

SECTION B

Public Health Reasons and Administrative Guidelines

The purpose of Section B of Part I of this Manual is to provide guidance in the understanding of the public health reasons and administrative guidelines for the Georgia Food Service Rules and Regulations Chapter 290-5-14 also known as the “Chapter”. The Public Health Reasons and administrative guidelines in this section are limited to certain Rules of the Chapter that have historically required additional guidance.

Since the current Chapter is adopted from the 2005 FDA Model Food Code, Annexes 1 through 7 of this Model Food Code will provide the science and technical reference from which the Chapter is based. It is not the design of this Manual for these Annexes to take precedent over the Chapter; but instead, it is meant for them to provide support for the Rules and Regulations within the Chapter. They, as well as other information, can be found through a link to the 2005 FDA Model Food Code located at the Georgia Department of Community Health’s, Environmental Health Branch website page at www.georgiaeh.us.

A. **Rule 290-5-14- .01 Definitions. Amended:**

The following definitions shall apply in the interpretation and enforcement of Chapter 290-5-14. Italicized sections and web links are added for further clarification of meaning of definitions.

- (a) ***“Accredited program” means*** a food protection manager certification program that has been evaluated and listed by an accrediting agency as conforming to national standards for organizations that certify individuals. It refers to the certification process and is a designation based upon an independent evaluation of factors such as the sponsor's mission; organizational structure; staff resources; revenue sources; policies; public information regarding program scope, eligibility requirements, re-certification, discipline and grievance procedures; test development and administration.

Accredited Program:

Food protection manager certification occurs when individuals demonstrate through a certification program that they have met specified food safety knowledge standards.

Food protection certification program accreditation occurs when certification organizations demonstrate through an accreditation program that they have met specified program standards.

Accreditation is a conformity assessment process through which organizations that certify individuals may voluntarily seek independent evaluation and listing by an accrediting

agency based upon the certifying organizations meeting program accreditation standards.

Such accreditation standards typically relate to such factors as the certifying organization's structure, mission, policies, procedures, and the defensibility of its examination processes. These standards are intended to affirm or enhance the quality and credibility of the certification process, minimize the potential for conflicts of interest, ensure fairness to candidates for certification and others, and thereby increase public health protection.

Program accreditation standards known to be relevant to food protection manager certification programs include those contained in the Standards for Accreditation of Food Protection Manager Certification Programs available from the Conference for Food Protection, 1085 Denio Avenue, Gilroy, CA 95020-9206 and found at <http://www.foodprotect.org/pdf/standards.pdf>.

Allowing food protection managers to demonstrate their required food safety knowledge "through passing a test that is part of an accredited program" is predicated on the fact that their credentials have been issued by certifying organizations that have demonstrated conformance with rigorous and nationally recognized program standards.

- (b) **"Adulterated"** means contaminated with extraneous ingredients not usually meant for the food product and is further defined as stated in the Federal Food, Drug, and Cosmetic Act, § 402. <http://www.fda.gov/opacom/laws/fdcact/fdcact4.htm>
- (c) **"Approved"** means acceptable to the Health Authority based on a determination of conformity with principles, practices, and generally recognized standards that protect public health.
- (d) **"Asymptomatic"** means without obvious symptoms, not showing or producing indications of a disease or other medical condition, such as an individual infected with a pathogen but not exhibiting or producing any signs or symptoms of vomiting, diarrhea, or jaundice. It includes not showing symptoms because symptoms have resolved or subsided, or because symptoms never manifested.
- (e) **"a_w"** means water activity which is a measure of the free moisture in a food, is the quotient of the water vapor pressure of the substance divided by the vapor pressure of pure water at the same temperature, and is indicated by the symbol a_w.
- (f) **"Balut"** means an embryo inside a fertile egg that has been incubated for a period sufficient for the embryo to reach a specific stage of development after which it is removed from incubation before hatching.

- (g) **“Base of Operation”** means a food service establishment, or any other place in which food, containers or supplies are kept, handled, prepared, packaged or stored for subsequent transport, sale or service elsewhere.
- (h) **"Beverage"** means a liquid for drinking, including water.
- (i) **“Bottled drinking water”** means water that is sealed in bottles, packages, or other containers and offered for sale for human consumption, including bottled mineral water.
- (j) **"Casing”** means a tubular container for sausage products made of either natural or artificial (synthetic) material.
- (k) **"Certification”** means a document certifying that an individual has completed an approved food safety training program and has passed a professionally validated food safety examination.
- (l) **"Certification number”** means a unique combination of letters and numbers assigned by a shellfish control authority to a molluscan shellfish dealer according to the provisions of the National Shellfish Sanitation Program.
- (m) **“Certified food safety manager (CFSM)”** means the owner or manager of a food service establishment who has successfully completed a food safety training program approved by the Department and passed a professionally validated CFSM examination that is accredited by the Conference for Food Protection or other accrediting agency as conforming to national standards for organizations that certify individuals.
- (n) **"CFR” means** Code of Federal Regulations. Citations in this Chapter to the CFR refer sequentially to the Title, Part, and Section numbers, such as 21 CFR 178.1010 refers to Title 21, Part 178, Section 1010. This section of the CFR contains all general and permanent rules published in the Federal Register by the executive departments and agencies of the federal government.
- (o) **"CIP"** means cleaned in place by the circulation or flowing by mechanical means through a piping system of a detergent solution, water rinse, and sanitizing solution onto or over equipment surfaces that require cleaning, such as the method used, in part, to clean and sanitize a frozen dessert machine.

It does not include the cleaning methods used for equipment such as band saws, slicers, or mixers that are subjected to in-place manual cleaning where all food contact surfaces are openly exposed. In-place cleaning is where all removable parts are removed to either the 3-compartmented sink for manual wash, rinse, and sanitization or to warewasher. The remaining parts that cannot be placed in the warewashing sink or the warewashing machine, are cleaned where they are located; hence, in-place cleaning.

- (p) **"Color additive"** means a dye, pigment, or other substance that is capable of imparting color and is further defined as stated in the Federal Food, Drug, and Cosmetic Act, § 201(t) <http://www.fda.gov/opacom/laws/fdcact/fdcact1.htm> and 21CFR 70 <http://www.accessdata.fda.gov/scripts/cdrh/cfdocs/cfcr/CFRSearch.cfm?CFRPart=70&showFR=1>.
- (q) **"Commingle"** means to combine shellshock 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.
- (r) **"Comminuted"** means reduced in size by methods including chopping, flaking, grinding, or mincing. It 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 (2) or more types of meat that have been reduced in size and combined, such as sausages made from two (2) or more meats.
- (s) **"Conditional employee"** means a potential food employee to whom a job offer is made, conditional on responses to subsequent medical questions or examinations designed to identify potential food employees who may be suffering from a disease that can be transmitted through food and done in compliance with Title 1 of the Americans with Disabilities Act of 1990.
- (t) **"Confirmed disease outbreak"** means a foodborne disease outbreak in which laboratory analysis of appropriate specimens identifies a causative agent and epidemiological analysis implicates the food as the source of the illness.
- (u) **"Consumer"** means a person who is a member of the public, takes possession of food, is not functioning in the capacity of an operator of a food service establishment and does not offer the food for resale.
- (v) **"Corrosion-resistant material"** means a material that maintains acceptable surface cleanability characteristics under prolonged influence of the food to be contacted, the normal use of cleaning compounds and sanitizing solutions, and other conditions of the use environment.
- (w) **"Counter-mounted equipment"** means equipment that is not portable and is designed to be mounted off the floor on a table, counter, or shelf.
- (x) **"County Board of Health"** means the Board of Health as established by O.C.G.A. § 31-3-1. http://www.legis.state.ga.us/cgi-bin/gl_codes_detail.pl?code=31-3-1
- (y) **"Critical control point"** means a point or procedure in a specific food system where loss of control may result in an unacceptable health risk.

- (z) **"Critical item"** means a provision of this Chapter, that, if in noncompliance, is more likely than other violations to contribute to food contamination, illness, or environmental health hazard and may create an imminent health hazard.
- (aa) **"Critical limit"** means the maximum or minimum value to which a physical, biological, or chemical parameter must be controlled at a critical control point to minimize the risk that the identified food safety hazard may occur.

These are measurable controls listed in Rules within the Chapter that must be followed to control foodborne illness risk factors. Example: Potentially Hazardous Foods (time/temperature for safety food) must be held hot to an internal temperature of at least 135 °F. In this case, 135 °F would be the CRITICAL LIMIT for hot holding Potentially Hazardous Foods (time/temperature control for safety foods). The critical limit means that the applied control cannot be less than what has been established as the minimum needed to minimize or eliminate the impact of a risk factor for which a particular Rule has been designed to control. The RISK FACTOR for foodborne illness would be PATHOGEN OUTGROWTH due to a food product temperature of ≤ 135 °F during hot holding.

- (bb) **"Department"** means the Department of Community Health, State of Georgia.
- (cc) **"Disclosure"** means a written statement that clearly identifies the animal-derived foods which are, or can be ordered, raw, undercooked, or without otherwise being processed to eliminate pathogens, or items that contain an ingredient that is raw, undercooked, or without otherwise being processed to eliminate pathogens.
- (dd) **"Drinking water"** means water that meets criteria as specified in 40 CFR 141 National Primary Drinking Water Regulations, is traditionally known as "potable water", and includes the term "water" *except where the term used connotes that the water is not potable, such as "boiler water," "mop water," "rainwater," "wastewater," and "nondrinking" water.*
- (ee) **"Dry storage area"** means a room or area designated for the storage of packaged or containerized bulk food that is not potentially hazardous (time/temperature control for safety food) and dry goods such as single-service items.

- (ff) "**Easily cleanable**" means a characteristic of a surface that allows effective removal of soil by normal cleaning methods; is dependent on the material, design, construction, and installation of the surface; and 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. It includes a tiered application of the criteria that qualify the surface as easily cleanable to different situations in which varying degrees of cleanability are required such as: 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 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.
- (gg) "**Easily movable**" means portable, mounted on casters, gliders, or rollers, or provided with a mechanical means to safely tilt a unit of equipment for cleaning. It also means having no utility connection, a utility connection that disconnects quickly, or a flexible utility connection line of sufficient length to allow the equipment to be moved for cleaning of the equipment and adjacent area.
- (hh) "**Egg**" means the shell egg of avian species such as a chicken, duck, goose, guinea, quail, ratites or turkey and does not include a balut, the egg of reptile species such as alligator or an egg product.

Egg:

The definition of egg includes avian species' shell eggs known to be commercially marketed in the United States. Also included are the eggs of quail and ratites such as ostrich.

*Not included are baluts. Baluts are considered a delicacy among Philippine and Vietnamese populations. They are derived from fertile eggs, typically duck eggs, subjected to incubation temperatures for a period of time less than necessary for the embryo to hatch resulting in a partially formed embryo within the shell. Under the **Egg Products Inspection Act (EPIA)**, an egg is typically considered adulterated if it has been subjected to incubation. However, in **9 CFR 590.5**, baluts are specifically exempted from inspection as eggs under the EPIA.*

In producing baluts, fertile duck eggs are incubated for approximately 18 days at a temperature of 42.5°C (108.5°F) in incubators with a relatively high humidity. (Complete development and hatching would take place in 28 days.) Under these conditions, the potential for growth of transovarian Salmonella organisms such as S. Enteritidis within the shell, and the potential for an increase in pathogenic microflora on the shell itself, are increased. Where chicken eggs are used in preparing baluts, the incubation period may only be 14 days at an incubation temperature of 37°C (99°F).

A balut is a potentially hazardous food (time/temperature control for safety food) subject to time/temperature management including proper cooking and hot and cold holding. Baluts are typically boiled and packed in salt before sale or service.

Also, not included in this definition are the eggs of reptile species such as alligators and turtles. Alligator eggs are available for sale in some parts of the southern United States. In restaurants, the menu item “Alligator Eggs” is sometimes made of alligator egg, but other times is simply a fanciful name for a menu item that may include seafood items such as shrimp, but contains no alligator egg.

*Sea turtle eggs have been consumed in Asian and Latin American Countries. However, turtle eggs are not mentioned in the definitions section because sea turtles (Loggerhead, East Pacific Green, Leatherback, Hawksbill, Kemp’s Ridley, and Olive Ridley) are protected by **The Endangered Species Act of 1973** and therefore may not be sold or consumed. The United States Department of Interior, U.S. Fish and Wildlife Service, Washington, DC enforces this Act, with respect to turtle eggs.*

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- (ii) **"Egg product"** means all, or a portion of, the contents found inside eggs separated from the shell and pasteurized in a food processing plant, with or without added ingredients, intended for human consumption, such as dried, frozen or liquid eggs. It does not include food, which contains eggs only in a relatively small proportion such as cake mixes.
- (jj) **"Employee"** means the permit holder, person in charge, food employee, person having supervisory or management duties, person on the payroll, family member, volunteer, person performing work under contractual agreement, or other person working in a food service establishment.
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An employee is an individual who is on the payroll of a food service establishment or an individual who performs work that is necessary for the food service establishment to function and to provide its services to the public. He or she can be an individual who may not be on the payroll of the food service establishment and who is performing work on behalf of the food service establishment that is necessary for it to provide its services to the public. He or she can be an individual who is employed by a company that is not on the food service establishment payroll, such as a pest exterminator, equipment servicing or repair provider or provision supplier, whose services are necessary for the operation of the establishment.

- (kk) **"Enough"** means occurring in such quantity and quality or scope as to fully satisfy demand or need.

- (ll) "**Enterohemorrhagic *Escherichia coli*" (EHEC)** means *E. coli* which cause hemorrhagic colitis, meaning bleeding enterically or bleeding from the intestine. The term is typically used in association with *E. coli* that have the capacity to produce Shiga toxins and to cause attaching and effacing lesions in the intestine.
- (mm) "**EPA**" means the U.S. Environmental Protection Agency.
- (nn) "**Equipment**" means an article that is used in the operation of a food service establishment such as a freezer, grinder, hood, ice maker, meat block, mixer, oven, reach-in refrigerator, scale, sink, slicer, stove, table, temperature measuring device for ambient air, warewashing machine, or other similar devices. *It does not include apparatuses used for handling or storing large quantities of packaged foods that are received from a supplier in a cased or overwrapped lot, such as hand trucks, forklifts, dollies, pallets, racks, and skids.*
- (oo) "**Exclude**" means to prevent a person from working as an employee in a food service establishment or entering a food service establishment as an employee.
- (pp) "**Extended food service unit**" means a stationary trailer, kiosk or similar unit operating as an extension of a commissary or a permitted food service establishment on the same property.
- (qq) "**FDA**" means the U.S. Food and Drug Administration.
- (rr) "**Fish**" means fresh or saltwater finfish, crustaceans and other forms of aquatic life (including alligator, frog, aquatic turtle, jellyfish, sea cucumber, and sea urchin and the roe of such animals) other than birds or mammals, and all mollusks, if such animal life is intended for human consumption. It includes an edible human food product derived in whole or in part from fish, including fish that have been processed in any manner.
- (ss) "**Food**" means a raw, cooked, or processed edible substance, ice, beverage, or ingredient used or intended for use or for sale in whole or in part for human consumption, or chewing gum.
- (tt) "**Food additive**" means any substance that may become a component of food as defined in the Federal Food, Drug, and Cosmetic Act § 201(s) and 21 CFR 170.3(e)(1).
<http://www.accessdata.fda.gov/scripts/cdrh/cfdocs/cfCFR/CFRSearch.cfm?CFRPart=170&showFR=1>
- (uu) "**Foodborne disease outbreak**" means the occurrence of two or more cases of a similar illness resulting from the ingestion of a common food.
- (vv) "**Food-contact surface**" means a surface of equipment or a utensil with which food normally comes into contact or a surface of equipment or a utensil from which food may drain, drip, or splash into a food or onto a surface normally in contact with food.

- (ww) **"Food employee"** means an individual working with unpackaged food, food equipment or utensils, or food-contact surfaces.
- (xx) **"Food processing plant"** means a commercial operation that manufactures, packages, labels, or stores food for human consumption, and provides food for sale or distribution to other business entities such as food processing plants or food service establishments.
- (yy) **"Foodservice establishment"** O.C.G.A. § 26-2-370 means establishments for the preparation and serving of meals, lunches, short orders, sandwiches, frozen desserts, or other edible products either for carry out or service within the establishment. The term includes restaurants; coffee shops; cafeterias; short order cafes; luncheonettes; taverns; lunchrooms; places which retail sandwiches or salads; soda fountains; institutions both public and private; food carts; itinerant restaurants; industrial cafeterias; catering establishments; and similar facilities by whatever name called. Within a food service establishment, there may be a food sales component, not separately operated. This food sales component shall be considered as part of the food service establishment. This term shall not include a "food sales establishment," as defined in the Code Section **O.C.G.A. § 26-2-21**, except as stated in this definition. The food service component of any food sales establishment defined in Code Section 26-2-21 shall not be included in this definition. This term shall not include any outdoor recreation activity sponsored by the state, a county, a municipality, or any department or entity thereof, any outdoor public school function or any outdoor private school function. This term also shall not mean establishments for the preparation and serving of meals, lunches, short orders, sandwiches, frozen desserts, or other edible products if such preparation or serving is an authorized part of and occurs upon the site of a fair or festival which:
1. Is sponsored by a political subdivision of this state or by an organization exempt from taxes under paragraph (1) of subsection (a) of Code Section **O.C.G.A. § 48-7-25** or under Section **501(d)** or paragraphs (1) through (8) or paragraph (10) of section 501(c) of the Internal Revenue Code, as that code is defined in Code Section **48-1-2**;
 2. Lasts 120 hours or less; and
 3. When sponsored by such an organization, is authorized to be conducted pursuant to a permit issued by the municipality or county in which it is conducted.
- a. Descriptions:
1. Institutions (both public and private):

These would be organizations, societies, corporations, having a public character and function with a component of preparation and service of food to the public such as schools; churches; colleges; correction facilities; and caring facilities for

the elderly and the disabled such as nursing homes, adult daycare, and congregate personal care homes with 25 or more beds.

An example of an institution that normally is not thought as having a food service component is a church. If a church has a dinner function for only its members and guests, it would not be considered a food service establishment. However, if it prepares food and serves it to the general public as in a soup kitchen or school, it would be considered a food service establishment.

2. Food Carts:

Examples of these can be found in Rule .08 Subsection (1) (b) 1., 2. and 3., and (g) 1. of Chapter 290-5-14. and include hot dog carts, popcorn carts, and snow cone carts. These type establishments will have a limited menu and method of operation.

3. Soda Fountains:

These are service counters within businesses such as drug stores that serve a very limited menu (e.g. coffee, soft drinks, milk shakes, ice cream).

4. Short Order Cafes:

These are dine-in or carryout, quick-service, cooked-to-order establishments serving a limited menu. An example of this would be a traditional diner or lunch counter.

5. Luncheonettes:

These are establishments where light lunches are served such as in tearooms. Menus are usually limited to items such as soups, salads and sandwiches.

6. Taverns:

These are establishments where liquor, beer, and wine are sold to be consumed on the premises such as a saloon or bar. They may be equipped to serve food and in some cases, these type establishments may be associated with a tourist accommodation component such as an inn.

7. Cafeterias:

These are restaurants equipped to display food for consumer self-service or displayed for immediate service upon order of the consumer. These establishments may be stand-alone facilities or found in such locations such as institutions, schools, office and industrial buildings.

8. Catering Establishments:

These are food service establishments that have entered into a contractual agreement with their consumers to prepare food in bulk quantities for delivery and/or service off the premises at a specific date, time, and location. For example, food is prepared and containerized at a permitted “Base of Operation” for a client who is planning a wedding. The catering establishment and the client enter into a contractual agreement, verbal or written – usually written, to provide food and services for the wedding reception. The client selects from the establishment’s menu items for service for a fee and the event is scheduled. On the day of the wedding event, the caterer prepares the food and delivers it to the site for service. After the event concludes, the caterer removes his/her equipment and returns it to the base of operation for cleaning and sanitization.

Home delivery food service establishments, such as pizza or Chinese delivery, sometimes are loosely described as being a form of catering, but it is not. The customer will call the establishment and will make a verbal request of the establishment to deliver a food item from their menu. This type of food service is food delivery provided by the establishment. There is no contractual agreement for food to be prepared and delivered off-site.

Mobile food service operations are not catering operations by the characteristics of how they operate. Mobile food service units go from place to place vending food as an extension of their permitted base of operation and not to any specific event nor under any contractual request by its consumers. Moreover, mobile food service units are limited to two areas (i.e., routes) or locations of operation where as catering food service operations do not have such operational limitations.

See Subsection H.(2)(g)1.(b) of this Section for more information.

9. Places that retail Sandwiches or Salads:

They could be any food service establishment that prepares sandwiches or salads for sale to their patrons. However, they are not establishments that manufacturer

sandwiches and or salads for sale to other establishments (or wholesaling) who will in turn sell such products to their patrons. Such manufacturers are considered as sandwich and salad manufacturers and as such are permitted and regulated by the Georgia Department of Agriculture.

An example of this establishment would be deli shops. They usually bake their own bread and display various toppings for patrons to select to complete the sandwich. They may offer salads of which are usually made in-house and they may offer soups that are usually commercially prepared and package, reheated, and hot held prior to service.

10. Similar Facilities by whatever name called:

This part of the definition of “Food Service Establishment” is added to the definition of food service establishment to include any establishment that prepares and serves food to the public no matter how it operates or what it is called. The exception would be if the Official Code of Georgia Annotated (O.C.G.A.) excludes activities with food from the definition or if the food service activity falls under the jurisdiction of the Federal Government. Currently, there are five exclusions to the food service establishment definition. They are: food sales establishment, sandwich manufacturers, and food processors all permitted by the Georgia Department of Agriculture; non-profit temporary food establishments; outdoor recreation activities with food concessions sponsored by the state, a county, a municipality, or any department or entity thereof, or public school function or any outdoor private school function; child care facility licensed by the Georgia Department of Early Care and Learning (GDECL); and those food service establishments located on Federal Government property such as military bases. However, Head Start Children’s Programs, operating under funding provided by the United States Department of Agriculture (USDA) and the United States Health and Human Services (USHHS), usually are required to hold a food service permit from the local Health Authority.

b. Rationale for Determining What Falls within the Definition of “Food Service Establishment”:

From time to time, questions do come up in various situations as to how to determine if a particular operation or an event falls within the definition of a food service establishment requiring the issuance of a food service permit. These food operations would be those that are not clearly listed as not being within the definition of a food service establishment as noted above within Subsection A. (yy) a. 10. entitled, “Similar Facilities by whatever named called”. In order to make the determination, the Environmental Health Specialist (EHS) will need to ask the question, “Will this operation and or event prepare and serve food to the public or will the operation prepare food and serve itself and not to the public?” Examples of such rational thinking are as follows:

1. A party is open only to an invited group of people in a rented facility where someone is hired to prepare food on the premises.

Answer: No food permit is necessary. This is a private event open only to invited guests in a facility rented for private use.

Exception: If the rental facility has a service that routinely provides food service then yes, the facility must have a food service permit. Very often, however, the party giver will prepare his or her own food or friends will prepare it. This can be considered private, the same as if someone has a party in his/her home.

