test that is part of an ACCREDITED PROGRAM, within one (1) year of the effective date of this rule.

(B) This section does not apply to: (1) retail food facilities where only commercially prepackaged food is handled and sold, and (2) temporary food establishments.

2-103.11 Person in Charge.

(M) EMPLOYEES are properly trained in FOOD safety, including FOOD allergy awareness as it relates to their assigned duties;^{Pf}

2-201.12 Exclusions and Restrictions.

(A)... EXCLUDE a FOOD EMPLOYEE if the FOOD EMPLOYEE is: (Not NEW) (2) Symptomatic with vomiting or diarrhea and diagnosed with an infection from Norovirus, Shigella spp., nontyphoidal Salmonella, or SHIGA TOXIN-PRODUCING E.COLI. ^P (NEW)

(G) If a FOOD EMPLOYEE is diagnosed with an infection from nontyphoidal Salmonella and is ASYMPTOMATIC, RESTRICT the FOOD EMPLOYEE who works in a FOOD ESTABLISHMENT serving a HIGHLY SUSCEPTIBLE POPULATION or in a FOOD ESTABLISHMENT not serving a HIGHLY SUSCEPTIBLE POPULATION. ^P(NEW)

2-201.13 Removal, Adjustment, or Retention of Exclusions and Restrictions.

For nontyphoidal Salmonella diagnosis of employee that is ASYMPTOMATIC:

5(a) RESTRICT the FOOD EMPLOYEE, who is ASYMPTOMATIC for at least 30 days until conditions for reinstatement as specified under Subparagraphs (G)(1) or (2) of this section are met;^P(NEW)
{MD release to RA/LHD OR symptom free for 30 consecutive days}

2-301.15 Where to Wash. Now Pf

2-301.16 Hand Antiseptics. Now Pf and new paragraph 2

(2) Consist only of components which the intended use of each complies with one of the following:

(a) A threshold of regulation exemption under 21 CFR 170.39 - Threshold of regulation for substances used in FOOD-contact articles;^{Pf} or

(b) 21 CFR 178 - Indirect FOOD Additives: Adjuvants, Production Aids, and Sanitizers as regulated for use as a FOOD ADDITIVE with conditions of safe use, ^{Pf} or

(c) A determination of generally recognized as safe (GRAS). Partial listings of substances with FOOD uses that are GRAS may be found in 21 CFR 182 - Substances Generally Recognized as Safe, 21 CFR 184 - Direct FOOD Substances Affirmed as Generally Recognized as Safe, or 21 CFR 186 - Indirect FOOD Substances Affirmed as Generally Recognized as Safe for use in contact with FOOD, and in FDA's Inventory of GRAS Notices, ^{Pf} or

(d) A prior sanction listed under 21 CFR 181 - Prior Sanctioned FOOD Ingredients,^{Pf} or

(e) A FOOD Contact Notification that is effective,^{Pf}

2-302.11 Maintenance. Now Pf (Fingernails)

2-501.11 Clean-up of Vomiting and Diarrheal Events.^{Pf} NEW

A FE shall have procedures for employees to follow when responding to vomiting or diarrheal events that involve the discharge of vomitus or fecal matter onto surfaces in the FE. The procedures shall address the specific actions employees must take to minimize the spread of contamination and the exposure of employees, consumers, food, and surfaces to vomitus or fecal matter.^{Pf}{See Annex 3, p397}

3-201.11 Compliance with Food Law. Source and labeling (A, B, C, E) now P or Pf; (D, F, G) are not.

3-201.16 Wild Mushrooms: (A) only no change to B

(A) Except as specified in ¶ (B) of this section, mushroom species picked in the wild shall not be offered for sale or service by a FOOD ESTABLISHMENT unless the FOOD ESTABLISHMENT has been APPROVED to do so.^P
(See Annex 3, p407)

3-201.17 Game Animals.

(A) If GAME ANIMALS are received for sale or service they shall be

(3) As allowed by LAW, for wild GAME ANIMALS that are live-caught

As per Dr. Pitts, former Director, WV Dept of Ag, meat obtained through the Hunters Helping the Hungry (HHH) program is not eligible for use in any regulated food establishment.