2. A political fundraising event in which people are invited to meet the political candidate and enjoy free food. Donations may or may not be accepted.

Answer: By definition, a political fund raising event would be a non-profit if a local government or political action group (most of which are non-profit) sponsors it. If the event does not meet the criteria of a non-profit temporary food service establishment as established within Rule -.01 (yy) 1-3, then the event would be considered as a for-profit temporary food service event and must be permitted as a temporary food service establishment under Chapter 290-5-14.

3. A party is open only to an invited group of people in a rented facility where someone is hired to prepare food off the premises and bring it to the site.

Answer: Food service permit is required at the preparation site (ex., at the caterer's kitchen or off-site kitchen).

Exception: No food service permit would be necessary if the party giver or friends participating in the party prepare the food.

4. A Boarding House is serving food only to the tenants (sometimes the tenants prepare their own meals).

Answer: No permit is necessary. This is to be considered the tenants private home.

5. A club such as a Country Club, Elks Lodge, or Moose Lodge is serving food only to its members that is prepared by members or catered-in for members.

Answer: Generally, no permit is necessary for such an operation.

Exception: If the club or lodge invites or solicits the public to come in to eat through any form of advertisement with the public such as word-of-mouth, the media, signage, etc., then yes it must hold a food service permit. In addition, a food service permit would be required should the facility provide a catering service.

6. Churches that serve food only to the church members and to guests invited by church members.

Answer: A food service permit is not necessary as long as the food is prepared in the church kitchen and is only for church members and not for service to the public through invitation or solicitation through any form of advertisement such as word-of-mouth, the media, signage, etc.

Exception: A church will need a food serve permit should it serve food off from the premises of the church, such as events organized by a for-profit organizer. In addition, a food service permit would be required should a church serve food to the public such as soup kitchen for the homeless and or a private school.

The Environmental Health Specialist must evaluate proposed methods of operation on a case-by-case basis to determine if food is being prepared and/or served to the public. The purpose of this case-by-case evaluation is to determine if an operation meets the term, “ food service establishment”, as defined in Rule -.01(yy).

- (zz) “**Food service manager**” means any person who supervises / trains a food service worker to follow all food safety regulations. The manager shall be an employee of the permitted food service establishment.
- (aaa) “**Game animal**” means an animal, the products of which are food, that is not classified as livestock, sheep, swine, goat, horse, mule, or other equine in **9 CFR 301.2** Definitions, or as Poultry, or fish. It 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, *but does not include ratites*.
- (bbb) “**General use pesticide**” means a pesticide that is not classified by EPA for restricted use as specified in **40 CFR 152.175**, Pesticides classified for restricted use.
- (ccc) “**Grade A standards**” means the requirements of the United States Public Health Service/FDA “Grade A Pasteurized Milk Ordinance” with which certain fluid and dry milk and milk products comply.
- (ddd) “**HACCP plan**” means a written document that delineates the formal procedures for following the Hazard Analysis Critical Control Point principles developed by The National Advisory Committee on Microbiological Criteria for Foods **(See Rule -.02 Subsection (5) (a) – (e) of Chapter 290-5-14 for more information)**.
- (eee) “**Handwashing sink**” means a lavatory, a basin or vessel for washing, a washbasin, or a plumbing fixture especially placed for use in personal hygiene and designed for the washing of the hands and it includes an automatic handwashing facility.
- (fff) “**Hazard**” means a biological, chemical, or physical property that may cause an unacceptable consumer health risk.
- (ggg) “**Health authority**” means the Department, or the County Board of Health acting as its agent.
- (hhh) “**Health practitioner**” means a physician licensed to practice medicine, or if allowed by law, a nurse practitioner, physician assistant, or similar medical professional.

- (iii) "**Hermetically sealed container**" means a container that is designed and intended to be secure against the entry of microorganisms and, in the case of low acid canned foods, to maintain the commercial sterility of its contents after processing.
- (jjj) "**Highly susceptible population**" means persons who are more likely than other people in the general population to experience foodborne disease because they are immunocompromised, preschool age children, or older adults and obtaining food at a facility that provides services such as custodial care, health care, or assisted living, such as a child or adult day care center, kidney dialysis center, hospital or nursing home, or nutritional or socialization services such as a senior center.
- (kkk) "**Imminent health hazard**" means a significant threat or danger to health that is considered to exist when there is evidence sufficient to show that a product, practice, circumstance, or event creates a situation that requires immediate correction or cessation of operation to prevent injury based on the number of potential injuries and the nature, severity, and duration of the anticipated injury.
- (lll) "**Injected**" means manipulating a meat so that infectious or toxigenic microorganisms may be introduced from its surface to its interior through tenderizing with deep penetration or injecting the meat such as by processes which may be referred to as "injecting," "pinning," or "stitch pumping."
- (mmm) "**Juice**" means 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. It includes juice as a whole beverage, an ingredient of a beverage and a puree as an ingredient of a beverage, *but does not include, for purposes of HACCP, liquids, purées, or concentrates that are not used as beverages or ingredients of beverages.*

The definition of "Juice" includes only liquids from fruits and vegetables. Also, "Juice" would include puree of fruits and vegetables as an ingredient of a beverage. They would not include liquids extracts derived from flowers of plants or liquids from non-vegetable origin such as seaweed. In addition, they would not include liquids, purees, or concentrates of fruits and vegetables that are not to be used as beverages or as ingredients of beverages.

- (nnn) "**Kitchenware**" means all multiuse utensils other than tableware used in the storage, preparation, conveying, or serving of food.
- (ooo) "**Law**" means applicable local, state, and federal statutes, regulations, and ordinances.
- (ppp) "**Limited food preparation**" means no combining of ingredients except the addition of seasonings, toppings or condiments.

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

(rrr) "**Major food allergen**" means milk, egg, fish (such as bass, flounder, cod, and including crustacean such as crab, lobster, or shrimp), tree nuts (such as almonds, pecans, or walnuts), wheat, peanuts, and soybeans; or a food ingredient that contains protein derived from a food specified in this definition. *It does not include any highly refined oil derived from a major food allergen or any ingredient derived from such highly refined oil; or any ingredient that is exempt under the petition or notification process specified in the Food Allergen Labeling and Consumer Protection Act of 2004 (Public Law 108-282).*

(sss) "**Meat**" means the flesh of animals used as food including the dressed flesh of cattle, swine, sheep, or goats and other edible animals, except *fish, poultry, and wild game animals.*

(ttt) "**Mobile food service unit**" means a trailer, pushcart, vehicle vendor or any other conveyance operating as an extension of a base of operation or a permitted food service establishment.

The meaning of the definition, "Mobile food service unit", is to allow a permit holder of a fixed, food service establishment to operate a separately permitted mobile food service component under the same management of his fixed, food service establishment. It is not the allowable by the definition for separately owned and managed mobile food service unit or units to conduct their operations using the same fixed, food service establishment as their base of operation that is permitted by some other person.

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

(vvv) "**Packaged**" means bottled, canned, cartoned, securely bagged or securely wrapped, whether packaged in a food service establishment or a food processing plant. *It does not include a wrapper, carryout box or other nondurable container used to containerize food with the purpose of facilitating food protection during service and receipt of the food by the consumer.*

The purpose of the definition, "Packaged", is to require permit holders to provide a durable, closed food grade container so that the package will have to be torn into, or a seal, lid or cap removed in order for an individual to gain access to the contents of the package. Packaging provides protection of enclosed food from potential sources of contamination during long-term storage and transportation. In addition, it provides notice to the consumer that the food may have been tampered with should he or she find the package damaged or opened.

(www) "**Permit**" means the document issued by the Health Authority that authorizes a person to operate a food service establishment and signifies satisfactory compliance with these Rules.

The term, "Permit", is the legal instrument by which the Health Authority grants authorization to a person (i.e., the permit holder) to operate a food service establishment, once that person demonstrates compliance with the Chapter. The person who is granted a permit must have the legal responsibility for the day-to-day management of the establishment. This statement goes to Rule -.03 "Management and Personnel" that requires active management control of risk factors that most often cause foodborne illness, as well as GRPs (or Good Retail Practices) and the physical facilities that support the control of risk factors. As such, a food service permit can only be issued to one food service establishment that is under the authority and control of one management, the permit holder. This would exclude two separately owned and operated food service establishments to operate using the same food service equipment and physical facilities that have a direct impact on food safety. The exception would be the joint use of common areas, such as public toilet facilities, public utilities, parking areas and dining areas, under a contractual agreement similar to what you would find within in a shopping mall's food court.

(xxx) "**Permit holder**" means the person who possesses a valid permit to operate a food service establishment and is legally responsible for the operation of the food service establishment such as the owner, the owner's agent, or other person.

The permit holder can be different from the person that owns the equipment and physical facilities. For example, a public school system or hospital authority owns the food service facility and food service equipment and leases out the food service operation to a management firm. The management firm would be the permit holder and the public school system or hospital authority would be the landlord. As permit holder, the management firm would be legally responsible for the day-to-day operation of the food service establishment.

(yyy) "**Person**" means an association, a corporation, individual, partnership, other legal entity, government, or governmental subdivision or agency.

(zzz) "**Person in charge**" means the individual present at a food service establishment who is responsible for the operation at the time of inspection. If no individual has been designated as the person in charge at the time of inspection, then any employee present is the person in charge.

(aaaa) **"Personal care items"** means items or substances that may be poisonous, toxic or a source of contamination and are used to maintain or enhance a person's health, hygiene or appearance. They include items such as medicines; first aid supplies; and other items such as cosmetics, and toiletries such as toothpaste and mouthwash.

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

(cccc) **"Physical facilities"** means the structure and interior surfaces of a food service establishment including accessories such as soap and towel dispensers and attachments such as light fixtures and heating or air conditioning system vents.

(dddd) **"Plumbing fixture"** means a receptacle or device that is permanently or temporarily connected to the water distribution system of the premises and demands a supply of water from the system or discharges used water, waste materials, or sewage directly or indirectly to the drainage system of the premises.

(eeee) **"Plumbing system"** means the water supply and distribution pipes; plumbing fixtures and traps; soil, waste, and vent pipes; sanitary and storm sewers and building drains, including their respective connections, devices, and appurtenances within the premises; and water-treating equipment.

(ffff) **"Poisonous or toxic materials"** means substances that are not intended for ingestion and are included in four (4) categories:

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

(gggg) “**Potentially Hazardous Food. (Time/Temperature Control For Safety Food)**”.

1. “**Potentially hazardous food (time/temperature control for safety food)**” means a food that requires time/temperature control for safety to limit pathogenic microorganism growth or toxin formation.
2. “**Potentially hazardous food (time/temperature control for safety food)**” includes an animal food that is raw or heat- treated; a plant food that is heat-treated or consists of raw seed sprouts; cut melons; cut tomatoes; or garlic-in-oil mixtures that are not modified in a way that results in mixtures that do not support growth or toxin formation; and except as specified in 3. (iv) of this definition, a food that because of the interaction of its a_w and pH values is designated as Product Assessment Required (PA) in Table A or B of this definition:

Table A. Interaction of pH and a_w for control of spores in food heat-treated to destroy vegetative cells and subsequently packaged			
a_w values	pH values		
	4.6 or less	> 4.6 - 5.6	> 5.6
<0.92	non-PHF*/non-TCS food**	non-PHF/non-TCS FOOD	non-PHF/non-TCS FOOD
> 0.92 - .95	non-PHF/non-TCS food	non-PHF/non-TCS FOOD	PA***
> 0.95	non-PHF/non-TCS food	PA	PA
* PHF means Potentially Hazardous Food ** TCS food means Time/Temperature Control for Safety food *** PA means Product Assessment required			

Table B. Interaction of pH and a_w for control of vegetative cells and spores in food not heat-treated or heat-treated but not packaged				
a_w values	pH values			
	< 4.2	4.2 - 4.6	> 4.6 - 5.0	> 5.0
< 0.88	non-PHF*/ non-TCS food**	non-PHF/ non-TCS food	non-PHF/ non-TCS food	non-PHF/ non-TCS food
0.88 – 0.90	non-PHF/ non-TCS food	non-PHF/ non-TCS food	non-PHF/ non-TCS food	PA***
> 0.90 – 0.92	non-PHF/ non-TCS food	non-PHF/ non-TCS food	PA	PA
> 0.92	non-PHF/ non-TCS food	PA	PA	PA
* PHF means Potentially Hazardous Food ** TCS food means Time/Temperature Control for Safety food *** PA means Product Assessment required				

3. “**Potentially hazardous food (time/temperature control for safety food)**” does not include:

- (i) *An air-cooled hard-boiled egg with shell intact, or an egg with shell intact that is not hard-boiled, but has been treated to destroy all viable Salmonellae;*
- (ii) *A food in an unopened hermetically sealed container that is commercially processed to achieve and maintain commercial sterility under conditions of non-refrigerated storage and distribution;*

- (iii) A food that because of its pH or a_w value, or interaction of a_w and pH values, is designated as a non-PHF/non-TCS food in Table A or B of this definition; or (iv) A food that is designated as Product Assessment Required (PA) in Table A or B of this definition and has undergone a Product Assessment showing that the growth or toxin formation of pathogenic microorganisms that are reasonably likely to occur in that food is precluded due to:
- (I) Intrinsic factors including added or natural characteristics of the food such as preservatives, antimicrobials, humectants, acidulants, or nutrients,
- (II) Extrinsic factors including environmental or operational factors that affect the food such as packaging, modified atmosphere such as reduced oxygen packaging, shelf life and use, or temperature range of storage and use, or
- (III) A combination of intrinsic and extrinsic factors; or
- (v) A food that does not support the growth or toxin formation of pathogenic microorganisms even though the food may contain a pathogenic microorganism or chemical or physical contaminant at a level sufficient to cause illness or injury.

Explanation:

Potentially hazardous food (PHF/TCS food) is defined in terms of whether or not it requires time/temperature control for safety to limit pathogen growth or toxin formation. The term does not include foods that do not support growth but may contain a pathogenic microorganism or chemical or physical food safety hazard at a level sufficient to cause foodborne illness or injury. The progressive growth of all foodborne pathogens is considered whether slow or rapid.

The definition of PHF/TCS food takes into consideration pH, a_w , pH and a_w interaction, heat treatment, and packaging for a relatively simple determination of whether the food requires time/temperature control for safety. If the food is heat-treated to eliminate vegetative cells, it needs to be addressed differently than a raw product with no, or inadequate, heat treatment. In addition, if the food is packaged after heat treatment to destroy vegetative cells and subsequently packaged to prevent re-contamination, higher ranges of pH and/or a_w can be tolerated because remaining spore-forming bacteria are the only microbial hazards of concern. While foods will need to be cooled slightly to prevent condensation inside the package, they must be protected from contamination in an area with limited access and packaged before temperatures drop below 57°C (135°F). In some foods, it is possible that neither the pH value nor the a_w value is low enough by itself to control or eliminate pathogen

growth; however, the interaction of pH and a_w may be able to accomplish it. This is an example of a hurdle technology. Hurdle technology involves several inhibitory factors being used together to control or eliminate pathogen growth, when they would otherwise be ineffective if used alone.

In determining if time/temperature control is required, combination products present their own challenge. A combination product is one in which there are two or more distinct food components and an interface between the two components may have a different property than either of the individual components. A determination must be made about whether the food has distinct components such as pie with meringue topping, focaccia bread, meat salads, or fettuccine alfredo with chicken or whether it has a uniform consistency such as gravies, puddings, or sauces. In these products, the pH at the interface is important in determining if the item is a PHF/TCS food.

A well designed inoculation study or other published scientific research should be used to determine whether a food can be held without time/temperature control when:

- 1. process technologies other than heat are applied to destroy foodborne pathogens (e.g., irradiation, high pressure processing, pulsed light, ozonation);*
- 2. combination products are prepared; or*
- 3. other extrinsic factors (e.g., packaging/atmospheres) or intrinsic factors (e.g., redox potential, salt content, antimicrobials) are used to control or eliminate pathogen growth.*

Before using Tables A and B in paragraph 1-201.10(B) of the definition for “potentially hazardous food (time/temperature control for safety food)” in determining whether a food requires time/temperature control for safety (TCS), answers to the following questions should be considered:

- Is the intent to hold the food without using time or temperature control?
 - o If the answer is No, no further action is required. The Decision Tree #1 is not needed to determine if the item is a PHF/TCS food.**
- Is the food raw, or is the food heat-treated?*
- Does the food already require time/temperature control for safety by definition in Rule -.01 (gggg)?*
- Does a product history with sound scientific rationale exist indicating a safe history of use?*
- Is the food processed and packaged so that it no longer requires TCS such as ultra high temperature (UHT) creamers or shelf-stable canned goods?*
- What is the pH and a_w of the food in question using an independent laboratory and Association of Official Analytical Chemists (AOAC) methods of analysis?*

A food designated as meeting product assessment (PA), in either table should be considered PHF until further study proves otherwise. The PA means that based on the food's pH and a_w and whether it was raw or heat-treated or packaged, it has to be considered PHF until inoculation studies or some other acceptable evidence shows that the food is a PHF/TCS food or not. Rule -.04 subsection (6) (j) requires a variance request to the Health Authority with the evidence that the food does not require time/temperature control for safety.

If a facility adjusts the pH of a food using vinegar, lemon juice, or citric acid for purposes other than flavor enhancement, a variance is required in Rule -.04 Subsection (6)(j) 3. A HACCP plan is required whether the food is a PHF/TCS food as in Rule -.04 Subsection (6) (j) 3. (i) or not a PHF/TCS food, as in Rule -.04 Subsection (6) (j)3.(ii). A standardized recipe validated by lab testing for pH and a_w would be an appropriate part of the variance request with annual (or other frequency as specified by the regulatory authority) samples tested to verify compliance with the conditions of the variance.

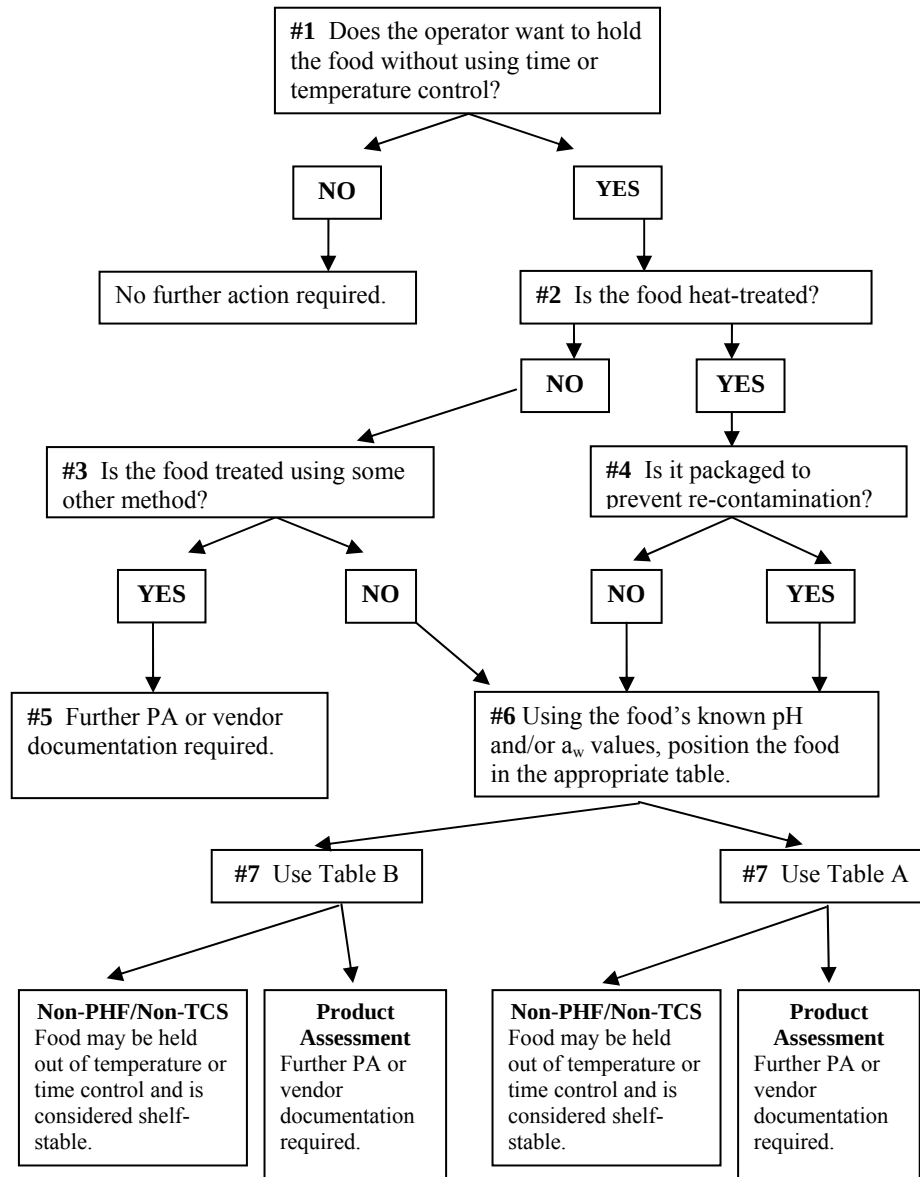
More information can be found in the NATIONAL ADVISORY COMMITTEE ON MICROBIOLOGICAL CRITERIA FOR FOODS, Parameters for Determining Inoculated Pack/Challenge Study Protocols at http://www.fsis.usda.gov/PDF/NACMCF_Inoculated_Pack_2009F.PDF.

Instructions for using the following Decision Tree and Table A and Table B:

1. Does the operator want to hold the food without using time or temperature control?
 - a. No – Continue holding the food at $\leq 5^{\circ}\text{C}$ (41°F) or $\geq 57^{\circ}\text{C}$ (135°F) for safety and/or quality.
 - b. Yes – Continue using the decision tree to identify which table to use to determine whether time/temperature control for safety (TCS) is required.
2. Is the food heat-treated?
 - a. No – The food is either raw, partially cooked (not cooked to the temperature specified in Rule -.04 Subsection (5) or treated with some other method other than heat. Proceed to step #3.
 - b. Yes – If the food is heat-treated to the required temperature for that food as specified under section Rule -.04 Subsection (5), vegetative cells will be destroyed although spores will survive. Proceed to step #4.
3. Is the food treated using some other method?
 - a. No – The food is raw or has only received a partial cook allowing vegetative cells and spores to survive. Proceed to step #6.

- b. Yes – If a method other than heat is used to destroy pathogens such as irradiation, high pressure processing, pulsed light, ultrasound, inductive heating, or ozonation, the effectiveness of the process needs to be validated by inoculation studies or other means. Proceed to step #5.
4. Is it packaged to prevent re-contamination?
 - a. No – Re-contamination of the product can occur after heat treatment because it is not packaged. Proceed to step #6.
 - b. Yes – If the food is packaged immediately after heat treatment to prevent re-contamination, higher ranges of pH and/or a_w can be tolerated because spore-forming bacteria are the only microbial hazard. Proceed to step #7.
5. Further product assessment or vendor documentation required.
 - a. The vendor of this product may be able to supply documentation that inoculation studies indicate the food can be safely held without time/temperature control for safety.
 - b. Food prepared or processed using new technologies may be held without time/temperature control provided the effectiveness of the use of such technologies is based on a validated inoculation study.
6. Using the food's known pH and/or a_w values, position the food in the appropriate table.
 - a. Choose the column under "pH values" that contains the pH value of the food in question. Choose the row under " a_w values" that contains the a_w value of the food in question.
 - b. Choose the row under " a_w values" that contains the a_w value of the food in question.
 - c. Note where the row and column intersect to identify whether the food is "non-PHF/non-TCS food" and therefore does not require time/temperature control, or whether further product assessment (PA) is required. Other factors such as redox potential, competitive microorganisms, salt content, or processing methods may allow the product to be held without time/temperature control but an inoculation study is required.
7. Use **Table A** for foods that are heat-treated and packaged **OR** use **Table B** for foods that are not heat-treated or heat-treated but not packaged.
8. Determine if the item is non-PHF/non-TCS or needs further product assessment (PA).

Decision Tree #1 – Using pH, a_w , or the Interaction of pH and a_w to determine if a Food Requires Time/Temperature Control for Safety



The EHS will continue to assume food items to be potentially hazardous (time/temperature control for safety food) as listed within Rule 290-5-14(2), unless challenged by the food service operator. Should a food service establishment operator challenge the decision of the EHS, the EHS will use Table A or Table B to determine whether or not that a food is potentially hazardous (time/temperature control for safety food).

(hhhh) “**Poultry**” means 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 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.

(iiii) “**Premises**” means and includes all physical buildings, appurtenances, parking lots and all property owned and/or used by the food service establishment.

(jjjj) “**Preparation of food**” means to put together or make by combining ingredients and processing food for final service.

(kkkk) “**Primal cut**” means a basic major cut into which carcasses and sides of meat are separated, such as a beef round, pork loin, lamb flank, or veal breast.

(llll) “**Public water system**” has the meaning stated in 40 CFR 141, National Primary Drinking Water Regulations.

(mmmm) “**Ratite**” means a flightless bird such as an emu, ostrich, or rhea.

(nnnn) **Ready-to-Eat Food.**

1. “**Ready-to-eat food**” means food that is in a form that is edible without additional preparation to achieve food safety, or is a raw or partially cooked animal food and the consumer is advised, or is prepared in accordance with a variance that is granted, and may receive additional preparation for palatability or aesthetic, epicurean, gastronomic, or culinary purposes.

These foods are offered to the consumer in its final form to achieve food safety. For instance, they could be raw such as raw or partially cooked fish in sushi under an advisory to the consumer. It could be a rare steak that does not meet the definition within the Chapter for “Whole Intact Muscle Beef” that is also served under a consumer advisory. Generally, a potentially hazardous food (time/temperature control for safety food) has received treatment, such as freezing for a specific time and temperature to kill parasites in fish, which is necessary to make it safe for consumption. Other preparation steps, such as melting cheese toppings of pizzas, beyond the food safety preparation step to destroy or control pathogens is considered for consumer appeal not food safety.

Another consideration is to determine how cooking foods affect whether or not a food is ready-to-eat and therefore, date marking would apply. For example, commercially dehydrated hash browns would be considered potentially hazardous food

(time/temperature control for safety food) in the ready-to-eat form, once they had been rehydrated. The cooking process would be for palatability or culinary purposes only and not for food safety. Therefore, if the hydrated hash browns (i.e., ready-to-eat potatoes) were held longer than 24 hours after rehydration then date marking of the rehydrated hash browns would apply.

The current language in Rule .01 (nnnn) will not allow the use of the cooking process to negate the hydrated potatoes from being considered not to be in the Ready-to-Eat form, unless proof can be shown that the cooking process is necessary for the hydrated hash browns to achieve food safety. This would signify that the hash browns would have food pathogen surviving the rehydration preparation step for the hash browns.

2. **“Ready-to-eat food”** includes:

- (i) Raw animal food that is cooked or frozen according to specifications;
- (ii) Raw and washed, cut fruits and vegetables;
- (iii) Fruits and vegetables that are cooked for hot holding;
- (iv) All potentially hazardous food (time/temperature control for safety food) that is cooked to the temperature and time required for the specific food and cooled;
- (v) Plant food for which further washing, cooking, or other processing is not required for food safety, and from which rinds, peels, husks, or shells, if naturally present are removed;
- (vi) Substances derived from plants such as spices, seasonings, and sugar;
- (vii) A bakery item such as bread, cakes, pies, fillings, or icing for which further cooking is not required for food safety;
- (viii) The following products that are produced in accordance with USDA guidelines and that have received a lethality treatment for pathogens: dry, fermented sausages, such as dry salami or pepperoni; salt-cured meat and poultry products, such as prosciutto ham, country cured ham, and Parma ham; and dried meat and poultry products, such as jerky or beef sticks; and
- (ix) Foods manufactured as specified in 21 CFR Part 113, Thermally Processed Low-Acid Foods Packaged in Hermetically Sealed Containers.

(oooo) **Reduced Oxygen Packaging.**

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

- (i) Vacuum packaging, in which air is removed from a package of food and the package, is hermetically sealed so that a vacuum remains inside the package;
- (ii) Modified atmosphere packaging, in which the atmosphere of a package of food is modified so that its composition is different from air but the atmosphere may change over time due to the permeability of the packaging material or the respiration of the food. Modified atmosphere packaging includes reduction in the proportion of oxygen, total replacement of oxygen, or an increase in the proportion of other gases such as carbon dioxide or nitrogen;
- (iii) Controlled atmosphere packaging, in which the atmosphere of a package of food is modified so that until the package is opened, its composition is different from air, and continuous control of that atmosphere is maintained, such as by using oxygen scavengers or a combination of total replacement of oxygen, nonrespiring food, and impermeable packaging material;
- (iv) Cook chill packaging, in which cooked food is hot, filled into impermeable bags that have the air expelled and are then sealed or crimped closed. The bagged food is rapidly chilled and refrigerated at temperatures that inhibit the growth of psychotropic pathogens; or
- (v) Sous vide packaging, in which raw or partially cooked food is placed in a hermetically sealed, impermeable bag, cooked in the bag, rapidly chilled, and refrigerated at temperatures that inhibit the growth of psychotropic pathogens.

(pppp) **"Refuse"** means solid waste not carried by water through the sewage system.

(qqqq) **"Reminder"** means a written statement concerning the health risk of consuming animal foods raw, undercooked, or without otherwise being processed to eliminate pathogens.

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

(ssss) "**Restrict**" means to limit the activities of a food employee so that there is no risk of transmitting a disease that is transmissible through food and the food employee does not work with exposed food, clean equipment, utensils, linens, or unwrapped single-service or single-use articles.

(tttt) "**Restricted egg**" means any check, dirty egg, incubator reject, inedible, leaker, or loss as defined in 9 CFR 590.

(uuuu) "**Restricted use pesticide**" means a pesticide product that contains the active ingredients specified in 40 CFR 152.175 Pesticides classified for restricted use, and that is limited to use by or under the direct supervision of a certified applicator.
http://a257.g.akamaitech.net/7/257/2422/08aug20031600/edocket.access.gpo.gov/cfr_2003/julqtr/pdf/40cfr152.175.pdf

(vvvv) "**Risk**" means the likelihood that an adverse health effect will occur within a population as a result of a hazard in a food.

(www) "**Safe material**" means:

1. An article manufactured from or composed of materials that may not reasonably be expected to result, directly or indirectly, in their becoming a component or otherwise affecting the characteristics of any food;
2. An additive that is used as specified in Sections 409 or 706 of the Federal Food, Drug, and Cosmetic Act; or
3. Other materials that are not additives and that are used in conformity with applicable regulations of the Food and Drug Administration.

(xxxx) "**Sanitization**" means the application of cumulative heat or chemicals on cleaned food-contact surfaces that, when evaluated for efficacy, is sufficient to yield a reduction of 5 logs, which is equal to a 99.999% reduction, of representative disease microorganisms of public health importance.

(yyyy) "**Sealed**" means free of cracks or other openings that allow the entry or passage of moisture.

(zzzz) "**Service animal**" means an animal such as a guide dog, signal dog, or capuchin monkey, or other animal that is individually trained to provide assistance to an individual with a disability.

- (aaaaa) "**Servicing area**" means an operating base location to which a mobile food service unit or transportation vehicle returns at least once daily for such things as vehicle and equipment cleaning, discharging liquid or solid wastes, refilling water tanks and ice bins, and boarding food.
- (bbbbb) "**Sewage**" means liquid waste containing animal or vegetable matter in suspension or solution and may include liquids containing chemicals in solution.
- (ccccc) "**Shellfish certification number**" means a unique combination of letters and numbers assigned by a shellfish control authority to a molluscan shellfish dealer according to the provisions of the National Shellfish Sanitation Program.
- (ddddd) "**Shellfish control authority**" means a state, federal, foreign, tribal, or other government entity legally responsible for administering a program that includes certification of molluscan shellfish harvesters and dealers for interstate commerce.
- (eeeeee) "**Shellstock**" means raw, in-shell molluscan shellfish.
- (fffff) "**Shiga toxin - producing Escherichia coli**" (STEC) means any E. coli capable of producing Shiga toxins (also called verocytotoxins or "Shiga-like" toxins). Examples of serotypes of STEC include both O157 and non - O157 E. coli. Also see Enterohemorrhagic Escherichia coli.
- (ggggg) "**Shucked shellfish**" means molluscan shellfish that have one or both shells removed.
- (hhhhh) "**Single-service articles**" means tableware, carry-out utensils and other items such as cups, lids or closures, plates, napkins, doilies, bags, containers, placemats, stirrers, straws, toothpicks, and wrappers that are designed and constructed for one time, one person use after which they are intended for discard.
- (iiii) "**Single-use articles**" means utensils and bulk food containers designed and constructed to be used once and discarded. It 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 ten (10) cans which are not considered durable and cannot be cleaned and sanitized by an approved method.
- (jjjjj) "**Slacking**" means the process of moderating the temperature of a food such as allowing a food to gradually increase from a temperature of -23°C (-10°F) to -4°C (25°F) in preparation for deep-fat frying or to facilitate even heat penetration during the cooking of previously block-frozen food such as shrimp.

(kkkkk) "**Smooth**" means a surface that has no roughness or projections that render it difficult to clean or maintain in a sanitary condition.

(lllll) "**Special food service operation**" means a mobile food service unit, extended food service unit, or temporary food service operation.

(mmmmm) "**Table-mounted equipment**" means equipment that is not portable and is designed to be mounted off the floor on a table, counter, or shelf.

(nnnnn) "**Tableware**" means eating, drinking, and serving utensils for table use such as flatware including forks, knives, and spoons; hollowware including bowls, cups, serving dishes, and tumblers; and plates.

(ooooo) "**Temperature measuring device**" means a thermometer, thermocouple, thermistor, or other device that indicates the temperature of food, air, or water.

(ppppp) "**Temporary food service establishment**" means a food service establishment that operates at the same location for a period of no more than 14 consecutive days in conjunction with a single event or celebration.

(qqqqq) "**USDA**" means the U.S. Department of Agriculture. <http://www.usda.gov/>

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

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

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

(uuuuu) "**Vending machine location**" means the room, enclosure, space, or area where one or more vending machines are installed and operated and includes the storage areas and areas on the premises that are used to service and maintain the vending machines.

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

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

B. Rule 290-5-14-.02 Provisions. Amended:

(1) **(Subsection (1) (a)):** Permit:

(a) **(Subsection (1)(b)):** Valid Permit Required:

1. **General Intent:** The intent of subsection (1) (a) is for potential food service operators to first get approval from the local Health Authority before the commencement of their preparation and service of food to the public. The purpose of this requirement is two fold: (1) to ensure that the prospective food service establishment's permit holder and management understand that *permission granted by the Health Authority to operate a food service establishment is a privilege and not a right; and (2) that in order for the permit holder to retain his privilege to operate a food service establishment will be contingent upon his continued compliance with the Chapter. It is through this continued compliance with the Chapter that the permit holder and his management will be able to safeguard the public's health and provide the consumer with food that is safe, unadulterated, and honestly presented.*
2. **Examples of Methods of Operation:** Various types of food service operations named within this subsection are to be listed on the food service permit by the Health Authority prior to its issuance to the permit holder. Further descriptions of the type of food service establishment may be listed on the food service permit. For example,

Food Service Establishment – Bar Only; Food Service Establishment – Fast Food Service; Food Service Establishment – Soda Fountain Only; Mobile Food Service Unit – Packaged Food Only; Extended Food Service Unit – Non-Potentially Hazardous Foods Only; or Mobile Food Service Unit – Push Cart (Limited Menu -Hot Dogs); or Mobile Food Service – No Restrictions; Food Service Establishment – Institution (School).

3. **Intent to Control Foodborne Illness Risk Factors:** The issuance of a food service permit must be in accordance with the overall intent of the Chapter which is to minimize the occurrence of foodborne illness through active managerial control of risk factors for foodborne illness. To this end, permission from the Health Authority to operate a food service establishment can be given only to one management (i.e., permit holder), to one physical

facility and its food equipment at one location (i.e., food service establishment), and to one type of operation (i.e., method of operation or business model). Permits cannot be issued to multiple food service operations separately owned and managed utilizing the same physical facilities and food service equipment that directly impact food safety, such as food service equipment and food preparation facilities; food storage facilities; equipment and utensil cleaning and sanitizing facilities along with the associated storage areas; and janitorial cleaning facilities. However, two permit holders may jointly use some aspects of the food service establishment, such as public toilet room facilities, common utilities, common dining areas, and communal garbage storage facilities.

4. Why is Active Managerial Control Necessary? Active Managerial Control is evident within Rule 290-5-14-.03 “Management and Personnel” in which the food service permit holder must ensure that active managerial control of risk factors is achieved in the day-to-day operation of the establishment. The support system (or GRPs known as Good Retail Practices) for active managerial control can be found within Rule 290-5-14-.03 in regards to employee health and personal hygiene; provisions in Rule 290-5-14-.04 in regards to food handling and processing; and within Rules 290-5-14-.05 through Rule 290-5-14-.07. This means that each food service establishment must have its own equipment and physical facilities. Further, it must have its own active managerial control of its operation. Since, GRPs provide the support system for achieving active managerial control of risk factors that most often cause foodborne illness; they too must be under the control of management. This is why each permit holder must have active managerial control over his or her own food service equipment and physical facilities.
5. **The local Health Authority may obtain a copy of the appropriate permit from the State Environmental Health Office. See examples Forms K-8, K-9 and K-10 in Part-II Section K of this Manual.**

(b) **(Subsection (1) (b)):** Invalidation:

1. Changes may occur after an establishment is permitted. The changes that invalidate a permit include a change of the permit holder, a change in the physical location of the establishment, or a change in the type of operation. The Health Authority will determine if a change in the type of operation has occurred. For example, should a Food Service Establishment – Fast Food Service change its method of operation to that of a mobile food service operation, the original permit is invalidated due to the change in the method of operation. However, this is not to say that a food service establishment could not hold more than one type of food service permit. For example, a food service permit holder could apply for a second food service permit, type “Mobile Food Service Operation”. In this case, the permit holder of the establishment would be allowed to operate his/her establishment as a “base of

operation” at the same time he/she is operating his/her fast food service operation.

2. Monitoring for Change of Permit Holder: A change in the name of an establishment may be an indication that the type and method of operation or a change in permit holder has also occurred. If the permit holder has changed, a new application must be completed and the establishment must comply with all Rules in the Rules and Regulations for Food Service before a new permit is issued.

Changes that Do Not Invalidate a Permit: Other changes, such as a change of mailing address due to municipality, county, or post office restructuring, or a change in the name of the establishment do not invalidate the permit, but do require that a new application be completed and a new permit be issued to indicate the changes.

(c) **(Subjection (c) 1.):** Satisfactory Compliance:

1. Qualifications for Permit: The intent is to state basic actions for an applicant to be qualified to receive a food service permit. The applicant must be the owner of the food service establishment or he must be an appointed officer of the legal owner of the food service establishment. The applicant must agree to allow the Health Authority access to the food service establishment in order for the Health Authority to conduct inspections and investigations as mandated by the Chapter or applicable laws. The applicant must provide complete information concerning the proposed food service establishment as requested by the Health Authority. Finally, the applicant must remit all assessed fees for services in regards to the proposed food service establishment as recommended by the County Board of Health and authorized by the County Commission in which the proposed establishment will be located.
2. To ensure that all provisions of laws other than those found in the Rules and Regulations for Food Service have been complied with, the local Health Authority may want to issue an agency review sheet upon first contact with the interested food service operator. This sheet would list all agencies, such as building inspector, fire inspector, etc. that must be contacted and approval granted before a food permit is issued or the business begins operation. **An example can be found in Document K-5, “Permit Application for Food Service Permit and Mobile Food Service Operation”, in Part-II Section K of this Manual.**

(d) **(Subsection (d)):** Displayed:

1. Specifics as to how and where a food service permit is to be displayed within the food service establishment is found in Rule 290-5-14-.10 subsection (2) (g) 1, 2, and 3 of the Chapter.

2. Mobile food service operation permits will be posted as per Rule 290-5-14-.10 subsection (2) (g) 1., 2., and 3. of the Chapter. A mobile food service unit permit for each county in which a mobile food service unit operates will be publicly displayed on the mobile food service unit.

(e) **(Subsection (e)):** Property:

1. The intent of this subsection is to notify the permit holder that permits issued belong to the Health Authority and not to the permit holder. The Food Service permit is permission granted by the Health Authority to operate a food service establishment. The permit holder has the privilege to maintain the permit (or permission to operate) in his possession, until and at such time as, the permit is invalidated or it is suspended and/or revoked by the Health Authority for lack of compliance with the Chapter on the part of the permit holder.

(f) **(Subsection (f) 1. through 10.):** Responsibilities of the Permit Holder:

1. The intent of Rule 290-5-14-.02 subsection (1) (f) is to notify the permit holder of his obligation to comply with the requirements of the Chapter in order to retain his food service permit, and with it the privilege and authorization to operate his food service establishment. The obligation and privilege, and authorization to operate a foodservice establishment begins with the receipt of the food service permit. Responsibilities of the permit holder are enumerated in subsections (1) (f) 1. through 10. of the Chapter. They are explained as follows:
 - (a.) The food service permit must be openly and conspicuously displayed in plain sight so patrons of the establishment can easily find it for reference. It must not be hidden from view of patrons in any way - such as placing it behind a plant or on a shelf under a counter.
 - (b.) Should the State Environmental Health Office grant a variance, the permit holder is required to comply fully with requirements noted within the variance. See Rule 290-5-14-.10 subsection (5) (c) of the Chapter. Further, the permit holder is required to ensure that his food service establishment complies with plans and specifications as approved by the local Health Authority. See Rules 290-5-14-.02 subsection (4) (a) of the Chapter.
 - (c.) Should a HACCP Plan be required as part of the variance or should the Health Authority require a HACCP Plan as a result of a food processing activity, the permit holder is expected to follow said HACCP Plan as approved by both the Local Health Authority and the State Health Authority. See Rule 290-5-14-.10 subsection (5) (c) of the Chapter.
 - (d.) The permit holder has an obligation to the Health Authority to ensure that the CFSM (Certified Food Safety Manager) and/or the Person in Charge will

report to the Health Authority whenever a food employee of his/her establishment is: Jaundiced, or diagnosed with an illness due to Norovirus, Hepatitis A Virus, *Shigella* spp., Enterohemorrhagic or Shiga toxin-producing *Escherichia coli*, or *Salmonella* Typhi. See Rule 290-5-14-.03 subsection (4) (b) of the Chapter.

- (e) At all times, the permit holder has the responsibility and the obligation to the Health Authority and to the consumer to protect the public health from imminent health hazards that may be present and associated with his/her food service operation. As part of this responsibility and obligation, the permit holder is required to immediately discontinue operations and notify the local Health Authority should any of the conditions occur as noted in Rule 290-5-14-.03 subsection (2) (n) of the Chapter. The exception to the immediate notification to the local Health Authority is an occurrence of an interruption of electrical and/or water service for less than two hours. However, the permit holder is still responsible for taking immediate action to control risk factors to protect the public's health during a stated two-hour period.
- (f.) The permit holder is obligated to allow representatives of the Health Authority to enter his/her food service establishment as often as necessary to confirm compliance with the Chapter and to protect the public's health. See Rule 290-5-14-.10 subsection (2) (d) 1.
- (g.) The permit holder is obligated to the Health Authority to maintain his food service establishment's physical facilities, equipment, and other associated apparatuses in compliance with the Chapter. The permit holder could be required to replace existing physical facilities, equipment, and associated apparatuses should the Local Health Authority determine through inspection and investigation that:

Findings by the Health Authority indicated conditions that would prohibit food from being safely prepared and handled as required within the Chapter or a nuisance is created as a result of existing conditions of the establishment. Some examples of conditions would be:

- (I). Equipment that has deteriorated and cannot be cleaned thereby lending itself as a vehicle for cross-contamination of food, and clean and sanitized food contact surfaces;
- (I) Equipment that has deteriorated and is no longer capable of functioning for which it was designed and constructed. For example, refrigeration or hot-holding equipment unable to maintain safe product storage or holding temperatures; and

- (II) Physical facilities, equipment, associated apparatuses, and premises has deteriorated and vermin infestation cannot be controlled, such as, garbage storage equipment and/or areas deteriorated to an unsanitary condition contributing to an odor and/or vermin attraction that is impacting operations of neighboring businesses, or the health and comfort of individuals within nearby residences. The permit holder could be required by the local Health Authority to replace physical facilities, equipment, associated apparatuses, and premises should it find through inspection and/or investigation that such physical facilities, equipment, associated apparatuses, and premises no longer comply with criteria upon which it was originally accepted by the local Health Authority. For example, a piece of equipment that was installed without the approval of the local Health Authority. Upon subsequent inspection by the local Health Authority, it was determined that said equipment was not designed and constructed according to ANSI (American National Standards Institute)-accredited certification programs nor as an alternative, the equipment did not meet the Chapter's requirements for materials, design and construction – see Rule 290-5-14-.05 subsection (1) (a) through (j) and (2) (a) through (ii) of the Chapter. In addition, it was determined by the local Health Authority that said equipment was not correctly installed as per the Chapter – see Rule 290-5-14-.02 subsection (7) referencing “Interpretation of this Chapter” in regards to “Food Service Establishment for Design, Installation and Construction” on page 25 of the Chapter and Rule 290-5-14-.05 subsection (4) starting on page 91 of the Chapter. In this case, the local Health Authority would require the equipment to be replaced and new equipment installed to meet the requirements of the Chapter.
2. In addition, the Health Authority can require the replacement of non-compliant physical facilities, equipment, associated apparatuses, and premises when a food service permit becomes invalid due to a change in ownership of the establishment. This statement is true because food service permits are not transferable from one person to another. In order for the local Health Authority to issue a food service permit to the new owner of the establishment, the prospective permit holder must provide evidence of satisfactory compliance with the provisions of the Chapter. In addition, all other provisions of laws that apply to the location, construction and maintenance of the food service establishment and the safety of persons therein must be in compliance.
- (k) When physical facilities, equipment, associated apparatuses, and premises are replaced due to normal course of operation, new physical facilities, equipment, associated apparatuses, and premises must comply with requirements of the Chapter.