“Our only involvement in the HHH program is that the DNR made the decision that they would not accept any product from anybody unless they processed the product in a facility that had been licensed by the Meat and Poultry Inspection Division of the West Virginia Department of Agriculture. The DNR made this decision based I believe on the fact that we inspect these facilities for both the custom and commercial plants. They are both inspected with consideration on the equipment standards and overall sanitation. This product is not eligible for sale according to the DNR law but the processor is paid for processing the product. **This product would not be eligible for marking as an inspected product either Federal or State since the animal does not receive antemortem or postmortem inspection.**”

3-401.11 Added **NEW** subparagraph (D)(2) not to allow the sale of undercooked, comminuted meat from a children's menu.^{Pf}

3-301.11 Preventing Contamination from Hands.

(A) and (C) No Change. **(B) & (D) do not apply to HSP facilities which must use gloves at all times**

(B) Except when washing fruits and vegetables as specified under § 3-302.15 or as specified in (D) and (E) of this section, food employees may not contact exposed, ready-to-eat food with their bare hands and shall use suitable utensils such as deli tissue, spatulas, tongs, single-use gloves, or dispensing equipment.^P

(D) Paragraph (B) of this section does not apply to a food employee that contacts exposed, ready-to-eat food with bare hands at the time the ready-to-eat food is being added as an ingredient to a food that:

(1) contains a raw animal food and is to be cooked in the food establishment to heat all parts of the food to the minimum temperatures specified in §3-401.11(A)-(B) or § 3-401.12; or

(2) does not contain a raw animal food but is to be cooked in the food establishment to heat all parts of the food to a temperature of at least 63°C (145°F) OR contains a cooked and cooled TCS food and is to be reheated in the food establishment to heat all parts of the food to 74°C (165°F).

3-302.11 Packaged and Unpackaged Food - Separation, Packaging, and Segregation. (New 1C)

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

(1) Except as specified in (1)(c) below, separating raw animal foods during storage, preparation, holding, and display

(c) Frozen, commercially processed and packaged raw animal food may be stored or displayed with or above frozen, commercially processed and packaged, RTE food

3-304.11 Food Contact with Equipment and Utensils. (New C)

(C) LINENS, such as cloth napkins, as specified under § 3-304.13 that are laundered as specified under Part 4-8 of this Code. ^P

3-304.17 Refilling Returnables. Only (A), (B) (4) (b) & (c) are critical.

Amended to relocate the requirement regarding the cleaning of returnables into this section from §4-603.17. Amended ¶13-304.17(A) to clarify conditions under which the re-use of returnables are permitted. Amended ¶13-304.17(B) to establish conditions under which refilling of returnable take-home containers is permitted. Amended to relocate the exception for filling a food-specific container with a beverage from ¶4-603.17(B) to ¶13-304.17(C). Amended to renumber ¶13-304.17(C) as a new ¶13-304.17(D). Amended to relocate the exception for filling consumer-owned, personal take-out containers that are not food-specific from ¶4-603.17(C) to ¶13-304.17(E).

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

3-401.14 Non-Continuous Cooking of Raw Animal Foods. (New)

Raw animal foods that are cooked using a non-continuous cooking process shall be:

- (A) Subject to an initial heating process that is no longer than sixty minutes in duration;^P
- (B) Immediately after initial heating, cooled according to the time and temperature parameters specified for cooked TCS food under § 3-501.14(A);^P
- (C) After cooling, held frozen or cold, as specified for TCS under § 3-501.16(A)(2);^P
- (D) Prior to sale or service, cooked using a process that heats all parts of the food to a temperature and for a time as specified under ¶¶3-401.11 (A)-(C);^P
- (E) Cooled according to the time and temperature parameters specified for cooked TCS under § 3-501.14(A) if not either hot held as specified under § 3-501.16(A), served immediately, or held using time as a public health control as specified under § 3-501.19 after complete cooking;^P and
- (F) Prepared and stored according to written procedures that:
 - (1) Have obtained prior approval from the regulatory authority;^{Pf}
 - (2) Are maintained in the food establishment and available to the RA upon request;^{Pf}
 - (3) Describe how the requirements specified under (A)-(E) of this section are to be monitored and documented by the permit holder and the corrective actions to be taken if the requirements are not met;^{Pf}
 - (4) Describe how the foods, after initial heating, but prior to complete cooking, are to be marked or otherwise identified as foods that must be cooked as specified under (D) of this section prior to being offered for sale or service;^{Pf} and
 - (5) Describe how the foods, after initial heating but prior to cooking as specified under (D) of this section, are to be separated from ready-to-eat foods as specified under §3-302.11 (A).^{Pf}

3-402.11(B) Added **NEW** subparagraph (4) to exempt fish eggs that have been removed from the skin and rinsed, from freezing for parasite destruction.

3-403.11 Reheating for Hot Holding. ^P (Clarified that commercially processed RTE food from a hermetically sealed container or from an intact package from a food processing plant need only be heated to 135°F for hot holding the first time it is heated - even if by a microwave.)

3-501.13 Thawing. (New E)

- (E) REDUCED OXYGEN PACKAGED FISH that bears a label indicating that it is to be kept frozen until time of use shall be removed from the reduced oxygen environment:
- (1) Prior to its thawing under refrigeration as specified in ¶(A) of this section; or
 - (2) Prior to, or immediately upon completion of its thawing using procedures specified in ¶ (B) of this section.

3-501.15 Cooling Methods (A) ^{Pf} (was noncritical)

3-501.16 Time/Temperature Control for Safety Food, Hot and Cold Holding. Rewritten to include new (C). (A) & (B) are P; C is Core.

- (A)(3) Within five years of the effective date of this rule, the refrigeration equipment in a retail food store used to hold cut leafy greens shall be repaired, upgraded, or replaced to maintain the cut leafy greens at a temperature of 5 C, (41 F) or less, if not already capable of maintaining the required temperature.
- (B) Eggs that have not been treated to destroy all viable Salmonellae shall be stored in refrigerated equipment that maintains an ambient air temperature of 5 C (41 F) or less.
- (C) TIME/TEMPERATURE CONTROL FOR SAFETY FOOD in a homogenous liquid form may be maintained outside of the temperature control requirements, as specified under ¶ (A) of this section, while contained within specially designed EQUIPMENT that complies with the design and construction requirements as specified under ¶ 4-204.13(E).

3-501.17 Ready-to-Eat, Time/Temperature Control for Safety Food, Date Marking (A-C) all Pf; (D-G) Core; New (F); (G)(6-7) rewritten

- (F) Paragraphs (A) and (B) of this section do not apply to SHELLSTOCK.
- (G)(6) Shelf stable, dry fermented sausages, such as pepperoni and Genoa; and
- (G)(7) Shelf stable salt-cured products such as prosciutto and Parma (ham).

3-501.19 Time as a Public Health Control (A-C) P or Pf; (D) Core

(D) A FOOD ESTABLISHMENT that serves a HIGHLY SUSCEPTIBLE POPULATION may not use time as specified under ¶¶ (A), (B) or (C) of this section as the public health control for raw EGGS.

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

Rewrite Title, (A) P & (B) mostly Pf ; Change time frame in (B)(3)(b) Pf and (B)(4) P to 30 days; Add new (B) (7) Core; Various changes to (D) & (E) P or Pf; New (F) Core

Revised “**Reduced Oxygen Packaging**” subparagraph (2)(e), to delete the phrase “placed in a hermetically sealed, impermeable bag” and replace it with “vacuum packaged in an impermeable bag” so it clearly defines the sous vide process as outlined in Annex 6(2)(B)(4)(b). It now reads: “Sous vide packaging, in which raw or partially cooked food is vacuum packaged in an impermeable bag, cooked in the bag, rapidly chilled, and refrigerated at temperatures that inhibit the growth of psychrotrophic pathogens.”