The permit holder is required by the Chapter to comply with any directive and/or order that the Health Authority issues in its efforts to protect the public health through its normal routine monitoring of the food service establishment; or during a foodborne illness investigation; or in its response to a community emergency. Examples of such directives and/or orders would be time limits to correct violations as stated on inspection reports; or a suspension of food service permit due to notification from a State or local Authority governing a utility such as during a public water supply failure; or an order for closure of a food service establishment due to a suspension or revocation of a food service permit as a result of non-compliance with the Chapter.

- (l) The permit holder cannot refuse to accept notices that are issued and properly served by representatives of the Health Authority as required by law. Examples of such notices are those related to hearings to be conducted by the Health Authority in regards to the status of an establishment's food service permit; or those requiring a food employee to be restricted or excluded from a food service establishment.
- (m) The permit holder is subject to whatever administrative, civil, injunctive, or criminal orders are served upon him due to efforts by the Health Authority to illuminate an imminent health hazard associated as a result of the establishment's operation.

(g) (Subsection (1) (g) 1. through 3.): Notification of Menu Change:

- 1. The intent of the Rule 290-5-14-.02 subsection (1) (g) of the Chapter is to require the permit holder to notify the Health Authority whenever there are plans for a significant change in food processing within the food service establishment.
- 2. By notifying the Health Authority of the proposed addition of new menu items, both the permit holder and the Health Authority can work together to assure that risk-factors for foodborne illness, that may be associated with the new process, can be controlled or eliminated altogether. Notification may be at the local level as in a non-chain food service establishment or at the State level as in a corporate or a chain of food service establishments. Examples of menu changes that would require the Health Authority to be notified are described in 1., 2., and 3. of subsection (g) of the Chapter. They are as follows:
 - (a.) If any addition of a menu item that requires the addition of equipment and/or structural modifications of the food service establishment, such as the removal or the addition of rooms, exhaust hood ventilation system(s) or plumbing system(s), that were not accepted by the local Health Authority at the time of the establishment's food service permit issuance. This notification must be made by the permit holder to the Health Authority;

- (b.) If any menu change will require a food preparation process, such as cooking, cooling and/or reheating food, that did not occur prior to the menu change. For instance, a soda-fountain food service operation changes its menu to include the service of hamburgers. Before this addition of hamburgers to the menu, the soda-fountain food service establishment did not cook any food; but instead, it only offered soft-served ice-cream products and soft drinks. In this case, the permit holder would be required to notify the local Health Authority of its intentions to add the new menu item, hamburgers, prior to actually serving it; and
- (c.) If any menu item is proposed that is a raw animal food to be served raw or undercooked and as such, it poses a health risk to the consumers of the food service establishment, the Health Authority must be notified prior to the item being added to the menu for service. For instance, if the soda-fountain food service establishment proposed to add sushi (acidified rice and raw fish) to its menu, the permit holder would be required to notify the Health Authority prior to doing so.

(2) **(Subsection (2))**: Mobile Food Service Unit:

(a) General:

1. The intent of subsection (2) of this Rule is to view a mobile food service operation as one complete food service establishment with a portion of the operation being mobile and away from its permitted base of operation. The local Health Authority, where the base of operation is located, will be the Health Authority to issue a food service permit to authorize the food service establishment to operate as a “Mobile Food Service Operation”. Each mobile food service unit operating from its permitted base of operation must obtain a “Mobile Food Service Unit Permit” from **each local Health Authority (or County)** in which they plan to operate the mobile food service unit, including the county of origin.
2. The food service permit type “Mobile Food Service Operation” must be issued to the base of operation **before any mobile food service unit permit can be issued** within the county in which the mobile food service unit is to operate. Local Health Authorities **must communicate** with each other to ensure that permits are being properly issued.

(b) Mobile Food Service Unit and Extended Food Service Unit Legitimacy:

1. Since a mobile food service unit or extended food service unit is an “extension” of the food service establishment or base of operation, it must be recognizable as an extension. For instance, “Joe’s Barbeque” could serve as

the base for “Joe’s BBQ Jr.”, Joe’s Jr., Joe’s On-the-Go, or “Joe’s BBQ On-the-Go” but not “Joe’s Sushi Cart”. Furthermore, a mobile food service unit or extended food service unit cannot be given a permit as a mobile food service unit or extended food service unit because of a verbal or contractual arrangement between them and some other food service establishment or base of operation, where the permitted food service establishment or base of operation does not serve a managerial purpose. **The relationship between them cannot be incidental.**

2. The ownership of a mobile food service unit or an extended food service unit and the financial relationship between the operator of these units and the base of operations is not determinative, rather it is **the existence of managerial control** by the base and the nature of the units as an extension of the base of operation that determines whether either of these units are legitimate.
3. The owner of the food service establishment or base of operation must have complete managerial control over the operation of the mobile food service unit or extended food service unit so that these units operate as part of the base of operation or food service establishment. This means the owner of the food service establishment must have control over what is served on these units, how they are to be operated and maintained. In addition, the menu of mobile food service units and extended food service units must reflect what is served within the permitted food service establishment or from the base of operation.

(c) **Contractual Agreements:**

1. Any contractual agreement between a permit holder of a food service establishment or base of operation and the owner of a mobile food service unit(s) or extended food service unit(s) must be in the form of a legally enforceable document. This legally enforceable document must specifically and plainly state that the permit holder of the food service establishment or base of operation has full and complete managerial control of mobile food service or extended food service units. In this case, it will be the permit holder of the food service establishment or the base of operation that must apply for and secure a “Food

Service Permit – Type Mobile Food Service Operation” from the county of origin and a “Mobile Food Service Unit/Extended Food Service Unit Permit” from each local Health Authority in which unit or units are to be operated.

(3) **(Subsection (3) (a) & (b)):** Application for a Permit:

(a) **(Subsection (3) (a)):** Requirements:

1. The intent of Rule 290-5-14-.02 subsection (3) (a) of the Chapter is to provide the Health Authority enough time to interact with an applicant’s request for

authorization to operate a food service establishment. The minimum time for an applicant to make known his intentions to operate a food service establishment is ten (10) business days as counted from the anticipated date of commencement of operations. Notice of this intent to operate a food service establishment is made by the applicant upon submittal of a food service application, proposed menu, and all assessed fees including as required by the Chapter, the establishment's plans and specification for construction and/or remodeling.

2. **See Forms K-5, K-6 and K-7 in Section K in Part-II this Manual.**

(b) **(Subsection (3) (b) 1. through 8.): Contents of the Application:**

1. There are three intentions of Rule 290-5-14-.02 subsection (3) (b) 1. through 6. of the Chapter and they are as follows:
 - (a.) The first is to ensure enough information is submitted by the applicant for a food service permit to identify:
 1. Complete legal ownership of the proposed food service establishment;
 2. Who is applying for the food service permit and his or her authorization to do so from the owner of the proposed food service establishment;
 3. The food service establishment itself and where it is to be located and operated along with its contact information; how the food service establishment is to be operated and how it handles and processes foods; identify the person(s) who has direct responsibility for the food service establishment along with his or her title and contact information; and
 4. The name, title and contact information of the person who supervises the person who has been listed as the one who has direct authority over the food service establishment. This is to be accomplished by requiring the applicant to completely fill-out all requested information on the application. With the information submitted by the applicant on the completed food service permit application form and as needed, the Health Authority will be able to remain in contact with the appropriate food service establishment management. Further, information concerning the establishment's method of operation and proposed food processing methodologies will enable the Health Authority to better understand the food service's' operation and will enable the Health Authority to communicate any concerns to the establishment's ownership and management.
 2. The second is to allow adaptations to the Department's food service permit application forms such as the addition of a "County Seal", location and contact information of the local Health Authority.

3. The third intention is to require the applicant to acknowledge his responsibilities to the Health Authority with his signature attesting and affirming a statement to that effect on the application for a food service permit. The specific responsibilities of the applicant/permit holder/owner are found in subsection (3) (b) 7. (i) and (ii) of Rule 290-5-14-.02 of the Chapter and are listed as follows:

1. That all information on the application is accurate;
2. That the applicant will comply with the Chapter;
3. That representatives of the Health Authority will be allowed access into the food service establishment to make inspections and review pertinent records. See Rule 290-5-14-.10 subsection (2) (d) 1 of the Chapter;
4. That representatives of the Health Authority will be allowed access to review records of shellstock source that is required to be maintained within the establishment. See Rule 290-5-14-.04 (3) (1) of the Chapter;
5. That representatives of the Health Authority will be allowed access to review maintenance records for water treatment and backflow devices. See Rule 290-5-14-.06 subsection (2) (q) of the Chapter; and
6. That representatives of the Health Authority will be allowed access to review records of HACCP Plans to verify that the plan is being maintained and that it is being followed. See Rule 290-5-14-.02 subsection (5) (d) 7 of the Chapter.

2. **(Subsection (3) (c)):** Duplicate Forms: Local Health Authority's will use application forms provided by the Department. The local Health Authority will retain the original copy of the completed food service application and will provide a copy of the same to the applicant.

3. **(Subsection (3) (d)):** Dates of Operation for Temporary Food Service Establishment: Applications for temporary food service establishments will give the proposed dates when the operation will begin and when it will end.

4. **(Subsection (3)(e)):** Schedule of Locations for Mobile Food Service Operations:

- (a) The intent of Rule 290-5-14-.02 subsection (3) (e) of the Chapter is to provide a means for the local Health Authorities to know when and where each mobile food unit will be located and operating. This requirement is essential for the local Health Authorities so they have the ability to conduct unannounced inspections; to assess management's active managerial control over foodborne illness risk factors; and should a foodborne outbreak occur, to initiate required investigations. To this end, the "Mobile Food Service Operation" will make application for a permit to operate in the county where the "Base

of operation” is located. The local Health Authority will receive the application, menu, and associated plans and specifications for the mobile operation. It will take the lead in the plan review process and the pre-operational inspection prior to the issuance of the permit to operate. It is during the initial contact that the applicant will furnish information concerning the proposed scheduling of mobile food unit(s) as to location and times of their operation. Once the application has been submitted with the proposed schedules of mobile food unit(s) operation location and times, the county Health Authority of origin will notify any other affected county Health Authority that is indicated by the proposed schedule of operation.

- (b) Within each county Health Authority that each mobile food service unit will be operating, the applicant will need to submit an application that lists the location and times when each mobile food service unit will be parked and operating.
- (c) The mobile food service operation’s permit holder will have the responsibility to keep both the county of origin and each county Health Authority updated as to changes in how its mobile food units are scheduled to operate. Failure of the permit holder to notify county Health Authorities of changes in scheduling of mobile food unit locations and times of operation will invalidate a mobile food unit permit. See both Rule 290-5-14-.02 subsection (1) (b) and Rule 290-5-14-.08 subsection (1) (i) 1. (i) of the Chapter.

(5) **(Subsection (4) (a) & (b)):** When Plans Are Required:

(a) **(Subsection (4) (a)):** Approval of Plans:

1. Properly prepared plans and specifications must be submitted to the local Health Authority whenever a new food service establishment is to be built; prior to extensive remodeling of an existing food service establishment; or prior to an existing structure, that was not previously a food service establishment, is to be converted into a food service establishment. The local Health Authority will then review such plans and specifications. When it deems that the review process has shown compliance with the Chapter, the county Health Authority will issue documents of plans and specifications approval to the proposed permit holder.
2. No construction of the proposed food service establishment can take place until the applicant receives the reviewing county Health Authority’s documentation approving the proposed plans and specification.
3. See the “**Food Service Establishment Manual for Design, Installation and Construction**” for guidance in food service plans and specification review.

(b) **(Subsection (4) (b): Submission of Plans:**

1. The intent of Rule 290-5-14-.02 subsection (4) (b) of the Chapter is to allow enough time for the Health Authority to adequately review food service plans and specifications once they are received from the applicant. The fourteen (14) day minimum time of receipt of plans and specifications from the date of that construction will begin is to provide the Health Authority an opportunity to do so.
2. Should the application not be complete with all the necessary information and fees paid, the Health Authority may extend the time it needs to receive such information and fees to complete the review process.

(6) **(Subsection (5) (a) - (e)): When a HACCP Plan is required:**

(a) **General:**

1. Many establishments such as public schools utilize voluntary HACCP plans in their daily operation. Voluntary HACCP plans - which are not required by the Rules and Regulations, do not need review and approval by the local (county) and state Health Authorities. However, any HACCP plan that utilizes a process that does not fully comply with Chapter 290-5-14 or otherwise is required by the Chapter must have joint approval by the local (county) and state Health Authorities.
2. The local Health Authority must first review HACCP Plans, along with any applicable variances, which will be submitted to the State Environmental Health Branch for review and processing. The local Health Authority will make all initial contact with the permit holder in regards to any variance requests and HACCP Plans. The local Health Authority will review submitted variance request forms and HACCP Plans for completion and content prior to submittal to the State Office for review. Contents of HACCP Plans must comply with Rule 290-5-14-.02 subsection (5) and variance requests must comply with requirements as set forth within Section J of this Manual.
3. After completion of the local review of documents, the local Health Authority will draft a letter of recommendation in favor of or opposed to proposed HACCP plans. It is to be included with the submitted variance and/or HACCP plan for the State Environmental Health Branch's review. Should the HACCP Plan provide support for a variance, both will be referred to the Division's Legal Section for disposition. The letter of recommendation must fully explain the local Health Authority's position concerning its review of the proposed variance and or HACCP plan.
4. Once the State Office of Environmental Health has received the local Health Authority's documentation, it will review said documents. Should a need for further information concerning submitted documents occur, the State Office will

refer back to the submitting local Health Authority. After all review of submitted documents has been completed and a decision has been rendered by the Department's Division of Public Health in the case of variances and by the State Office in the case of HACCP Plans, the State Office will distribute the decisions to all parties involved.

5. Should a multi-unit corporation ("chain") submit documents directly to the State Environmental Health Branch; the State Environmental Health Branch will notify district health offices of such submittal. Approval of HACCP plans in chain establishments will be shared with all district health offices should the chain establishment build a food service establishment in another county other than those first approved.
6. Food processes that require a HACCP plan include the following:
 - (a.) Smoking food as a method of food preservation rather than as a method of flavor enhancement.
 - (b.) Curing food
 - (c.) Using food additives or adding components such as vinegar as a method of food preservation or to render a Food non-potentially hazardous.
 - (d.) Packaging food using a Reduced Oxygen Packaging
 - (e.) Molluscan shellfish life-support system:

A HACCP plan for a Molluscan shellfish life-support system must:

- Ensure that water used with fish other than the shellfish does not flow into the molluscan shellfish tank.
 - Ensure the safety and quality of the shellfish
 - Ensure the identity of the source of the shellstock is retained for 90 days after consumption
- (f.) Custom processing animals that are for personal use as food and not for sale or service in a Food Establishment
 - (g.) Preparing food by another method that is determined by the regulatory authority to require a HACCP plan.

Note: Food processing criteria for "Reduced Oxygen Packaging" and "Smoking and Curing" can be found within Annex #6 in the 2005 FDA Model Food Code.

A link to the 2005 Model Food Code can be found on the home page of the State Environmental Health Branch's website located at www.georgiaeh.us.

7. Hazard Analysis and Critical Control Point (HACCP) is a systematic approach to identifying, evaluating, and controlling food safety hazards. Food safety hazards are biological, chemical, or physical agents that are reasonably likely to cause illness or injury in the absence of their control. Because a HACCP plan is designed to ensure that hazards are prevented, eliminated, or reduced to an

acceptable level before a food reaches the consumer, it embodies the preventive nature of “active managerial control.”

8. Active managerial control using HACCP principles can be achieved by identifying the food safety hazards attributed to products, determining the necessary steps that will control the identified hazards, and implementing on-going practices or procedures that will ensure safe food.

(b) Contents of a HACCP Plan:

1. For a food service establishment that is required in Rule 290-5-14-.02 (5) of the Chapter to have a HACCP plan, the plan and specifications shall indicate:

- (a.) **(Subsection (5) (a)):** Categorization of Foods: A categorization of the types of POTENTIALLY HAZARDOUS FOODS (TIME/TEMPERATURE CONTROL FOR SAFETY FOODS) that are specified in the menu such as soups and sauces, salads, and bulk, solid foods such as meat roasts, or of other foods that are specified by the Health Authority;
- (b.) **(Subsection (5) (b)):** Flow Diagram: A flow diagram by specific food or category type identifying critical control points and providing information on the following:
 1. Ingredients, materials, and equipment used in the preparation of that food, and
 2. Formulations or recipes that delineate methods and procedural control measures that address the food safety concerns involved;
- (c.) **(Subsection (5) (c)):** Training Plan: Food employee and supervisory training plan that addresses the food safety issues of concern;
- (d.) **(Subsection (5) (d)):** Standard Operating Procedures: A statement of standard operating procedures for the plan under consideration clearly identifying:
 1. Each critical control point,
 2. The critical limits for each critical control point,
 3. The method and frequency for monitoring and controlling each critical control point by the food employee designated by the person in charge,
 4. The method and frequency for the person in charge to routinely verify that the food employee is following standard operating procedures and monitoring critical control points,
 5. Action to be taken by the person in charge if critical limits for each critical control point are not met, and
 6. Records to be maintained by the person in charge to demonstrate that the HACCP plan is properly operated and managed; and

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

(e) **(Subsection (5) (e))**: Additional Scientific Data:

1. There may be times when the Health Authority will need laboratory analysis conducted by an independent third party source to ensure hazards associated with food processing are being controlled. Such analysis may be in the form of recipe validation; product assessment; challenge studies; or classification of bottled sauces. A third party laboratory that is nationally certified to do such analysis must be chosen by the submitter to conduct such analysis.
2. Documentation attesting to the selected laboratory's qualifications for conducting the required analytical work must accompany all reports. Further, a complete description of analytical methodologies and procedures used by the laboratory must also accompany the reports.
3. All analytical work performed and results provided must represent the actual food process that would be utilized by the food service establishment.

(7) **(Subsection (6) (a) through (d))**: Requirements – Permit Issued: A food service permit will be issued once the applicant has demonstrated satisfactory compliance with the Chapter. For this to take place basic responses on the part of the applicant must be taken.

1. **(Subsection (6) (a))**: Completed Application:

The applicant must submit a properly completed application as required in Rule 290-5-14-.02 subsection (3)(a) through (e) of the Chapter.

2. **(Subsection (6) (b))**: Fee Submitted:

The applicant submits the required fee when the application is submitted as required in Rule 290-5-14-.02 subsection (1) (c) 1. (iii) of the Chapter.

3. **(Subsection (6) (c))**: Plans and Specifications Approved:

The Health Authority has reviewed and approved the required plans, specifications, and information as specified in Rule 290-5-14-.02 subsection (4) of the Chapter.

4. **(Subsection (6) (d))**: Preoperational Inspection:

The intent of a Preoperational Inspection is to allow the applicant an opportunity to prove to the Health Authority that his or her establishment was completed

according to approved plans and the establishment is in compliance with the Chapter; thereby, allowing the Health Authority to issue a permit to the applicant. In order for the Health Authority to verify compliance, it must inspect the completed food service establishment with all the necessary equipment installed and functioning properly.

- (8) **(Subsection (7))**: Interpretation of this Chapter: This manual entitled, “Interpretation Manual for the Georgia Rules and Regulations for Food Service” and its companion manual entitled; “Food Service Establishment Manual for Design, Installation and Construction” are programmatic manuals. Their purpose is to augment the Chapter by providing detail and specificity of its Rules and Regulations. As the need for further clarification arises, updates to these manuals will periodically occur based on recommendations of the Food Service Advisory Implementation Committee’s Interpretative Review Subcommittee comprised of stakeholders.

C. Rule 290-5-14-.03 Management and Personnel:

- (1) **(Subsection (1))**: Demonstration of Knowledge: The person in charge (PIC) of a food establishment is accountable for developing, carrying out, and enforcing procedures aimed at preventing foodborne illness.
- (a) **(Subsection (1) (a))**: Rule 290-5-14-.03 subsection (1) (a) states that one means by which a person in charge may demonstrate required knowledge of food safety is by demonstrating that his or her food service establishment is in compliance with the Chapter. The person in charge or PIC can demonstrate the required compliance status by receiving a food service routine or follow-up inspection without any risk factors and public health interventions being found in violation of the Chapter.
- (a) **(Subsection (1) (b))**: Another means by which the PIC can demonstrate knowledge of food safety is to receive and maintain food safety certification, as a Certified Food Safety Manager (or CFSM), by passing an examination that is part of an accredited program. Currently, Georgia only recognizes those exams that are accredited by ANSI as meeting CFP (Conference for Food Protection) criteria.
- (b) **(Subsection (1) (c))**: If the food service establishment does not have a CFSM employed on its staff and it has one or more risk factors/public health interventions violated during a routine or follow-up inspection, the PIC in charge must demonstrate his/her knowledge of foodborne illness, HACCP, and the requirements of the Chapter through assessment by the Health Authority. This assessment will occur through dialogue between the EHS and the PIC during food service inspections by revealing whether or not the PIC has a clear understanding of the Chapter and its public health principles to follow sound food safety practices and to produce foods that are safe, wholesome, unadulterated, and accurately represented. During such dialogue, the EHS will assess the PIC’s

knowledge through a series of questions pertinent to the establishment's processing of food by asking the PIC to Provide Correct Answers to Food Safety Questions. If the PIC can answer questions concerning his operation in regards to the Rules and Regulations to food safety (see Subsection (1) (c) of the Chapter), then he has demonstrated knowledge of food safety as it relates to his food service operation. Demonstration of Knowledge may be assessed by:

1. **(Subsection (1) (c) 1.):** Describing the relationship between the prevention of foodborne disease and the personal hygiene of a food employee;

(How can each employee's personal hygiene prevent foodborne disease? Example: The dishwasher/server/busboy needs to wash his hands after his hands have touched soiled dishes and before touching clean dishes. The person cooking needs to wash his hands after touching potentially hazardous foods and before handling ready to eat foods. All employees need to wash hands after using the restroom, touching face, carrying out garbage, etc.)

2. **(Subsection (1) (c) 2.):** Explaining the responsibility of the person in charge for preventing the transmission of foodborne disease by a food employee who has a disease or medical condition that may cause foodborne disease;

(Does the person in charge know that he has the responsibility to ensure a food employee with a disease or medical condition that may cause a foodborne disease is excluded or restricted? Can he explain the difference between exclude and restrict, and does he know when to exclude or restrict? Can the person in charge name the illnesses that require exclusion from the food service establishment? Does the person in charge know what action to take when a food service worker or health authority notifies him that a food service worker has a reportable disease that can be transmissible through food?)

3. **(Subsection (1) (c) 3.):** Describing the symptoms associated with the diseases that are transmissible through food;

(Can the person in charge describe symptoms that are associated with diseases that are transmissible through foods, and does he know what to do when the symptoms are present in a food service worker?)

4. **(Subsection (1) (c) 4.):** Explaining the significance of the relationship between maintaining the time and temperature of potentially hazardous food (PHFs) and the prevention of foodborne illness;

(Does the person in charge know what record keeping is required when using time in lieu of temperature when handling PHFs, and can he provide documentation of this information if used? Can the person in charge tell the EHS the maximum amount of time or the temperature limits of PHFs being held? Can the person in charge tell the EHS the corrective action to take when PHFs are found to exceed holding time limits or not at correct temperatures?)