(F) A HACCP Plan is not required when a FOOD ESTABLISHMENT uses a REDUCED OXYGEN PACKAGING method to PACKAGE TIME/TEMPERATURE CONTROL FOR SAFETY FOOD that is always:

- (1) Labeled with the production time and date,
- (2) Held at 5°C (41°F) or less during refrigerated storage, and
- (3) Removed from its PACKAGE in the FOOD ESTABLISHMENT within 48 hours after PACKAGING.

3-602.11 Food Labels.

(B)(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;

3-603.11(A), the word “milk” shall be deleted.

3-603.11(C)(3) 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}

4-101.13 Lead, Use Limitation.^P

4-202.12 CIP Equipment. (A) (1)^{Pf} Was noncritical

4-203.11 Temperature Measuring Devices, Food.^{Pf} Was noncritical

4-203.12 Temperature Measuring Devices, Ambient Air and Water.^{Pf} Was noncritical

4-204.13 Dispensing Equipment, Protection of Equipment and Food. New (E)

(E) Dispensing EQUIPMENT in which TIME/TEMPERATURE CONTROL FOR SAFETY FOOD in a homogenous liquid form is maintained outside of the temperature control requirements as specified under §3-501.16(A) shall:

- (1) be specifically designed and equipped to maintain the commercial sterility of aseptically PACKAGED FOOD in a homogenous liquid form for a specified duration from the time of opening the PACKAGING within the EQUIPMENT;^P and
- (2) conform to the requirements for this EQUIPMENT as specified in NSF/ANSI 18-2006- Manual Food and Beverage Dispensing Equipment.^P

4-204.110 Molluscan Shellfish Tanks.(A)^P& (B)^{Pf} Was noncritical.

4-204.112 (Equipment) Temperature Measuring Devices (E)^{Pf} Was noncritical

4-204.115 Warewashing Machines, Temperature Measuring Devices.^{Pf} Was noncritical

4-204.116 Manual Warewashing Equipment, Heaters and Baskets.^{Pf} Was noncritical

4-204.117 Warewashing Machines, Automatic Dispensing of Detergents and Sanitizers.^{Pf} Was noncritical

4-301.11 Cooling, Heating, and Holding Capacities.^{Pf} Was noncritical

4-302.11 Utensils, Consumer Self-Service.^{Pf} Was noncritical

4-302.12 Food Temperature Measuring Devices.^{Pf} Was noncritical

4-301.12 Manual Warewashing, Sink Compartment Requirements (A) & (B)^{Pf} Was noncritical

4-302.13 Temperature Measuring Devices, Manual and Mechanical Warewashing.^{Pf} Was noncritical

4-302.14 Sanitizing Solutions, Testing Devices.^{Pf} Was noncritical

- 4-501.110 Mechanical Warewashing Equipment, Wash Solution Temperature. ^{Pf} Was noncritical
- 4-501.111 Manual Warewashing Equipment, Hot Water Sanitization Temperatures. ^P Was noncritical
- 4-501.112 Mechanical Warewashing Equipment, Hot Water Sanitization Temperatures. ^{Pf} Was noncritical
- 4-501.116 Warewashing Equipment, Determining Chemical Sanitizer Concentration. ^{Pf} Was noncritical
- 4-501.17 Warewashing Equipment, Cleaning Agents. ^{Pf} Was noncritical
- 4-501.19 Manual Warewashing Equipment, Wash Solution Temperature. ^{Pf} Was noncritical
- 4-501.114(A)^P Added chlorine concentration ranges and changed "Minimum Concentration" to "Concentration Range" in the chart.