5. **(Subsection (1) (c) 5.):** Explaining the hazards involved in the consumption of raw or undercooked meat, poultry, eggs, and fish;

(Can the person in charge explain why a consumer advisory is needed if serving raw or undercooked meat, poultry, eggs, and/or fish? Can the person in charge show where the consumer advisory is required to be printed and displayed?)

6. **(Subsection (1) (c) 6.):** Stating the required food temperatures and times for safe cooking of potentially hazardous food including meat, poultry, eggs, and fish;

(Can the person in charge give the minimum cook temperatures and times of PHFs or produce documentation of this information for the employees who are cooking PHFs?)

7. **(Subsection (1) (c) 7.):** Stating the required temperatures and times for the safe refrigerated storage, hot holding, cooling, and reheating of potentially hazardous food;

(Can the person in charge state the times and temperatures for holding, cooling, and reheating PHFs that are served in the establishment?)

8. **(Subsection (1) (c) 8.):** Describing the relationship between the prevention of foodborne illness and the management and control of the following:

1. Cross contamination,
2. Hand contact with ready-to-eat foods,
3. Handwashing, and
4. Maintaining the food establishment in a clean condition and in good repair.

(Can the person in charge explain how these can contribute to foodborne illness, and the proper procedures to ensure that incorrect practices do not contribute to foodborne illness?)

9. **(Subsection (1) (c) 9.):** Explaining the relationship between food safety and providing equipment that is:

1. Sufficient in number and capacity, and
2. Properly designed, constructed, located, installed, operated, maintained, and cleaned.

(Can the person in charge explain why the right equipment is needed and must be kept in good repair to ensure food safety?)

10. **(Subsection (1) (c) 10.):** Explaining correct procedures for cleaning and sanitizing utensils and food-contact surfaces of equipment;

(Can the person in charge explain the correct cleaning and sanitizing procedures and frequency needed for the equipment and utensils used in the establishment?)

11. **(Subsection (1) (c) 11.):** Identifying the source of water used and measures taken to ensure that it remains protected from contamination such as providing protection from backflow and precluding the creation of cross connections;

(Can the person in charge identify the water source and the protective measures to prevent contamination from backflow?)

12. **(Subsection (1) (c) 12.):** Identifying poisonous or toxic materials in the food establishment and the procedures necessary to ensure that they are safely stored, dispensed, used, and disposed of according to law;

(Can the person in charge show the EHS proper storage, labeling, and use of chemicals in the establishment?)

13. **(Subsection (1) (c) 13.):** Identifying critical control points in the operation from purchasing through sale or service that when not controlled may contribute to the transmission of foodborne illness and explaining steps taken to ensure that the points are controlled in accordance with the requirements of the Rules and Regulations for Food Service;

(Can the person in charge identify proper thermometers and/or other monitoring equipment and calibration techniques?)

14. **(Subsection (1) (c) 14.):** Explaining the details of how the person in charge and food employees comply with an approved HACCP plan for a process that varies from the Rules;

(Can the person in charge identify the critical control points, mode of monitoring, location of records, and corrective actions when out of compliance situations are identified?)

15. **(Subsection (1) (c) 15.):** Explaining the responsibilities, rights, and authorities assigned by the Rules and Regulations for Food Service to the;

1. Food employee,

(Has the food employee been made aware of diseases that he must report to person in charge?),

2. Conditional employee,

(Has the person who has been made a job offer been made aware of diseases and symptoms that he must report to the person in charge?)

3. Person in charge, and

(Does the person in charge know his responsibilities to prevent foodborne illnesses, promote food safety, and provide information to the EHS during inspection?),

4. Regulatory authority,

(Does the person in charge know that the regulatory authority should introduce himself or herself to the person in charge, present identification if requested, and follow all policies and procedures to prevent foodborne illnesses that are required of industry?)

16. **(Subsection (1) (c) 16.):** Explaining how the person in charge, food employees, and conditional employees comply with reporting responsibilities and exclusion or restriction of food employees.

The Chapter does not require reporting of uninfected cuts or reporting of covered, protected infected cuts/lesions/boils since no bare hand contact with ready-to-eat (RTE) food is a requirement of the Chapter. See Charts entitled, “Employee Health Information” in Part II - Section K of this Manual for a simplified version for “Employee Health” and see

Rule 290-5-14-.03 subsection (4) (a) 1. (v) of the Chapter for more information.

NOTE:

The above questions must be pertinent to the food service operation. The PIC is not responsible for demonstrating knowledge regarding processes or operational steps that are not performed in the facility. For instance, if cooling of PHF/TCS (Potentially Hazardous Foods/Temperature Control for Safety Foods) is not part of the food processing of the food service establishment, then the PIC would not be expected to answer questions regarding cooling. Another example would be in the case where a food service establishment did not process PHF/TCS foods that required an approved HACCP plan. However, all PICS are expected to understand the general Hazard Analysis Critical Control Point principles and when the Chapter would require a HACCP plan.

(2) **(Subsection (3)(a) and (b))**: Certified Food Safety Manager:

(a) **(Subsection (3) (a))**: Food Safety Manager Certification:

1. Time-Line and Limitations:

- a. Each Food service establishment with a permit issuance date prior to December 1, 2007, must employ on its staff a Certified Food Safety Manager (CFSM) by December 1, 2009, which is two years from the December 1, 2007 implementation date of the current Georgia Rules and Regulations Food Service Chapter 290-5-14.
- b. Each Food service establishments with a permit issued after the December 1, 2007 must employ a CFSM on its staff within 90 days of permit issuance.
- c. The CFSM can only oversee the food safety within the food service establishment of which he is employed and cannot oversee food safety of multiple establishments.

(b) **(Subsection (3) (b))**: Certification Requirements and Exemptions:

1. Background: The FDA in a Memorandum of Understanding recognizes the Conference for Food Protection (CFP) as a voluntary national organization qualified to develop standards to promote food protection. The FDA encourages agencies of government to accept certificates issued by listed

certifiers as meeting their jurisdiction's food safety knowledge and certification requirements. The American National Standards Institute (ANSI) has independently evaluated these certification programs under an agreement with the Conference for Food Protection.

2. **(Subsection (3) (b))**: Certification Program Recognition:

- a. The State of Georgia Department of Community Health, Environmental Health Branch recognizes the American National Standards Institute (ANSI) as an accrediting organization. (ANSI), as a recognized accrediting organization for personnel certification in food safety, is a source to meet Certified Food Safety Manager (CFSM) certification requirements as noted in the 2007 version of the Georgia Food Service Rules and Regulations Chapter 290-5-14.
- b. Generally, Georgia recognizes a food safety course that consists of at least an 8-hour minimum curriculum (including test time). In addition, Georgia will only accept food safety exams that are currently certified through ANSI as meeting the Conference for Food Protection requirements. A link to the ANSI website can be found at the Environmental Health Branch website at www.georgiaeh.us for more information.

3. The following food service operations are not required to have a food safety certified owner or manager (i.e., CFSM):

- a. **(Subsection (3) (b) 1. (i))**: A mobile food service unit that does not do any processing of food onboard other than holding and serving does not require a CFSM on board the unit. Food is loaded onto the unit prepackaged in single servings ready to be served to the consumer or limited to commercially processed PHF/TCS, ready-to-eat foods that only require warming prior to service. These also could be units where all food is processed at their base of operation and their unit is just a holding and service (or vending) unit. Examples of these types of units are the vehicle vender as referenced in *Rule -.08 Subsections (1) (b) 1. & 2. and the hotdog/food cart as referenced in Rule -.08 Subsection (1) (b) 3.* or could be fully enclosed-type units where no food processing is taking place on board the units.
- b. **(Subsection (3) (b) 1. (ii))**: Food service establishments that serve non-PHF/non-TCS foods (or non-potentially hazardous foods) requiring limited preparation, such as popcorn or snow cones. In addition, foods that prove to be non-PHF/non-TCS foods as defined within *Rule -.01 (gggg)* of the Chapter would be considered as well. Further, these establishments could be food service establishments that do serve PHF/TCS foods (or potentially hazardous foods) that are prepared within a central kitchen and transported to food service establishments owned by

the permit holder of the central kitchen. **(See Hotel, Restaurant, Institution (HRI) Exemption document located within Part II - Section I of this Manual entitled, “Collaboration with Other Agencies” for additional information).**

- c. **(Subsection (3) (b) 1. (iii)):** All temporary food service establishments that are in compliance with *Rule -.08 Subsection (2) (a)* of the Chapter.

(3) (Subsections (3) (d)) (1) and (2)): Active Managerial Control:

- (a) To effectively reduce the occurrence of violations that can make people sick, management of food establishments must focus their efforts on achieving active managerial control. Active managerial control describes the responsibility for developing and implementing food safety management systems to prevent, eliminate, or reduce food safety risk factors.
- (b) Active managerial control means the purposeful incorporation of specific actions or procedures by food service establishment management into the operation of their business to attain control over foodborne illness risk factors. It embodies a preventive rather than reactive approach to food safety through a continuous system of monitoring and verification. The Chapter requires managers to demonstrate their managerial skills by bringing about quick corrections to objectionable conditions through the efforts of others such as, when conditions are observed by themselves, pointed out by establishment employees or during a food service inspection by the Health Authority.

(4) (Subsection (3) (d)): Responsibilities of the Person in Charge (PIC):

- (a) **(Subsection(3)1.):** Manager Responsibilities: A primary responsibility of the person in charge is to ensure compliance with the Chapter. The PIC is in charge during all hours of operation and ensures the continuous presence of someone who is responsible for monitoring employee activity, training of employees and who is authorized to take corrective actions to ensure food is safe.
- (b) **(Subsection (3) (d) 2. (i)):** Presence of CFSM in the Food Service Establishment: When the Certified Food Safety Manager (CFSM) is on the premises of the food service establishment; he or she is the person in charge (PIC). If the PIC is not on the premises of the food service establishment, the CFSM must designate an employee to be the PIC. If no employee of the establishment has been designated as the PIC at the time of a food service inspection, then any employee of the establishment will be considered as the establishment’s PIC.

(5) **(Subsection (4) (a) through (i))**: Employee Health:

(a) **Overall Goals**: The purpose of this section is to reduce the likelihood that certain viral and bacterial agents will be transmitted from infected food employees into food. Foodborne illness outbreaks have been linked to food employees preparing foods while they are sick. Outbreaks of illness have also been linked to employees experiencing symptoms of illness. These illnesses are then transferred to the food that the ill employees are preparing.

(b) **(Subsection (4) (a))**: Reporting Symptoms:

1. The symptoms of vomiting, diarrhea, or jaundice serve as an indication that an individual may be infected with something that can be transmitted to food and make other people sick.
2. A food employer may exclude any employee upon initially learning that the employee has *Salmonella* Typhi, or has a gastrointestinal symptom listed in Rule -03 Subsection (4).
3. **For more information, see Document K-31 “Employee Health Information in Part II Section K of this Manual and Rule -.03 Subsection (4).”**

(c) Management Responsibility:

1. **(Subsection (4))**: Management must be aware that an Employee Health Policy is required, and they must have such a policy in place. While a written policy is not required at this time, it is highly recommended so that record keeping and training is easier to manage.
2. **(Subsection(4) (a))**: The person in charge is responsible for ensuring all food employees are knowledgeable and understand their responsibility to report whenever they are ill with vomiting, diarrhea, jaundice, sore throat with fever or a lesion containing pus or have been diagnosed with one of the following “Big Five” foodborne illnesses: *Salmonella* Typhi, Hepatitis A virus, Norovirus, *Shigella* spp. or Enterohemorrhagic or Shiga-toxin producing *Escherichia coli*.
3. **(Subsection (4) (c))**: Management must ensure newly hired employees are interviewed so that it is clear whether or not the employee has experienced any of the symptoms of foodborne illness listed above or has been diagnosed with any of the “Big Five” foodborne illnesses.

4. **(Subsection (4) (d)):** The person in charge also must be cognizant of when an employee might be experiencing symptoms or illness. When an employee does report symptoms of foodborne illness or that they have been diagnosed with one of the “Big Five”, the PIC is responsible for knowing whether to restrict or exclude the employee, and to know when it is safe for the employee to be removed from a restriction or exclusion.
5. **For more information, see Document K-31 “Employee Health Information in Part II Section K of this Manual and Rule -.03 Subsection (4).**

(d) **(Subsection (4) (e)):** Responsibility of the PIC and Food Employees:

1. Food employees and conditional employees (a person management has decided to hire) share a responsibility. Food employees and conditional employees must report whenever they fall under one of the four illness risk levels, and must comply with restrictions or exclusions imposed upon them. These four levels of risk are:
 - (a.) Level I: Active gastrointestinal symptoms or diagnosis with *S. typhi* or Hepatitis A virus;
 - (b.) Level II: Diagnosis and symptom resolution;
 - (c.) Level III: Diagnosis and never developed symptoms; and
 - (d.) Level IV: Exposure to listed pathogen.

(e) **(Subsection (4) (g)):** Exclusion and Restriction of Ill Employees:

1. **(Subsection (4)(g) 1. and 2.):** *Except when the symptoms are from a noninfectious condition*, employees who have specific symptoms (e.g., vomiting, diarrhea, jaundice) must be excluded from the food facility.
2. **(Subsection (4)(g) 2. and 3.):** *Except when the symptoms are from a noninfectious condition, as in Hepatitis A and free of an infectious condition, as in Salmonella Typhi*, Employees who have been diagnosed with *Salmonella Typhi* or Hepatitis A virus must be excluded from the food facility.
3. **(Subsection (4) (g) 4. and 5.):** Employees who have been diagnosed with Norovirus, *Shigella* spp. or Enterohemorrhagic or Shiga-toxin producing *Escherichia coli*, but do not have any symptoms, or who have a sore throat with fever, should be excluded or restricted, depending upon the type of facility – excluded, if working in a highly susceptible population establishment.
4. **(Subsection (4) (g) 6.):** Employees with a lesion containing pus or an infected wound must be evaluated.

5. **(Subsection (4) (g) 7.):** Employees who have been exposed to one of the five diseases named in 2. and 3. above by a family member or someone who lives in their household, or because of an outbreak, may need to be restricted, depending upon the type of facility – restrict, if working in a highly susceptible population establishments.
 6. **See Document K-31 “Employee Health Information” in Part-II Section K in this Manual and Rule-.03 Subsection (4) of the Chapter.**
- (7) **(Subsection (5) (f) through (j)):** Personal Cleanliness and Good Hygienic Practices:
- (c) **(Subsection (5) (f)):** Finger Nails: Fingernails must be trimmed to be no longer than the edge of the fingertip. Should the fingernails be longer than the food employee’s fingertips, a single-use, disposable, food grade glove may be worn as long as there is no danger of the glove being punctured by the fingernails (**see Rule -.03 Subsection (5) (f) on page 42 of the GA Food Code for more information**).
 - (d) **(Subsection (5) (i)):** Hair Restraints:
 1. **(Subsection (5) (i) 1.):** General Requirements:
 - a. Effectiveness: Hair restraints such as caps, hairnets or beard or mustache nets must be worn to prevent the food employee’s facial and head hair from freely blowing about. The effectiveness of the hair restraint is dependant upon hairstyle of the individual. The purpose of hair restraints is to keep hair out of food and hands out of hair. Hair loose from restraint or accessible to the food service employees’ hands is a potential hazard to food safety and should be monitored by the CFSM. It is to be assessed and documented as a violation against the establishment by the EHS conducting the food service inspection.
 - b. Food Employees and Employees: The Chapter requires that employees who wash dishes wear hair restraints (**see Rule -.03 Subsection (5) (i)**). It requires that food employees wear hair restraints when working with exposed food; clean equipment, utensils, and linens; and unwrapped single-service and single-use articles. An employee who operates a ware washing machine or who washes dishes at a warewashing sink is considered a food employee since he/she works with exposed food contact surfaces. A "food employee," by definition, is any individual who works

with unpackaged food, food equipment or utensils, or food contact surfaces.

2. **(Subsection (5) (i) 2.): Exemptions:** The only exception to *Rule -.03 Subsection (5) (i)* is found in *Subsection (5) (i) 2.* referencing counter staff, wait staff, and hostesses whose activities are limited so as to be a minimal risk of contamination to exposed food, clean utensils and linens and unwrapped single-service and single-use articles. Even these employees would need to wear a hair restraint if they are required to do more involved food preparation when wait staff are required to cook food and prepare salad tableside. Further, should employees, such as counter staff, who are not limited to serving beverages and wrapped or packaged foods, would be required to wear hair restraints. In addition, hostesses and wait staff must have hair styled so as to be neatly arranged with minimum hair free movement. They may serve drinks as do counter staff; but cannot work within areas where food is being process or prepared.

(a) **(Subsection (5) (i)): Hygienic Practices:**

1. **(Subsection (5) (i) 1.and 2.): Smoking or eating** by employees in food preparation areas is prohibited because of the potential that the hands, food, and food-contact surfaces may become contaminated. Unsanitary personal practices such as scratching the head, placing the fingers in or about the mouth or nose, and indiscriminate and uncovered sneezing or coughing may result in food contamination. Covered single-service drinking cups with single-service straws are approved in food preparation areas.
- (b) **(Subsection (5) (i) 5.): Discharges from the eyes, nose, or mouth through persistent sneezing or coughing by food employees** can directly contaminate exposed food and equipment. When these poor hygienic practices cannot be controlled, the employee must be assigned to duties that minimize possibility of contaminating food and surroundings.

D. Rule 290-5-14-.04 Food:

(1) **(Subsection (1), (2), and (3)): Condition, Source, and Specifications for Receiving:**

- (a) Food shall be obtained from sources that comply with the law. All food products will be obtained from sources that are under inspection of the authority having jurisdiction or otherwise approved by the Health Authority. Fresh produce may be

obtained from local sources. **See Part II Section I of this Manual entitled, “Collaboration with Other Agencies” for additional information).**

- (b) **(Subsection (2)):** Received food must be in good condition, safe and unadulterated. Prior to accepting a delivery into the establishment, a designated employee must inspect all food products. A thermometer, suitable for the food product must be used to check temperatures. Conditions, source, and receipt of food should be as follows:

1. **(Subsection (2) (d)):** Fish:

- (a.) Clear eyes
- (b.) Firm flesh
- (c.) Pleasant, but not fishy smell
- (d.) Bright red and moist gills
- (e.) Bright skin
- (f.) Must be received at a temperature of 41°F (5°C) or below.
- (g) There are six approved sources of fish:

- 1. Fish from a “Licensed Commercial Fisherman” as regulated through Georgia Department of Natural Resources;
- 2. Live fish from an “Aquaculturist (domestic fish farmer)” registered with and regulated by the Georgia Department of Natural Resources Law Enforcement Section;
- 3. Live fish from a “Wholesale Fish Dealer” as permitted through the Georgia Department of Natural Resources; and
- 4. Processed fish obtained from “Processing Plants and Distributors” as permitted through the Georgia Department of Agriculture.
- 5. Fish, other than molluscan shellfish, that are intended for consumption in their raw form must be purchase from a supplier that meets applicable Law and that freezes the fish to destroy pathogens as per *Rule -.04 Subsection (5) (d) 1. and 2. of the Chapter.*
- 6. Fish, other than molluscan shellfish, that is properly frozen on the premises of the food service establishment as per *Rule -.04 Subsection (5) (d) 1. of the Chapter.*

- (h) Upon request by the Health Authority, the permit holder must furnish evidence that fish in their possession complies with all applicable law (Federal and State). This evidence may be in the form of sale receipts, copies of permits and or registration with the agency having regulatory authority over the product.

- (i) **See Part II Section I of this Manual entitled, “Collaboration with Other Agencies” for additional information).**

(2) **(Subsection (2) (e)): Shellfish:**

- (a.) May be shipped live, fresh, frozen, in the shell or shucked.

There are two categories of shellfish:

1. Crustacea – shrimp, crab and lobster.
2. Molluscan bivalves (mollusks) – clams, oysters and mussels.

- (b.) Live molluscan shellfish must be received at a temperature of 45°F or below.

- (c.) Shellfish must be maintained in original container in which received.

- (d.) Shellfish identification tags must be attached to the container that shellfish are received in.

- (e.) Shells of clams, mussels and oysters will be closed if alive. If the shells are partially open, it may mean that the shellfish are dead. When tapped on, the shells should close if the shellfish are still alive. If the shells do not close, the shellfish should not be accepted.

- (f.) Shellfish must be obtained from a “Certified Shellfish Shipper”. The Interstate Certified Shellfish Shippers List (ICSSL) is published monthly for the information and use by food control officials, seafood industry and other interested persons. The publication is distributed under authorities of the Public Health Service Act and the Food, Drug and Cosmetic Act by the U.S. Food and Drug Administration (FDA) in conjunction with the Office of Compliance, Shellfish Safety Team, 5100 Paint Branch Parkway, College Park, MD 20740.

- (g.) The Interstate Certified Shellfish Shippers List is available online at:
<http://www.cfsan.fda.gov/~ear/shellfis.html>

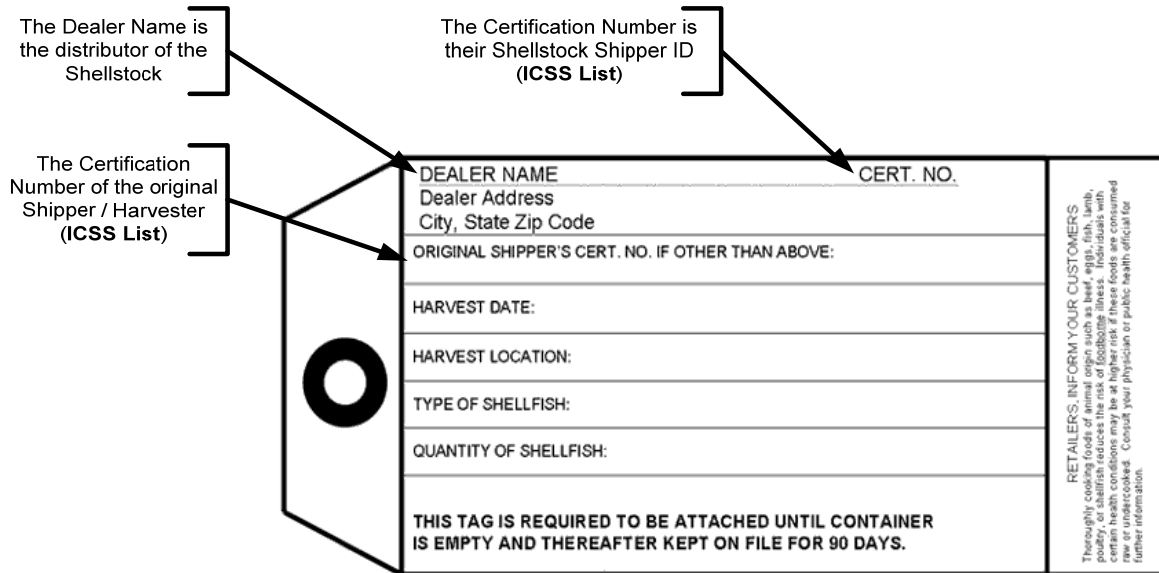
- (h.) **(Subsection (3)(g)& (h)): Shucked Shellfish, Packaging and Identification:**

1. “Shucked Shellfish” means one or both shells removed.
2. Nonreturnable packages must bear the name, address, and certification number of shucker-packer or repacker.

3. Maintained in original container in which received. Exceptions to original container are made for storage on ice, but source records must be maintained so they can be matched to individual displays.
4. Use one tagged or labeled container at a time, or if using more than one container, the establishment management will need a record keeping system to ensure source identification of shellstock - no commingling of product. Records must be maintained to match exactly the product of concern. WHY? – Product trace back. In case of foodborne illness investigation, the consumer may be able to provide the date of purchase and it will be possible to identify the source of the product. If illness is a threat, it is necessary to determine the harvest location so that evaluation of the water can be made. If necessary, the waters may be closed to further harvesting.

(i.) **(Subsection (3) (h))**: Shellstock Identification:

1. The requirement of *Rule -.04 subsection (3) (h) 1* of the Chapter is that all raw molluscan shellfish on entering a food establishment must have a Shellstock Tag attached to the container. Shellstock shall only be obtained from Certified Harvesters or Dealers – consult the Interstate Certified Shellfish Shippers (ICSS) List for a list of approved sources.
2. The National Shellfish Sanitation Program (NSSP) recognizes two types of Shellstock Tags: Harvester Tags and Dealer Tags. Many of the requirements are the same for both tag types.
3. Key features of a Shellstock Tag:



	DEALER NAME	CERT. NO.
	Dealer Address	
	City, State Zip Code	
	ORIGINAL SHIPPER'S CERT. NO. IF OTHER THAN ABOVE:	
	HARVEST DATE:	
	HARVEST LOCATION:	
	TYPE OF SHELLFISH:	
QUANTITY OF SHELLFISH:		
THIS TAG IS REQUIRED TO BE ATTACHED UNTIL CONTAINER IS EMPTY AND THEREAFTER KEPT ON FILE FOR 90 DAYS.		
RETAILERS: INFORM YOUR CUSTOMERS Thoroughly cooking foods of animal origin such as beef, eggs, fish, fowl, poultry, or shellfish reduces the risk of foodborne illness. Individuals with certain health conditions may be at higher risk if these foods are consumed raw. Consult your physician or public health official for further information.		

4: When both the dealer and harvester tags appear on the container, the dealer tag is not required to list the date of harvesting, and the harvest location.

(n) White or Gold Banded Oysters: These type oysters have undergone a high pressure or pasteurization process to destroy potential pathogens. In addition to the other required information, their shellstock tag that is usually blue in color will also display a Lot Number. They will have a yellow heat shrink band or white rubber band around the oyster to keep the oyster shell closed. They may be consumed raw like a regular oyster. However, this pasteurization process does not negate the need for a

consumer advisory because the treatment only reduces the level of one pathogenic organism.

(k) “For Cooking Only” Labeled Oysters: FDA is advising retail and food service establishments to be aware that raw oysters shipped in containers bearing a “For Cooking Only” label may have a greater likelihood of containing harmful levels of the *Vibrio parahaemolyticus* (Vp) bacterium, which may cause illness, than do raw oysters not labeled in this manner. Special considerations are as follows:

1. Retail and food service establishments must not purchase containers or packages of raw oysters that bear the “For Cooking Only” label unless the operator intends to fully cook the product to an internal time/temperature of at least 145°F for 15 seconds before offering it for sale or service to the consumer.

2. “For Cooking Only” labeled oysters must be handled in such a way to prevent cross-contamination between raw animal foods and ready-to-eat foods and surfaces that may contact ready-to-eat foods. Strict adherence to proper separation of raw and ready-to-eat foods and effective cleaning and sanitizing of surfaces between uses are among the most important to prevent cross-contamination.
- (l) Neon-Green Tag Oysters: These type oysters have been harvested in a manner that will not allow them to be consumed raw. They should only be found at a Certified Dealer facility licensed to further process them (see ICSS List). If these are found offered or held for sale, a withhold from sale order should be issued and they should be discarded immediately. Also, the Atlanta Office of the Georgia Department of Agriculture or Seafood Safety Officer should be contacted immediately. Further, the local Health Authority should obtain shipping documents and or invoices from the food service establishment for investigation purposes.
- (m) See Part II - Section I of this Manual entitled, “Collaboration with Other Agencies” for additional information).
- (3) (Subsection (2) (a) 6.): Meat (Fresh):
 - (a) Beef should be bright, cherry red in color.
 - (b) Lamb should be light red in color.
 - (c) Pork should have pink lean meat and white fat.
 - (d) The texture of meat should be firm and spring back when touched. Meat should be rejected if it is not colored as described above, the texture is slimy, sticky or dry and/or there is a sour odor.
 - (e) The temperature of fresh meat should be 41°F or below when received.
 - (f) (Beef, pork, lamb, Venison) – Inspected by the United States Department of Agriculture (USDA) for meat that is shipped across state boundary lines. Within Georgia, the Georgia Department of Agriculture under the authority of the United States Department of Agriculture (USDA) inspects meat.
 - (g) (Subsection ((2) (a) 5.): Whole Intact Muscle Beef: The Chapter provides for an allowance in *Rule -.04 Subsection (2) (a) 5 (iii)* of the Chapter for undercooking (rare) steaks. It is defined in *Rule -.01 (wwwwww)* of the Chapter as “whole muscle beef that is not injected, mechanically

tenderized, reconstructed, or scored and marinated, from which beef steaks may be cut”. Explanation follows:

1. The provision for allowing seared steaks was reviewed by the National Advisory Committee for Microbiological Criteria for Foods (ACMCF) and USDA. *Rule .04 Subsection (2) 5* of the Chapter includes their recommendations.
2. USDA comments included, “For the purposes of this discussion, steak is a whole beef muscle. It does not include whole beef muscle that has been pinned, injected, or chopped and formed. It may be cut cross grain, such as sirloin, chuck, or porterhouse; or it may be cut with the grain, such as flank, skirt, or Chateaubriand. Other species, such as poultry, pork, and lamb are not included.”
3. In order for a food establishment operator to know that a steak is a whole-muscle, intact cut of beef that can therefore be undercooked and served without a consumer advisory, the incoming product must be labeled. Processors can accommodate this need at the retail level by developing proposed labels, obtaining the necessary USDA Food Safety Inspection Service review and approval, and appropriately affixing the labels to their products.
4. Steaks intended for consumption in an undercooked form without a consumer advisory must be obtained from a food processing plant that packages the steaks and labels them to indicate they meet the definition of Whole-Muscle Intact Beef OR provide buyer

specifications / invoices that indicate steaks meet definition. It is the buyer specification that drives the labeling of steaks as whole-muscle, intact beefsteaks.

(4) **Subsection (2) (a) 6.**: Poultry (Fresh):

- (a) There should be no discoloration of the skin.
- (b) The texture should be firm and spring back when touched.
- (c) Fresh poultry should be surrounded with crushed, self-draining ice.
- (d) The temperature of fresh poultry should be 41°F or below when received.
- (e) (Chicken, Turkey, Emu) – Inspected by the Georgia Department of Agriculture.

(5) **(Subsection (3) (a) 3. (c) (d))**: Fresh Eggs (Shell):

- (a) There should be no odor.
- (b) Shells should be clean and unbroken.
- (c) A fresh egg will have high yolks that are not easily broken and whites that cling to the yolks.
- (d) The temperature of fresh shell eggs when received should be 45°F or below.
- (e) The Georgia Department of Agriculture requires egg processors to deliver shell eggs at 45°F or below. This is the reason that the Chapter also requires the same temperature. Immediately upon delivery, shell eggs should be placed in a refrigerated unit to lower the temperature to 41°F or below.

Note: If fish, meat, poultry and/or liquid eggs are received frozen, they should be received hard frozen, below 32°F, and with minimal loose ice crystals surrounding the product. Loose ice crystals can be a sign of thawing and refreezing.

(6) **(Subsection (3) (d))**: Dairy Products:

- (a) Milk and other dairy products are under the authority for inspection of the Georgia Department of Agriculture within Georgia.
- (b) Information about Dairy Product Standards can be found at:
<http://www.ams.usda.gov/standards/standair.htm> and
<http://www.cfsan.fda.gov/~ear/pmo03p-q.html>

The final mixture of ice cream mixtures, except for flavorings and fruits, must be pasteurized. Pasteurization cannot be done in a food service establishment. The ice cream mixture must be received already pasteurized.

- (d) **See Part II - Section I of this Manual entitled, “Collaboration with Other Agencies” for additional information).**

(7) **(Subsection (3) (i))**: Juice Treated:

- (a) There have been several documented cases of illness resulting from drinking unpasteurized juice that has contained pathogenic microorganisms. The most current edition of the Code of Federal Regulations (CFR) can be read at: www.gpoaccess.gov/cfr/index.html
- (b) Juice will be considered as an approved source if meeting the following:
 - 1. Received from a commercial processing plant regulated by an authority having jurisdiction; or
 - 2. Juice processed within a food service establishment for onsite sale or service that meets requirements of *Rule -.04 Subsection (5) (g)* "Treating Juice." of the Chapter.

(8) **(Subsection (2) (f)):** Wild Mushrooms:

- (a) A food establishment that sells or serves mushroom species picked in the wild shall have a written buyer specification that requires identification of:
 - 1. The Latin binomial name, the author of the name, and the common name of the mushroom species,
 - 2. That the mushroom was identified while in the fresh state,
 - 3. The name of the person who identified the mushroom,
 - 4. A statement as to the qualifications and training of the identifier, specifically related to mushroom identification.

(9) **(Subsection (2) (g)):** Game Animals:

- (a) The primary concern regarding game animals relates to animals obtained in the wild. Wild game animals may be available as a source of food only if a regulatory inspection program is in place to ensure that wild animal products are safe. This is important because wild animals may be carriers of viruses, rickettsiae, bacteria, or parasites that cause illness (zoonoses) in humans. Some of these diseases can be severe in the human host. In addition to the risk posed to consumers of game that is not subject to an inspection program, there is risk to those who harvest and prepare wild game because they may contract infectious diseases such as rabies or tularemia.

- (b) Any wild game (commercially raised, wild caught, or field dressed) must be inspected by regulatory authority having jurisdiction. It is the responsibility of the food service establishment operator to furnish the Health Authority with written documentation that such foods have been properly processed and inspected.

(2) **(Subsection (4) (a) through (z))**: Protection From Contamination After Receiving:

(a) **(Subsection (4) (a))**: Preventing Contamination from Hands:

1. Hands Clean and Properly Washed:

- (a.) **(Rule .03 Subsection (5) (b))**: Food employees must clean their hands and exposed portions of their arms by vigorous lathering for 15 seconds at the following times:

1. After touching bare human body parts other than clean hands and clean, exposed portions of arms;
2. After using the toilet room;
3. After caring for or handling service animals;
4. After coughing, sneezing, using a handkerchief or disposable tissue, using tobacco, eating or drinking (exception: drinking from a single-service, single-use, closed beverage container with a single-service, single-use straw and the container is handled to prevent contamination of hands);
5. After handling soiled equipment or utensils;
6. Immediately before engaging in food preparation, including working with exposed food, clean equipment and utensils, and unwrapped single-service and single-use articles;
7. During food preparation, as often as necessary to remove soil and contamination and to prevent cross contamination when changing tasks (ex. cutting raw chicken then cutting salad vegetables);
8. When switching between working with raw foods and working with ready-to-eat foods (ex. cutting raw chicken then cutting deli cheese); or
9. Before donning gloves for working with food; and

10. After engaging in other activities that contaminate hands (ex. taking out garbage, mopping floors, sweeping floors, cleaning garbage cans, etc.).

(b) **(Subsection (4) (c)):** Packaged and Unpackaged Food – Separation, Packaging, and Segregation:

1. With regard to the storage of raw animal foods as specified under *Rules -.04 Subsection (4) (c) 1. (ii)*, it is the direction of this Rule to require separation based on anticipated microbial load and raw animal food type (species). Raw animal foods shall be separated based on a succession of cooking temperatures since cooking temperatures as specified under *Rules -.04 Subsection (5)* are based on thermal destruction data and anticipated microbial load. For example, to prevent cross-contamination, fish and pork, which are required to be cooked to an internal temperature of 145°F for 15 seconds, shall be stored above or away from raw poultry, which is required to be cooked to an internal temperature of 165°F for 15 seconds due to its considerably higher anticipated microbial load. In addition, raw animal foods having the same cooking temperature, such as pork and fish, shall be separated from one another during storage and preparation by maintaining adequate spacing or by placing the food in separate containers because of the potential for allergen cross-contamination or economic adulteration via inadvertent species substitution.
2. Shellstock must be treated as a ready-to-eat food since it may be consumed raw. Product should be stored or displayed in a manner that prevents cross-contamination from other raw or ready-to-eat foods.

(c) **(Subsection (4) (e)):** Pasteurized Eggs, Substitute for Raw Eggs for Certain Recipes:

1. Raw or undercooked eggs that are used in certain dressings or sauces are particularly hazardous because the virulent organism ***Salmonella Enteritidis*** may be present in raw shell eggs. Pasteurized eggs provide an egg product that is free of pathogens and is a ready-to-eat food. The pasteurized product should be substituted in a recipe that requires raw or undercooked eggs.
2. Food that is inadequately packaged or contained in damaged packaging could become contaminated by microbes, dust, or chemicals introduced by products or equipment stored in close proximity or by persons delivering, stocking, or opening packages or overwraps. Packaging must be appropriate for preventing the entry of microbes and other contaminants such as chemicals. These contaminants may be present on the outside of containers and may contaminate food if the packaging is inadequate or damaged, or when the

packaging is opened. The removal of food product overwraps may also damage the package integrity of foods under the overwraps if proper care is not taken.

(d) **(Subsection (4) (f))**: Protection from Unapproved Additives:

1. Use of unapproved additives or the use of approved additives in amounts exceeding those allowed by food additive regulations could result in foodborne illness, including allergic reactions. For example, many adverse reactions have occurred because of the indiscriminate use of sulfites to retard "browning" of fruits and vegetables or to cause ground meat to look "redder" or fresher.
2. The concern for misuse of additives also applies to food establishments operating under a variance and food processing criteria that addresses the use of sodium nitrite or other curing agents in smoking and curing operations. However, if this process is done incorrectly, it could cause illness or death because of excessive nitrite or because the food is insufficiently preserved.

(e) **(Subsections (4) (a) 2.)**: No Bare Hand Contact with Ready-to-Eat Foods:

1. In November 1999, the National Advisory Committee on Microbiological Criteria for Foods (NACMCF) concluded that bare hand contact with ready-to-eat foods can contribute to the transmission of foodborne illness and agreed that the transmission could be interrupted. The NACMCF recommended exclusion/restriction of ill food employees as the first preventative strategy and recognized that this intervention has limitations, such as trying to identify and manage asymptomatic food employees.
2. Foodborne illnesses transmitted to the consumer by infected food employees through food can be prevented by using three separate interventions: 1) excluding or restricting ill employees, 2) good handwashing procedures, and 3) preventing bare hand contact with ready-to-eat foods. Some employees do not report their illnesses and some infected employees are asymptomatic shedders so employee health practices alone cannot control this problem. Hand washing after toilet use is not always done or may not be completely effective so hand hygiene is also not a totally effective preventive measure. Finally, no bare hand contact with RTE foods is the final intervention but food service employees become rushed and may not always use barrier utensils. A good combination of all three preventive measures is the safest approach to

preventing transmission of foodborne bacterial pathogens from infected employees.

3. *Rule -.04 Subsection (4) (a) 2.* of the Chapter is sometimes called, “The Glove Rule”. However, the purpose of this Rule is to prevent potentially high loads of pathogens from the hands of the food service employee to come into contact with any food deemed ready-to-eat as defined in *Rule -.01 (nnnn)* of the Chapter. While handling ready-to-eat foods, the food service employee can achieve the requirement of *Rule -.04 Subsection (4) (a) 2.* by using suitable utensils, such as deli tissue, spatulas, tongs, and dispensing equipment, as well as, single-use gloves.

(f) **(Subsection (4) (g)):** Washing Fruits and Vegetables:

1. A separate sink with hot and cold running water must be provided when vegetables are to be prepared in the establishment that is not purchased pre-cut and pre-washed. This sink is for vegetable washing only. Other sinks such as ware washing sinks, hand washing sinks, mop sinks, and sinks used for the preparation of other food cannot be used for this purpose.
2. The purpose of a designated sink is to eliminate any cross-contamination potential from hazards (biological, chemical, or physical) that may be present should other sinks, such as warewashing sinks, mop sinks, or hand sinks, be used for the preparation of raw fruits and vegetables.
3. While only cold water is used for washing vegetables, the hot water is needed to properly clean and sanitize the sink and therefore, hot water must be plumbed to the sink’s fixtures.

(g) (Subsection (4) (k)): In-Use Utensils, Between-Use Storage:

1. Once a food employee begins to use a utensil such as a ladle, spatula, or knife, that has been previously cleaned and sanitized, it is then considered an in-use utensil. In-use utensils, used on a continuous or intermittent basis during preparation or dispensing, must be cleaned and sanitized on a schedule that precludes the growth of pathogens that may have been introduced onto utensil surfaces. In-use utensils may be safely stored in hot water maintained at 135°F or above during intermittent use because microbial growth is controlled at such temperatures. However, due to storage temperature of 41°F or less not providing a kill-step, cold-water storage of in-use utensils cannot be utilized.

2. A food utensil should be designed and used to prevent bare hand contact with ready-to-eat food or to minimize contact with food that is not in a ready-to-eat form. On-site evaluations can be made to determine if a utensil is improperly designed for the task or whether a food employee is misusing an appropriately designed utensil.
- (h) **(Subsection (4) (l))**: Linens and Napkins, Use Limitation: Because of their absorbency, linens and napkins used as liners that contact food must be replaced whenever the container is refilled. Failure to replace such liners could cause the linens or napkins to become fomites.
- (i) **(Subsection (4) (m))**: Wiping Cloths, Use Limitation: Soiled wiping cloths, especially when moist, can become breeding grounds for pathogens that could be transferred to food. Any wiping cloths that are not dry (except those used once and then laundered) must be stored in a sanitizer solution at all times, with the proper sanitizer concentration in the solution. Wiping cloths soiled with organic material can overcome the effectiveness of, and neutralize, the sanitizer. The sanitizing solution must be changed as needed to minimize the accumulation of organic material and sustain proper concentration. Checking the solution periodically with an appropriate chemical test kit should ensure proper sanitizer concentration.
- (j) **(Subsection (4) (n))**: Glove Use Limitation:
1. Single-use gloves can only be used for one task such as working with ready-to-eat food or with raw animal food, used for no other purpose, and discarded when damaged or soiled, or when interruptions occur in the operation.
 2. Gloves used in touching ready-to-eat food are defined as a "utensil" and must meet the applicable requirements related to utensil construction, good repair, cleaning, and storage.
 3. Multiuse gloves, especially when used repeatedly and soiled, can become breeding grounds for pathogens that could be transferred to food. Soiled gloves can directly contaminate food if stored with ready-to-eat food or may indirectly contaminate food if stored with articles that will be used in contact with food. Multiuse gloves, such as slash-resistant or cloth gloves, must be washed, rinsed, and sanitized between activities that contaminate the gloves. Hands must be washed before donning gloves. Gloves must be discarded when soil or other contaminants enter the inside of the glove.
 4. Slash-resistant gloves are not easily cleaned and sanitized. Their use with ready-to-eat foods could contaminate the food. Therefore, if used, slash-resistant gloves or cloth gloves used in contact with ready-to-use foods that
 - 5.

will not be subsequently cooked must be covered with a smooth, durable, nonabsorbent surface or a single-use glove.

(k) (Subsection (4) (o)): Using Clean Tableware for Second Portions and Refills: The purpose of *Rule - .04 Subsection (4) (o)* is to prevent cross-contamination of food on display or in dispensers from utensils and articles previously used by consumers. Clean and sanitized utensils or articles must be used to revisit food self-service displays and or food dispensing devices. The exception is in *Rule - .04 Subsection (4) (o) 3* that allows for the re-use of drinking cups and containers by self-service consumers if the refilling process is done in such a way as to be a contamination-free process. An example of this type of re-use would be a soda fountain dispenser designed in such a way that ice and beverage cannot be contaminated by the rim of the cup or its contents.

(m) (Subsection (4) (p)): Refilling Returnables: The refilling of consumer-owned beverage containers introduces the possibility of contamination of the filling equipment or product by improperly cleaned containers or the improper operation of the equipment. To prevent this contamination and possible health hazards to the consumer, the refilling of consumer-owned containers is limited to beverages that are not potentially hazardous. Equipment, such as a warewashing machine or manual ware-washing sink, must be designed to prevent the contamination of the equipment and means must be provided to clean the containers at the facility.

(n) (Subsection (4) (s)): Vended Potentially Hazardous Food (Time/Temperature Control for Safety Food), Original Container: The possibility of product contamination increases whenever food is exposed. Changing the container(s) for machine vended potentially hazardous food (time/temperature control for safety food) allows microbes that may be present an opportunity to contaminate the food. Pathogens could be present on the hands of the individual packaging the food, the equipment used, or the exterior of the original packaging. In addition, many potentially hazardous foods (time/temperature control for safety foods) are vended in a hermetically sealed state to ensure product safety. Once the original seal is broken, the food is vulnerable to contamination.

(o) (Subsection (4) (t)): Food Preparation: Food preparation activities may expose food to an environment that may lead to the food's contamination. Just as food must be protected during storage, it must also be protected during preparation. Sources of environmental contamination may include splash from cleaning operations, drips from overhead air conditioning vents, or air from an uncontrolled atmosphere such as may be encountered when preparing food in a building that is not constructed according to Chapter requirements.

(p) (Subsection (4) (u)): Food Display:

1. Protective devices for counters, serving lines, salad bars and other similar food displays in public eating establishments shall be designed and constructed to intercept contaminants which may be expelled from the customer's mouth or nose.
2. Protective devices must be designed to prevent contamination from the majority of the people using the self-service display.
3. **See Part-I Section E - Facilities to Protect Food of the “Food Service Establishment Manual for Design, Installation and Construction” for details.**

(q) **(Subsection (4) (w)):** Consumer Self-Service Operations:

1. Rule -.04 Subsection (4) (w) 4& 5. of the Chapter applies only to unwrapped food when time and temperature is used for protection from contamination of potentially or non-potentially hazardous food items which have been placed out for consumer self-service. The food items will have to be maintained at

temperatures of 41°F or below or 135°F or above. Food service establishments may choose between two methods of limiting time for ready-to-eat foods to be displayed for consumer self-service. Establishments may elect to:

- (a.) Discard to waste all unwrapped ready-to-eat foods at the end of its business day, or
- (b.) They may elect to allow up to a maximum accumulative time of twenty-four (24) hours to display food for self-service. If the twenty-four (24) maximum accumulative time limit is chosen, the establishment will be required to place the date and time on the container of food when placed out for self-service. Any addition of new food to the displayed food is to be discouraged. However, any new food that has been added to existing displayed food will assume the date and time marked on the original displayed food. Further, establishments will be allowed to remove displayed food at the end of the day, properly process it for storage and reserved it the next day. Once the twenty-four (24) maximum time has expired as per the date and time marked on the container of food, the food must be discarded to waste.
- (c.) “Time as a “Public Health Control” cannot be used to avoid food product temperature control violations. The food service establishment must choose which method of foodborne pathogen growth control (Time as a “Public Health Control or Time in Conjunction with Temperature Control)

will be used for safe holding, storage, or display of potentially hazardous foods. If “Time as a “Public Health Control” is used to control foodborne pathogen growth during display for service, a written plan that complies with *Rule -.04 Subsection (6) (i) 1.* of the Chapter must be maintained within the food service establishment. Finally, maximum time limits for foods displayed using “Time as a “Public Health Control” will supersede the maximum self-service display time limits found within *Rule -.04 Subsection (4) (w) 5.* of the Chapter 290-5-14.