Conc Range mg/L	Min Temp °F pH ≤ 8	Min Temp °F pH ≤ 10	Contact Time sec
25 - 49	120	120	10
50 - 99	75	100	7
100	55	55	10

New (F) ^P or ^{Pf} Sanitizer generated on site to comply with all Federal specifications

4-502.11 Good Repair and Calibration. (B) ^{Pf} Was noncritical

4-602.11 Equipment Food-Contact Surfaces and Utensils. (B) (Rewritten, Core)

Old example involved fish (allergen) and now states cooking hierarchy of meat to poultry

4-904.13 Preset Tableware. (Rewritten, Core)

(B) Preset tableware may be exposed if:

- (1) Unused settings are removed when a consumer is seated; or
- (2) Settings not removed when a consumer is seated are cleaned and sanitized before further use

4-904.14 Rinsing Equipment and Utensils after Cleaning and Sanitizing. (NEW, Core)

After being cleaned and SANITIZED, EQUIPMENT and UTENSILS shall not be rinsed before air drying or use unless:

- (A) The rinse is applied directly from a potable water supply by a warewashing machine that is maintained and operated as specified under Subparts 4-204 and 4-501; and
- (B) The rinse is applied only after the EQUIPMENT and UTENSILS have been SANITIZED by the application of hot water or by the application of a chemical SANITIZER solution whose EPA-registered label use instructions call for rinsing off the SANITIZER after it is applied in a commercial WAREWASHING machine.

5-102.13 Sampling^{Pf} (Now Pf)

5-103.12 Pressure^{Pf} (Now Pf)

5-104.11 System^{Pf} (Now Pf)

5-104.12 Alternative Water Supply ^{Pf} (Now Pf)

5-202.12 Handwashing Sink, Installation. (A)^{Pf} (Now Pf)

5-202.14 Backflow Prevention Device, Design Standard ^P (Now P)

5-203.11 Handwashing Sinks Only (A)^{Pf}

5-203.12 Toilets and Urinals (Core)

5-203.13 Service Sink. (B) Can't use toilets/urinals for waste disposal. (New, Core)

5-203.15 Backflow Prevention Device, Carbonator. (Rewritten)

Replacing (A) ^P double check valve and (B) single or double check valve with a **dual check valve**.

5-205.11 Using a Handwashing Sink ^{Pf} (Now Pf)

5-205.12 Prohibiting a Cross Connection (B) ^{Pf} (Now Pf)

5-205.13 Scheduling Inspection and Service for a Water System Device^{Pf} (Now Pf)

5-205.15 System Maintained in Good Repair (B) (Core, was Swing item)

5-301.11 Approved (A) ^P (Now P) MFU mobile water tank must be safe is Was noncritical.

5-302.16 Hose, Construction and Identification. (A)^P (Now P) MFU drinking water hose must be Safe.

5-303.11 Filter, Compressed Air. ^P (Now P) Filter installed for pressurizing water with compressed air.

5-304.14 Tank, Pump, and Hoses, Dedication. (A)^P (Now P) Drinking water hoses only used as such.

5-402.11 Backflow Prevention. . (A)^P (Only A is P).

5-402.14 Removing Mobile Food Establishment Wastes. ^{Pf} (Now Pf)

6-301.11 Handwashing Cleanser, Availability. ^{Pf} (Now Pf)

6-301.12 Hand Drying Provision. (New D, Pf)

Each handwashing sink or group of adjacent handwashing sinks shall be provided with:

(D) A hand drying device that employs an air-knife system that delivers high velocity, pressurized air at ambient temperatures.^{Pf}

6-302.11 Toilet Tissue, Availability. ^{Pf} (Now Pf)

A supply of toilet tissue shall be available at each toilet. Pf

6-404.11 Segregation and Location. ^{Pf} (Now Pf) Distressed Merchandise

6-501.115 Prohibiting Animals. Only (A)^{Pf} (B) & (C) are Core.

7-201.11 Separation. (A)^P (Now P - was Swing item.)

7-202.11 Restriction. (A)^{Pf} (Now Pf - was Swing item.)

7-202.12 Conditions of Use. (A) (1 & 4) are now Core.