(r) **(Subsection (4) (x))**: Returned Food and Re-Service of Food:

1. Food can serve as a means of person-to-person transmission of disease agents such as Hepatitis A virus. Any unpackaged foods, even bakery goods in a bread basket that are not potentially hazardous (time/temperature control for safety foods) and that have been served to a consumer, but not eaten, can become vehicles for transmitting pathogenic microorganisms from the initial consumer to the next if the food is served again.
2. Foods that are dispensed so that it is protected from contamination and the container is closed between uses, such as a narrow-neck bottle containing catsup, steak sauce, or wine may be re-served.
3. Foods, such as crackers, salt, or pepper, is in an unopened original package and is maintained in sound condition may be re-served.
4. Any food served to patients or clients who are under contact precautions or protective environment isolation in a facility serving a highly susceptible population cannot be re-served.

(s) **(Subsection (4) (y))**: Outdoor Cooking and Service of Food:

1. *Rule -.04 Subsection (4)(y)* allows foods to be **cooked and served** outside of a fixed food service establishment for a specific occasion similar to that which is allowed at temporary food service establishments. An example of this type of service would be cooking and serving of food during an outdoor wedding on the premises of the food service establishment.
2. “Foods requiring only cooking” means that all preparation except for cooking and seasoning, such as basting with barbeque sauce, has been done in the permitted food service establishment. Open displays of food are not allowed. The food must be served immediately upon being cooked.

3. The local Health Authority must evaluate the risk potential of the proposed menu and service prior to giving its approval for outdoor cooking and service of food.
4. Permanent Cooking Equipment located Outside of Fixed Food Service Establishment:
 - (a.) There are several items to consider. First, Chapter 290-5-14 does not specifically prevent the use of outdoor cooking equipment, such as country style barbeque pits or barrel/grill (coverable) cookers. It also does not specifically limit as to where these cooking facilities can be located on the food establishment premises. The only limitation placed on outdoor cooking is found in *Rule .04 Subsection (4) (y)* that limits **outdoor cooking AND serving of foods to special events and to specific special event** (ex. a wedding party) on the food service establishment's premises. The food is limited to being cooked and served immediately – all being done outside the establishment and with implied food handling and time limitations. This situation would be conducted similar to a temporary food service operation that allows outside limited preparation,

such as seasoning, and service with the difference of being conducted on the premises of a regularly fixed permitted food service establishment. However, the permanent cooking facilities located outside of the main building of the establishment would differ from that of temporary food service operation; because, **all food preparation and service would be conducted inside the building of the food service establishment and it would not be limited to special events.**

- (b.) The outside cooking equipment (country style barbeque pits/barrel grills/smokers) would be considered as a separate cooking area only and they would not include the preparation and immediate service of food outside. They are usually located outside the food establishment in out buildings and they are used to cook volumes of whole pieces of meat, such as hams, slabs of ribs, or chicken. They cannot be used for immediate service such as that of a short order grill.
 - (c.) This cooking process step produces a lot of grease-laden smoke and heat, creating difficulties in maintaining good sanitation. It is for this large production of grease-laden smoke and heat, leading to the burden of maintaining good sanitation of facilities, that these types of cooking equipment are, at times, located outside of the main building of a fixed food establishment. However, recent modern design of smoking, grilling, and pit-cooked barbequing equipment is available for inside commercial cooking that is designed to address the exhaust and sanitation issues of traditional barbequing/grilling.

- (d.) Secondly, barbeque pits or barrel grills/smokers are considered as cooking equipment and as such, they are part of the cooking operational step of the flow of food through the establishment. Therefore, the cooking equipment and its associated cooking facilities would be considered as a separate cooking area of the establishment and not part of a food preparation operational step. This stated rationale would be true; because, operational steps in the flow of food through the establishment would be: receiving, cooling, packing, storing, reheating, serving, preparing, holding, cooking and assembling. The operational step, “Preparing”, would be: mixing, adding (i.e. reconstitution of milk powder to form liquid milk by adding water), grading, slicing, chopping or blending. The *Rule -.04* does require that foods be protected at all times; however, it specifically focuses on times of preparation. *Rule -.04 Subsection (4)(t)* states, “During preparation, unpackaged food shall be protected from environmental sources of contamination.” This is why no food preparation except for that such as basting barbeque sauce

can occur outside of the protective environment of the fixed food service establishment building.

- (e.) Thirdly, the protection of food and equipment must be considered. Being a separate outdoor cooking area, no food preparation can take place at the outdoor cooking area unless the same requirements for food preparation and protection can be met as per the Chapter, specifically *Rules -.04, -.05, -.06, and -.07*. For food preparation to take place at an outdoor cooking area, it would have to be enclosed within non-absorbent, washable, durable light colored walls and ceilings and with non-absorbent, cleanable, durable floors. Conveniently located, properly installed and properly equipped hand washing station(s) would have to be provided within the cooking/food preparation area, as well. Further and depending on the method of operation, other equipment such as food preparation sink(s), vegetable sink(s), refrigeration, ventilation systems, and or hot-holding equipment may be required to be located in this outside cooking and food preparation facility.
- (f.) If food preparation is not taking place at these outside separate cooking areas, then outside cooking equipment, such as barrel grills/smokers, **must be capable of being closed except when adding, turning, or removing meats**. The meat should be prepped inside the food service facility and taken to the barrel grill/smoker in sanitized covered containers where the entire quantity of meat is immediately placed inside the cooker that have been made ready for cooking. It must be

noted here that the Chapter requires separation of different types of raw animal foods during holding as per *Rule -.04 Subsection (c) 1. (ii)(I)*. When cooked meats are removed from the cooking equipment, separate cleaned and sanitized utensils must be used to immediately place them in cleaned and sanitized pans that are then covered and taken back to inside the food service establishment for any preparation, such as slicing, cutting, chopping, grinding or mixing. At no time shall any food item(s) be left outside the cooking equipment un-attended.

- (g.) The area around the outside separate cooking area must be easily cleanable. It can be constructed of sealed smooth concrete pad or sealed asphalt. It should be located in an area that will not be subjected to blowing sand or dust. If the outside cooking facility is to be used in inclement weather, overhead protection (such as a shelter or fire resistant tent, etc.) must be provided. Another issue that must be considered is control of vermin at these facilities.
- (h.) All outside cooking equipment and associated facilities cannot exist by themselves. They must be on the premises of a permitted fixed food service establishment. They also must meet all equipment material and construction requirements of the Chapter, as well as, any other applicable Federal, State or local codes.

(3) **(Subsection (5) (a) through (g)):** Pathogen Destruction:

(a) **(Subsection (5) (a)):** Raw Animal Foods (General):

1. Cooking, to be effective in eliminating pathogens, must be adjusted to a number of factors. These include the anticipated level of pathogenic bacteria in the raw product, the initial temperature of the food, and the food's bulk that affects the time to achieve the needed internal product temperature. Other factors to be considered include post-cooking heat rise and the time the food must be held at a specified internal temperature.
2. Greater numbers and varieties of pathogens generally are found on poultry than on other raw animal foods. Therefore, a higher temperature, in combination with the appropriate time is needed to cook these products.

To kill microorganisms, food must be held at a sufficient temperature for the specified time. Cooking is a scheduled process in which each of a series of continuous time/temperature combinations can be equally effective. For example, in cooking a beef roast, the microbial lethality achieved at 112 minutes after it has reached 54.4°C (130°F) is the same lethality attained as if it were cooked for 4 minutes after it has reached 62.8°C (145°F). Cooked

beef and roast beef, including sectioned and formed roasts, chunked and formed roasts, lamb roasts and cooked corned beef can be prepared using one of the time and temperature combinations listed in the chart in *Rule-.04 Subsection (5)* to meet a 6.5-log₁₀ reduction of *Salmonella*. The stated temperature is the minimum that must be achieved and maintained in all parts of each piece of meat for at least the stated time. The source of the time and temperature parameters is from the USDA/FSIS Appendix A. Compliance Guidelines For Meeting Lethality Performance Standards For Certain Meat And Poultry Products found at <http://www.fsis.usda.gov/oa/fr/95033Fa.htm>.

3. Cooking requirements are based in part on the biology of pathogens. The thermal destruction of a microorganism is determined by its ability to survive heat. Different species of microorganisms have different susceptibilities to heat. In addition, the growing stage of a species (such as the vegetative cell of bacteria, the trophozoite of protozoa, or the larval form of worms) is less resistant than the same organism's survival form (the bacterial spore, protozoan cyst, or worm egg).
4. Food characteristics also affect the lethality of cooking temperatures. Heat penetrates into different foods at different rates. High fat content in food reduces the effective lethality of heat. High humidity within the cooking vessel and the moisture content of food aid thermal destruction.
5. Heating a large roast too quickly with a high oven temperature may char or dry the outside, creating a layer of insulation that shields the inside from efficient heat penetration. To kill all pathogens in food, cooking must bring *all* parts of the food up to the required temperatures for the correct length of time.
6. The temperature and time combination criteria specified in *Rule -.04 Subsection (5)* of the Chapter are based on the destruction of *Salmonellae*. This organism, if present in raw shell eggs, is generally found in relatively low numbers. Other foods, uncomminuted fish and meats including commercially raised game animal meat, specified as acceptable for cooking at this temperature and time parameter are expected to have a low level of internal contamination. The parameters are expected to provide destruction of the surface contaminants on these foods. *Rule -.04 Subsection (5)* includes temperature and time parameters that provide "D" values (decimal log reduction values) that may surpass 7D. For example, at 63°C(145°F), a time span of 15 seconds will provide a 3D reduction of *Salmonella Enteritidis* in eggs.

7. The requirements specified under *Rule -.04 Subsection (5) (a) 4* acknowledge the rights of an informed consumer to order and consume foods as preferred by that consumer based on the consumer's health status and understanding of the risks associated with eating raw or partially-cooked animal foods.
8. In consumer self-service operations, such as buffets, salad bars, sushi bars, or display cases, the consumer advisory as specified under *Rule -.04 Subsection (6) (e)* of the Chapter must be posted or available at the self-service unit where the raw or partially cooked food is held for service and readily accessible to consumers prior to making their food selections. In a catered situation, such as a wedding reception, guests are responsible for making their own requests or selections.

(b) **(Subsection (5) (a) (ii))**: Raw Animal Foods (Pork):

1. In pork, *Trichinella spiralis*, *Toxoplasma gondii*, and *Taenia solium*, parasites causing foodborne illness, are inactivated at temperatures below 145°F. Therefore, pork roasts can be cooked like beef roasts (e.g., 145°F for 3 minutes) and pork chops cooked like steaks to achieve an internal temperature of 145°F for 15 seconds.

(c) **(Subsection (5) (a) 2.)**: Raw Animal Foods (Roasts):

1. Salmonellae are used as test microorganisms to set minimum cooking time/temperatures found within *Rule -.04 Subsection (5) (a) 2 (i)* of the Chapter; because, desiccation, or drying, at the surface of foods actually provides the salmonellae with a mechanism to better survive the cooking process.
2. *Rule -.04 Subsection (5) (a) 2 (i)* applies to all roasts including formed and comminuted roasts.
3. The following oven cooking parameter chart found within the *Subsection (5) (a) 2 (i)* of the Chapter is based on roast weight and moisture content of the oven or cooking bag:

Oven Type	Oven Temperature Based on Roast Weight	
	Less than 4.5 kg (10 lbs)	4.5 kg (10 lbs) or More
Still Dry	177°C (350°F) or more	121°C (250°F) or more
Convection	163° (325°F) or more	121°C (250°F) or more
High Humidity ¹	121°C (250°F) or less	121°C (250°F) or less
Relative humidity greater than 90% for at least 1 hour as measured in the cooking chamber or it of the oven; or in a moisture-impermeable bag that provides 100% humidity.		

4. Within the above chart, two roast sizes indicated.
5. Higher oven temperature for the smaller roast is necessary because of desiccation of salmonella on the surface of smaller roasts. The higher temperature is necessary to offset the shorter “come up” time while the smaller roast is in the oven.
6. High humidity provides for better destruction of Salmonellae (or pathogens) at high humidity due to elimination of the potential desiccation of organisms.
7. A lesser temperature for high humidity condition is possible due to lack of opportunity of drying of the surface of the roast.
8. The oven cooking parameter chart which follows found *Subsection (5) (a) 2 (i)* of the Chapter is based on a specific internal temperature for a specified time or roast come-up (continued rise in temperature after cooking time is reached) - holding time once the roast reaches final cook temperature is:

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

9. For example, a roast cooked at 130°F and held for 121 minutes or one cooked at 145°F for 4 minutes will provide a 7-log reduction of Salmonellae.
10. Post oven heat rise may also be considered in establishing a time and temperature relationship. For example, a roast may be removed from the oven when it reaches a temperature of 140°F. Post oven heat rise allows the internal temperature of the roast to rise to 145°F. If it is then held at 145°F for 4 minutes before serving, the requirement of this provision is then met.

(d) **(Subsection (5) (a) 3.):** Raw Animal Foods (whole-muscle, intact beef):

1. NACMCF comments included, “Due to the low probability of pathogenic organisms being present in or migrating from the external surface to the interior of beef muscle, cuts of intact muscle (steaks) should be safe if the external surfaces are exposed to temperatures sufficient to effect a cooked color change. In addition, the cut (exposed) surfaces must receive additional heat to affect a complete sear across the cut surfaces. Grill or char marks may be applied to the complete surface searing. The meat should be seared on both top and bottom surfaces utilizing a heating environment (e.g., grill or broiling oven) that imparts a temperature at the surface of the intact steak of at least 145°F to achieve a cooked color change on all external surfaces. The searing of all surfaces should be continuous until the desired degree of doneness and appearance are attained. This is considered a ready-to-eat food.”
2. If mechanical (pinning, scoring, etc.) or chemical (marinating) be applied to beef steaks, then pathogens, if present, may be drawn into the interior of the steak. In this case, a complete kill step (cooking time/temperature exposure) must be applied as specified in *Rule -.04 Subsection (5)* of the Chapter.
3. In order for a raw or undercooked whole-muscle, intact steak to be served or offered for sale in the ready-to-eat form, the following must be met:
 - (a.) The food service establishment serves a population that is not a highly susceptible population;
 - (b.) The steak is labeled to indicate that it meets the definition of “whole-muscle, intact beef”; and
 - (c.) The steak is cooked on both the top and bottom to a surface temperature of 145°F (65°C) or above and a cooked color change is achieved on all external surfaces.

(e) **(Subsection (5) (c))**: Plant Food Cooking for Hot Holding:

1. If fruits and vegetables are to be held for service hot, they must be cooked to a temperature of 135°F (57°C). After they have been cooked, they are considered as potentially hazardous foods (time/temperature for safety foods) and time/temperature control or time as a public health control must be followed.

(f) **(Subsection (5) (e))**: Parasite Destruction – Records, Creation and Retention:

1. If raw, raw-marinated, partially cooked, or marinated-partially cook fish are served or sold in the ready-to-eat form, the person in charge must furnish records for proper parasite destruction as follows:

- (a.) A letter from the supplier of the fish products stating that it has been frozen for a time/temperature as specified with *Rule -.04 Subsection (5)(d) 1* within the Chapter. These records must be retained for ninety (90) days beyond the day of service or sale of the fish products.

If the fish product is frozen on-site of the food service establishment, the food service establishment must have enough freezing equipment present to freeze fish product to time/temperature requirements in *Rule .04 Subsection (5)(d) 1* within the Chapter. The time/temperature of the freezing process must be electronically recorded and records of it must be held within the establishment for Health Authority review for ninety (90) calendar days beyond the time of service or sale of the fish.

- (b.) If fish product are from a source where the fish are raised and fed as specified in *Subsection (5)(d) 2(iii) of Rule -.04*, then a written agreement or statement from the supplier or aquaculturist stipulating with the requirements of *Subsection (5)(d) 2(iii)* must be retained by the person in charge. These records must be retained within the establishment for ninety (90) calendar days beyond the time of service or sale of the fish.

(g) **(Subsection (5) (f))**: Reheating for Hot Holding:

1. When food is held, cooled, and reheated in a food establishment, there is an increased risk from contamination caused by personnel, equipment, procedures, or other factors. If food is held at improper temperatures for enough time, pathogens have the opportunity to multiply to dangerous numbers. Proper reheating provides a major degree of assurance that pathogens will be eliminated. It is especially effective in reducing the numbers of *Clostridium perfringens* that may grow in meat, poultry, or gravy if these products were improperly cooled. Vegetative cells of *C. perfringens* can cause foodborne illness when they grow to high numbers. Highly resistant *C. perfringens* spores will survive cooking and hot holding. If food is abused by being held at improper holding temperatures or improperly cooled, spores can germinate to become rapidly multiplying vegetative cells.
2. Although proper reheating will kill most organisms of concern, some toxins such as that produced by *Staphylococcus aureus*, cannot be inactivated through reheating of the food. It is imperative that food contamination be minimized to avoid this risk.
3. The potential for growth of pathogenic bacteria is greater in reheated cooked foods than in raw foods. This is because spoilage bacteria, which inhibit the growth of pathogens by competition on raw product, are killed during cooking. Subsequent recontamination will allow pathogens to grow without competition if temperature abuse occurs.
4. Ready-to-eat commercially processed, hermetically sealed container of food from a processing plant must be reheated to at least 135°F (57°C) if it is held for service. The reasoning for the lower reheating temperature is that these foods are processed to destroy pathogens leaving a sterile food product. The commercial sterile process leaves only the public health risk of pathogens being introduced into foods by cross-contamination potential after the food has been removed from the sterile environment of its commercial packaging. If this should occur, the 135°F (57°C) minimum hot-holding temperature will provide a kill step to control pathogens during the time foods are held hot for storage or service to the consumer.
5. Foods that have been cooked and cooled within the establishment must be reheated to 165°F (74°C) for 15 seconds prior to be placed in or on hot holding equipment for service. Foods reheated within a microwave oven must be reheated to this same temperature but a two (2) minute exposure time is required instead of the 15 seconds. The public health risk being controlled by this reheating process is to provide a kill step for vegetative outgrowth of foodborne pathogens from spores that may have survived the cooking and cooling process. The higher minimum temperature requirement within *Rule*

.04 Subsection (6)(f) 2 of the Chapter is to ensure a kill step for reasons as stated within the above paragraph (3)(e) 1 in regards to possible food holding time/temperature abuse and improper cooling. Further and since these ovens are known for their uneven heating of foods, the extra time exposure for foods reheated within microwave ovens is to insure that a kill step has been reached. The requirements for foods to be rotated or stirred if heated within a microwave is to insure heat generated within the food is evenly distributed throughout the food thus enhancing the effectiveness of the kill step.

6. Potentially hazardous foods (time/temperature for safety foods) that are ready-to-eat for immediate service upon order can be reheated to any temperature. This would only apply to food that have gone through proper cooking and cooling process steps as per *Rule -.04 Subsection (6) (d)* of the Chapter. This type of service can be allowed if the food is removed from refrigeration to the reheating process and then to the consumer without any holding step within the process. The reasoning for allowing immediate service is that it does not allow sufficient time for vegetative outgrowth of pathogens from spores that may have survived the cooking process.
7. Remaining unsliced portions of meat roasts can be reheated to the same cooking time/temperature parameters as specified within *Subsection (5)(a) 2 of Rule -.04*.

(h) **(Subsection (5) (g))**: Treating Juice:

1. To understand when requirements for *Rule -.04 Subsection (5) (g)* "Treating Juice." on page of the Chapter takes effect, the definition of "Juice" in *Rule -.01 (mmm)* on of the Chapter must be understood as to how it relates to ingredients. It is interpreted as meaning that a juice is considered made from fruits and or vegetables. A flower of a plant is not considered a vegetable or a fruit. Likewise, seaweed receives the same consideration as a flower - it is neither a fruit nor a vegetable.
2. In regards to a "Juice", the food service establishment has two options:
 - (a.) Provide a HACCP plan conforming to the content as stated within *Rule -.02 subsection (5)* of the Chapter where the juice is treated to attain a 5-log reduction, which is equal to a 99.999% reduction (or pasteurization – **see Table .04 A**), of the most resistant microorganism of public health significance (*Clostridium botulinum*); or
 - (b.) Label the bottled juice with **"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. It must also state, **"Keep refrigerated"**

3. 5-Log Pathogen Reduction:

- (a.) A 5-log pathogen reduction requirement is the minimum level of pathogen "kill" that pathogen control measures must consistently achieve. Processing experts evaluate treatments intended to destroy or inactivate pathogens in food in terms of "logs" of kill, where the term "log" is a shorthand expression of the mathematical term logarithm. A logarithm is "the exponent of the power to which a base number must be raised to equal a given number." If the base number is ten, it must be raised to the second power to equal 100, so the exponent is 2, i.e., $10 \times 10 = 100$. Again, if the base number is ten, it must be raised to the third power to equal 1000, so the exponent is 3, i.e., $10 \times 10 \times 10 = 1000$.
- (b.) Submitted HACCP plans for treating juice must use treatments capable of consistently achieving at least a 5-log reduction (using ten as the base number) in the level of the pertinent microorganism in the juice. The important thing to understand is that each log of kill is capable of causing a tenfold reduction in the number of organisms of the pathogen that the treatment is designed to kill. In other words, the process would be one that is capable of reducing the level of the pertinent

microorganism in the food by 10 fold, e.g., from 100 organisms (of the pathogen) per gram of food to 10 organisms (of the pathogen) per gram of food. A 2-log process further reduces the level of the target pathogen by another factor of 10, i.e., from 10 organisms (of the pathogen) per gram to 1 organism (of the pathogen) per gram of food. Thus, the 5-log performance standard means that the food service establishment operator must treat his juice using a process capable of reducing levels of the pertinent pathogen in the juice by at least 100,000-fold ($10 \times 10 \times 10 \times 10 \times 10 = 100,000$).