7-204.11 Sanitizers, Criteria. Original rewritten into new paragraph (A)^P with new (B)^P

(A) Meet the requirements specified in 40 CFR 180.940 Tolerance exemptions for active and inert ingredients for use in antimicrobial formulations (Food-contact surface sanitizing solutions)^P, or

(B) Meet the requirements as specified in 40 CFR 180.2020 Pesticide Chemicals Not Requiring a Tolerance or Exemption from Tolerance-Non-food determinations.^P

7-204.12 Chemicals for Washing, Treatment, Storage, Processing Fruits/Vegetables, Criteria. (New B)

(B) Ozone as an antimicrobial agent used in the treatment, storage, and processing of fruits and vegetables in a food establishment shall meet the requirements specified in 21 CFR 173.368 Ozone.^P

7-204.14 Drying Agents, Criteria. (New 3 & 4 {both P}, then renumbered existing as 5 - 7)

(3) Generally recognized as safe for the intended use as determined by experts qualified in scientific training and experience to evaluate the safety of substances added, directly or indirectly, to FOOD as described in 21 CFR 170.30 Eligibility for classification as generally recognized as safe (GRAS),^P

(4) Subject of an effective Food Contact Notification as described in the Federal Food Drug and Cosmetic Act (FFDCA) Section 409(h),^P

7-208.11 Storage - First Aid Supplies (A)^P & (B)^{Pf} Now P or Pf - were Swing items.

7-301.11 Separation - Stock & Retail items . (A)^P (Now P - was Swing item.)

8-102.10 and 8-304.10 shall not apply.

8-103.11 Documentation of Proposed Variance and Justification. ^{Pf} (Now Pf)

8-201.11 When Plans Are Required; after subsection C: All required plans shall be submitted at least 45 days prior to the start of construction, conversion, or remodeling. Pf

8-201.13 When a HACCP Plan is Required. (B) is rewritten. (Core)

(B) Before engaging in REDUCED OXYGEN PACKAGING without a VARIANCE as specified under 3-502.12, a PERMIT applicant or PERMIT HOLDER shall submit a properly prepared HACCP PLAN to the REGULATORY AUTHORITY.

8-201.14 Contents of a HACCP Plan. ^{Pf} (Now Pf)

8-301.11 Prerequisite for Operation. ^{Pf} (Now Pf)

8-304.11 Responsibilities of the Permit Holder. (New K, Core)

(K) Notify customers that a copy of the most recent establishment inspection report is available upon request by posting a sign or placard in a location in the food establishment that is conspicuous to customers or by another method acceptable to the REGULATORY AUTHORITY.

8-405.11 Timely Correction. (New B regarding time frame to correct P items in 3 days & Pf items in 10 days. Core)

(A) Except as specified in ¶ (B) of this section, a PERMIT HOLDER shall at the time of inspection correct a violation of a PRIORITY ITEM or PRIORITY FOUNDATION ITEM of this Code and implement corrective actions for a HACCP PLAN provision that is not in compliance with its CRITICAL LIMIT.^{Pf}

(B) Considering the nature of the potential HAZARD involved and the complexity of the corrective action needed, the REGULATORY AUTHORITY shall agree to or specify a time frame, not to exceed:

(1) 72 hours after the inspection, for the PERMIT HOLDER to correct violations of a PRIORITY ITEM;

or

(2) 10 calendar days after the inspection, for the PERMIT HOLDER to correct violations of a PRIORITY FOUNDATION ITEM or HACCP PLAN deviations.

NEW Annex Section on Authority: Now 8-7. 8-6 AND 8-905 to 8-913 shall not apply.

8-904.10, shall include the following additional provision: **Core**

The commissioner may also summarily suspend a permit to operate a food establishment if:

3.1.1.1. The food establishment has three or more immediately uncorrectable priority items in violation at the time of inspection; or

3.1.1.2. The permit holder has been determined by the commissioner to have obstructed or hindered the commissioner in the proper discharge of his or her duties; and

3.1.1.3. Enforcement shall be in accordance with W. Va. Code §16-1-1 et seq. and §16-6-1, et seq.

3.2. The commissioner shall use Annexes 2 through 7 of the Food Code in the interpretation and application of this rule.

3.3. The Food Code is available on the internet at: <http://www.fda.gov> or as posted by the United States Food and Drug Administration.