- (c.) Paragraph 3 (b.) above is illustrated in the following table:

Table .04 A

Initial number of pertinent microorganism bacteria per gram of food	Log reduction	Decrease in pertinent microorganism bacteria levels	Percent of change	Final number of bacteria per gram of food
100,000 (10^5)	5	$10 \times 10 \times 10 \times 10 \times 10 = 100,000$ fold	99.999 %	1 (10^0)

4. Each in-house bottled juice or beverage **intended for self-service** must contain the following information on its label:
 - (a.) Name of beverage;
 - (b.) Ingredients
 - (c.) Quantity
 - (d.) Nutritional information
 - (e.) The name and address of the restaurant
5. It must be remembered that some establishments may attempt to make certain health claims. They may have signage that advertises the beverages as providing certain benefits to health such as energy boosting, immune system enhancement, virility inducing, etc. If claims are made that the drink can be used in the diagnosis, cure, mitigation, treatment or prevention of disease in man or animals, it may fall under the definition of drug or health claims under the Nutrition Labeling and Education Act (NLEA), and the FDA should be contacted for verification.
6. All restaurant-bottled beverages, especially juices, are to be refrigerated and maintained at 41°F (5°C) or lower until sold to the consumer.

(4) **(Subsection (6)(a) through (k))**: Limiting the Growth of Pathogens:

(a) **(Subsection (6) (a))**: Frozen Food:

1. Foods are considered frozen at a temperature of 32°F or lower and hard to touch.
2. Freezing shellstock cannot be allowed because freezing kills it and defeats the purpose of obtaining it live. Once dead, shellstock begins to decay and becomes unfit for consumption.

(b) **(Subsection (6) (c))**: Thawing:

1. General: Freezing prevents microbial growth in foods, but usually does not destroy all microorganisms. Improper thawing provides an opportunity for surviving bacteria to grow to harmful numbers and/or produce toxins. If the food is then refrozen, significant numbers of bacteria and/or all preformed toxins are preserved.

2. **(Subsection (6) (c) 2. (iii))**: **Potentially Hazardous Ready-to-Eat Food**: In *Rule -.04 Subsection (6) (c) 2 (iii)* of the Chapter, the time to thaw potentially hazardous foods (time/temperature for safety foods) ready-to-eat food under cold running water cannot exceed that would allow the temperature of the food to exceed 41°F (5°C).
 3. **(Subsection (6) (c) 2. (iv))**: **Raw Animal Foods Requiring Cooking**: In *Rule -.04 Subsection (6)(c) 2 (iv)* of the Chapter, the total time period of the thawing process under cold running water where raw animal food requiring cooking to be above 41°F (5°C) for more than four (4) hours must include:
 - (a.) The time the food is exposed to the running water and the time it takes to prepare the food for cooking; or
 - (b.) The time it takes to lower the food temperature to 41°F (5°C) while it is under refrigeration.
 4. **(Subsection (6) (c) 4.)**: **Immediate Service**: In *Rule -.04 Subsection (6)(c) 4* of the Chapter, the food service operator may use any thawing method allowed within *Subsection (6)(c)* as long as the food is considered ready-to-eat and is prepared for immediate service to an individual consumer's order.
- (c) **(Subsection (6) (d))**: **Cooling**:
1. Safe cooling requires removing heat from food quickly enough to prevent microbial growth. Excessive time for cooling of potentially hazardous foods (time/temperature control for safety foods) has been consistently identified as one of the leading contributing factors to foodborne illness. During slow cooling, potentially hazardous foods (time/temperature control for safety foods) are subject to the growth of a variety of pathogenic microorganisms. A longer time near ideal bacterial incubation temperatures, 21°C - 52°C (70°F – 125°F), is to be avoided. If the food is not cooled in accordance with this Code requirement, pathogens may grow to sufficient numbers to cause foodborne illness.
 2. If the cooking step prior to cooling is adequate and no recontamination occurs, all but the spore-forming organisms such as *Clostridium perfringens* or *Bacillus cereus* should be killed or inactivated. However, under substandard sanitary conditions, other pathogens such as *Salmonella* or *Listeria monocytogenes* may be reintroduced. Thus, cooling requirements are based

on growth characteristics of organisms that may survive or be a post-cook contaminate and grow rapidly under temperature abuse conditions.

3. **(Subsection (6) (d) 1.):** Rule -.04 Subsection (6)(d) of the Chapter provides for cooling from 135°F to 70°F within 2 hours first, then cooling from 70°F to 41°F within the remaining 4 hours for a total cooling process of 6 hours. The 6-hour cooling parameter, with an initial 2-hour rapid cool, allows for greater flexibility in meeting the requirements of the Rule. The initial 2-hour cool is a critical element of this cooling process. An example of proper cooling might involve cooling from 135°F to 70°F in 1 hour, in which case 5 hours remain for cooling from 70°F to 41°F. Conversely, if cooling from 135°F to 41°F is achieved in 6 hours, but the initial cooling to 70°F took 3 hours, the food safety hazards may not be adequately controlled. As a result, **if the time to cool foods from 135°F to 70°F exceeds the first 2 hours of the cooling process, then the food is not safe to serve and it must be discarded.** However and except for Reduced Oxygen Packaging (Cook-chill or Sous vide), should the temperature of the food be closely monitored to where the food service operator intercedes before 70°F is exceeded in the initial first 2 hours of cooling, then the food may be reheated to 165 °F for at least 15 seconds and the process of cooling from 135°F to 70°F within 2 hours can be

safely start over again. The food service operator should be prepared to provide the Health Authority with records for cooling when foods are reheated within the first 2 hours from 135°F to 70°F.

4. **(Subsection (6) (d) 4.):** Shell Eggs: Hard-boiled eggs with shell intact may be cooled in ambient air and are not considered to be a potentially hazardous food (time/temperature control for safety food) after cooling. Hard-boiled eggs may be cooled in drinking water but are considered a potentially hazardous food (time/temperature control for safety food) after cooling because pathogens, which may be present in the water, may pass through the eggshell. The act of cooling creates a vacuum within the eggshell that draws coolant water and pathogens through the shell.

(d) **(Subsection (6) (e)):** Cooling Methods:

- 1 Large food items, such as roasts, turkeys, and large containers of rice or refried beans, take longer to cool because of the mass and volume from which heat must be removed. By reducing the volume of the food in an individual container, the rate of cooling is dramatically increased and opportunity for pathogen growth is minimized. If the hot food container is tightly covered, the rate of heat transfer is reduced, i.e., the time required for cooling and the time the food is exposed to optimal temperatures for bacterial multiplication or toxin production are increased. Alternatives to conventional methods include avoiding the need to cool larger masses by preparing smaller batches

closer to periods of service or chilling while stirring hot food in containers within an ice water bath. Commercial refrigeration equipment is designed to hold cold food temperatures, not cool large masses of food. Rapid chilling equipment is designed to cool the food to acceptable temperatures quickly by using very low temperatures and high rates of air circulation.

2. The cooling methods listed within *Rule .04 Subsection (6) (e) 1* are methods to aid in the acceleration of cooling. *Subsection (6) (e) 1(vii)* of the Rule allows for innovation in cooling methods at the approval of the Health Authority.

(e) **(Subsection (6) (f))**: Potentially Hazardous Food (Time/Temperature Control for Safety Food), Hot and Cold Holding:

1. Bacterial growth and/or toxin production can occur if potentially hazardous food (time/temperature control for safety food) remains in the temperature "Danger Zone" of 5°C to 57°C (41°F to 135°F) too long. Up to a point, the rate of growth increases with an increase in temperature within this zone.

Beyond the upper limit of the optimal temperature range for a particular organism, the rate of growth decreases. **Operations requiring heating or cooling of food must be performed as rapidly as possible to avoid the possibility of bacterial growth.**

2. The only times that potentially hazardous food (time/temperature control for safety foods) are allowed to be held at temperatures above 41°F (5°C) or below 135°F (57°C) – the temperature danger zone – is during times of preparation, cooking, cooling, or when time is used as the public health control of foodborne pathogens. This is provided for within the Chapter because of the recognition that necessary time must be allowed for foods to be processed. Even during these points of processing foods, time must be managed to conduct these processes with the least amount of time possible or not to exceed time as established by the Chapter.

(f) **(Subsection (6) (g))**: Date Marking:

1. General:

- (a.) Date marking applies to **ready-to-eat, potentially hazardous foods (time/temperature control for safety foods)** that are prepared and held within a food service establishment under refrigeration at 41°F (5°C) or lower for 24 hours or longer.

- (b.) Date marking applies to **ready-to-eat, potentially hazardous foods (time/temperature control for safety foods)** that are prepared and packaged by a food processing plant held within a food service establishment under refrigeration at 41°F (5°C) or lower for 24 hours or longer.
- (c.) Refrigeration prevents food from becoming a hazard by significantly slowing the growth of most microbes. The growth of some bacteria, such as **Listeria monocytogenes**, is significantly slowed but not stopped by refrigeration. Over a period of time, this and similar organisms may increase their risk to public health in ready-to-eat foods.
- (d.) The date by which the food must be consumed takes into consideration the differences in growth of **Listeria monocytogenes** at 5°C (41°F) and 7°C (45°F). Based on a predictive growth curve-modeling program for **Listeria monocytogenes**, ready-to-eat, potentially hazardous food (time/temperature control for safety food) may be kept at 5°C (41°F) a

total of 7 days or at 7°C (45°F) a total of 4 days. Therefore, the period of time allowed before consumption is shortened for food in refrigerators incapable of maintaining food at 5°C (41°F) but capable of maintaining it at 7°C (45°F) or below. Food which is prepared and held, or prepared, frozen, and thawed must be controlled by date marking to ensure its safety based on the total amount of time it was held at refrigeration temperature, and the opportunity for **Listeria monocytogenes** to multiply, before freezing and after thawing. Potentially hazardous (time/temperature control for safety) refrigerated foods must be consumed, sold or discarded by the expiration date.

- (e.) Date marking is the mechanism by which the Chapter requires active managerial control of the temperature and time combinations for cold holding. The food service establishment operator must implement a system of identifying the date or day by which the food must be consumed, sold, or discarded. Date marking requirements apply to containers of ready-to-eat, processed food that have been opened and to ready-to-eat food prepared by a food establishment, in both cases if held for more than 24 hours at 41°F or lower, and while the food are under the control of the food establishment. This provision applies to both bulk and display containers. It is not a requirement of the Chapter to require date marking on the labels of consumer size packages.
- (f.) A date marking system may be used which places information on the food, such as on an overwrap or on the food container, which identifies the first day of preparation, or alternatively, may identify the last day

that the food may be sold or consumed on the premises. A date marking system may use calendar dates, days of the week, color-coded marks, or other effective means, provided the system is disclosed or communicated to the Health Authority upon request, during inspections.

2. **(Subsection (6) (q) 1.): Foods Prepared within the Establishment:**

(a.) Must be clearly marked to indicate the date or day by which the food must be:

1. Consumed on the premises
2. Sold; or
3. Discarded to waste

(b.) Must indicate a maximum of 7 calendar days, including the day of preparation, from which the food must be consumed on the premises, sold, or discard to waste.

3. **(Subsection (6) (q) 2.): Foods Prepared within a Food Processing Plant:**

(a.) Must be marked with the date when the original container was first opened within the food service establishment;

(b.) Must be clearly marked to indicate the date or day by which the food must be consumed on the premises, sold, or discarded to waste, which is including the day the original container was opened, **a maximum of seven (7) calendar days after the original container was opened.**

(c.) If the **use-by, sell-by, or expiration date marked on the container is sooner** than the seven (7) calendar days after the original container was opened, **then the use-by, sell-by, or expiration date will be the maximum calendar days by which food must be consumed, sold, or discarded to waste.**

4. **(Subsection (6) (q) 3.): Mixing Ingredients:**

(a.) Combined foods will retain the date mark of the earliest-prepared or first-prepared food or (i.e., oldest foods).

5. **(Subsection (6) (q) 6.): Foods Exempted from Date Marking:**

- (a.) Based on the results of the risk assessment and the recommendations from the 2004 Conference for Food Protection meeting, it was necessary to re-evaluate date marking in an effort to focus the provision on very high and high risk foods, while at the same time, exempting foods that present a very low, or low risk of contamination and growth of *Listeria monocytogenes*. Based on this evaluation, date marking provisions of the Chapter do not apply to the following foods:

1. **(Subsection (6) (q) 6. (i)):** Deli Salads Prepared and Packaged in a Food Processing Plant:

- (I) Examples of deli salads include ham salad, chicken salad, egg salad, seafood salad, pasta salad, potato salad, and macaroni salad, manufactured according to 21 CFR 110. According to data from the risk assessment, deli salads prepared and packaged by a food processing plant contain sufficient acidity, along with the

addition of preservatives (e.g., sorbate, benzoates), to prevent the growth of *Listeria monocytogenes*. There are estimates that 85% of all deli salads are prepared and packaged in a food processing plant and do not support growth. Based on discussions with deli salad manufacturers and trade associations, it is a nearly universal practice for food processing plants preparing and packaging deli salads to add one or more preservatives that inhibit the growth of *Listeria monocytogenes*. Based on their wide use within this segment of the industry and their effectiveness at inhibiting the growth of *Listeria monocytogenes*, all deli salads prepared and packaged in a food processing plant are exempt from date marking. However, all deli salads prepared in a food establishment require date marking.

2. **(Subsection (6) (q) 6. (ii) and (iii)):** Hard and Semi-Soft Cheeses:

- (I) *Rule -.04 Subsection (6) (g) 6* exempts certain types of hard and semi-soft cheeses from date marking based on the presence of several factors that may control the growth of *Listeria monocytogenes*. These factors may include organic acids, preservatives, competing microorganisms, pH, water activity, or salt concentration. The results of the risk assessment support this interpretation and therefore, hard and semi-soft cheeses each manufactured according to 21 CFR 133 are exempt from date marking - **See Table .04B.**

3. **(Subsection (6) (q) 6. (iv)):** Cultured Dairy Products:

- (I) Cultured dairy products include yogurt, sour cream, and buttermilk, each manufactured according to 21 CFR 131. Many of these products often are low pH foods manufactured with lactic acid fermentation. Data from the risk assessment show that *Listeria monocytogenes* does not grow in these foods and therefore, these products are exempt from date marking.

4. **(Subsection (6) (q) 6. (v))**: Preserved Fish Products:

- (I) Preserved fish products include pickled herring and dried, or salted cod, and other acidified fish products, manufactured according to 21 CFR 114. Data from the risk assessment show that the high salt and/or acidity of these products does not allow for the growth of *Listeria monocytogenes* and therefore, these products are exempt from date marking. This exemption does

not apply to hot or cold smoked fish products, nor does it apply to fish products that are dried, marinated, or otherwise preserved on-site, in a food establishment, such as ceviche.

5. **(Subsection (6) (q) 6. (vi) and (vii))**: USDA-regulated products:

- (I) Date marking provisions of the Food Code do not apply to shelf stable ready-to-eat meat and poultry products. Shelf stable ready-to-eat meat and poultry products are not required by USDA to be labeled “Keep Refrigerated.” For these products, the nitrite and salt in the cure and the lower pH resulting from fermentation give additional protection against microbial growth. Some fermented sausages and salt-cured products are shelf stable, do not require refrigeration, and do not bear the label “Keep Refrigerated.” To be shelf stable, a product manufactured under USDA inspection must have a process that results in a product that meets one of the recognized objective criteria for shelf stability, such as water activity, moisture-protein ratio (MPR), or combination of MPR and pH (acidity). Therefore, they are exempt from the Chapter’s date marking requirements.
- (II) Shelf stable fermented sausages such as pepperoni and dry salami do not have to be refrigerated or date marked. Shelf stable salt-cured products such as prosciutto, country cured ham, or Parma ham do not require refrigeration or Food Code date marking. Other salt-cured products include basturma, breasaola, coppa, and capocollo.

- (III) Some ready-to-eat fermented sausages and salt-cured products must be refrigerated and therefore bear the USDA-required label “Keep Refrigerated.” Examples of these products are cooked bologna, cooked salami, and sliced country ham which is ready-to-eat fermented products that need refrigeration. Bologna is a cooked, perishable sausage and there are other salamis, e.g., cotto that are perishable.
- (III) Regarding the exemption from date marking for shelf-stable sausages in a casing, the exemption does not apply if the casing is removed. The intact casing on shelf-stable sausages may be overwrapped to protect the cut face of the sausage. With shelf stable (not potentially hazardous (time/temperature control safety)) sausages, the intact casing provides a barrier to contamination (although not an absolute one), the exposed face is

likely to be sliced again within 4 or 7 days, and contamination is minimized because only the face is exposed. The coagulated protein that occurs on the surface of some non-shelf stable cooked sausages is not a casing.

6. Disposition:

- (I) Date mark foods must be discarded should the 7 days be exceeded unless the food is frozen. If the food is frozen, time stops until the food is thawed. For example, if a food was dated on Monday and frozen on Wednesday, then the food item would have 4 days after the food item was thawed before it would have to be consumed, sold, or discarded. Time during freezing does not count in the 7 day maximum time limit. The package or container should be marked with the date it was thawed.
- (II) Food items in a container or package that does not have date marking must be discarded to waste.
- (III) Food that has been appropriately marked with a date or day that exceeds 7 days must be discarded.
- (IV) Food that has a use-by, sell-by, and or an expiration date exceeded must be discarded to waste whether the product is frozen or not.

Table .04B

List of Some Hard and Semi-Soft Cheeses Exempt from Datemarking		
Asadero	Queso Chihuahua	Asiago soft
Abertam	Queso de Prensa	Battelmatt
Appenzeller	Romanello	Bellelay (blue veined)
Asiago medium or old	Romano	Blue
Bra	Reggiano	Brick
Cheddar	Sapsago	Camosum
Christalinna	Sassenage (blue veined)	Chantelle
Colby	Stilton (blue veined)	Edam
Cotija Anejo	Swiss	Fontina
Cotija	Tignard (blue veined)	Gorgonzola (blue veined)
Coon	Vize	Gouda
Derby	Wensleydale (blue veined)	Havarti
Emmentaler		Konigskase
English Dairy		Limburger
Gex (blue veined)		Milano
Gloucester		Manchego
Gjetost		Monterey
Gruyere		Muenster
Herve		Oka
Lapland		Port du Salut
Lorraine		Provolone
Oaxaca		Queso de Bola
Parmesan		Queso de la Tierra
Pecorino		Robbiole
Queso Anejo		Roquefort (blue veined)
		Samsøe
		Tilsiter
		Trappist

(g) **(Subsection (6) (i)):** Time as a Public Health Control:

1. **(Subsection (6) (i) 1.):** General:

- (a.) Time only instead of time/temperature control may be used to control outgrowth of foodborne illness pathogens in potentially hazardous food (time/temperature control for safety food) either before or after cooking as follows:

1. A working supply of uncooked or undercooked, potentially hazardous foods may be placed out at room temperature during times of day such as, during the lunch hour (generally 10:00 a.m. through to 2:00 p.m.). No more than the amount of food that can be cooked and served within the maximum time period allowed under time as a public health control may be placed out for cooking.
 2. Ready-to-eat, potentially hazardous food (time/temperature control for safety food) can be displayed or held for sale or service up to the maximum time period allowed under time as a public health control.
- (b.) Plan Required: If management of a food service establishment chooses to utilize time only as a public health control, management must have a written, properly prepared plan describing how food employees are to comply with the requirements for time found within *Rule -.04 Subsection (6) (i)* of the Chapter. The written plan must contain information and it must be in place as follows:
1. It must contain procedures for complying with requirements found within *Subsection (6)(i) 2(i) through (iii)*, if time will be used for hot and cold foods up to a maximum of 4 hours; or
 2. It must contain procedures for complying with requirements found within *Subsection (6) (i) 3(i) through (v)* when time is used for **only for cold foods** up to a maximum of 6 hours.
 3. For potentially hazardous foods (time/temperature control for safety foods) that has been prepared, cooked, and refrigerated (cooled) within the food service establishment, the plan must fully describe how cooling will be accomplished as required within *Rule -.04 Subsection (6)(d)*.
 4. The written plan must be present within the food service establishment **BEFORE** time is used as a public health control.
 5. The written plan does not have to be prior approved by the Health Authority; however, management is encouraged to communicate with their local Health Authority during development of the plan.
 6. The written plan must be available to the Health Authority upon request and it should be readily available for food employee reference, as well.

- (c.) Time Limits: Based upon science, potentially hazardous foods (time/temperature control for safety foods) or PHF/TCS foods are allowed to be held at room temperature for a maximum number of hours as follows:

1. **(Subsection (6) (q) 2.): Four-Hour Maximum Limit:**

- (I) If foods have been cooked, cooled, and refrigerated, it must have an internal, initial temperature of 41°F (5°C) or less when it is first removed from cold holding temperature-controlling equipment.
- (II) If foods have been cooked and held hot, it must have an internal, initial temperature of 135°F (57°C) or higher when it is first removed from hot holding temperature-controlling equipment.
- (III) Upon removal of food from temperature-controlling equipment, the container of food will be marked with the time that the food must be served, sold, or discarded to waste. This maximum time limit that food can be held at room temperature is from the point in time when it was first removed from temperature-controlling equipment up to four hours out to when the food must be used, sold, or be discarded to waste.
- (IV) If time, as a public health control, is used instead of temperature control for raw or undercooked foods placed out at room temperature for cooking supply prior to display and service, they must be **cooked and served to the consumer within the four-hour maximum time limit.**
- (v) If ready-to-eat potentially hazardous foods (time/temperature control for safety foods) are displayed for sale or service, they must be served to the consumer within the four-hour maximum time limit.
- (VI) Unmarked containers or packages of food held for display and or service would be considered as a violation of the Chapter and the food must be discarded to waste.

(VII) Containers or packages of food held for display and or service that are improperly marked with a time limit exceeding 4 hours would be considered as a violation of the Chapter and the food must be discarded to waste.

2. **(Subsection (6) (q) 3.): Six-Hour Maximum Limit:** Based upon science, potentially hazardous foods (time/temperature control for safety foods) are allowed to be held at room temperature for a maximum number of hours as follows:

- (I) If the six-hour maximum time limit for PHF/TCS foods at room temperature for display, sale, and or service is utilized, they **must first be refrigerated to 41°F (5°C) or less when removed from temperature-controlling equipment. Foods cannot be held hot using the six-hour maximum limit.**
- (II) During the six-hour maximum time limit, the food cannot exceed an internal temperature of 70°F (21°C).
- (III) The internal temperature of the food has to be monitored to ensure that it does not exceed 70°F (21°C), unless the ambient air temperature surrounding the food can be regulated to ensure that the internal temperature of the displayed food will not exceed 70°F (21°C). It will be the burden of the food service establishment operator to provide enough documentation and or evidence to satisfactorily show that ambient air temperature can be regulated to control the internal food product temperature. This stated documentation and or evidence will be at the discretion of the local Health Authority.
- (IV) **The containers of food must be marked as follows:**
 - (i) With the time when the food was first removed from cold holding temperature-controlling equipment with a product temperature of 41°F (5°C) or less; and
 - (ii) With the time that is 6 hours projected out from the time when the food was first removed from its cold holding temperature-controlling equipment.
- (V) If time, as a public health control, is used instead of temperature control for raw or undercooked foods placed out at room temperature for cooking supply prior to display and

service, they must be **cooked and served to the consumer within the six-hour maximum time limit.** Due to the potential for higher ambient air temperature surrounding cooking equipment, it is not recommended that six-hour time limit be considered for a working supply for cooking.

- (VI) If ready-to-eat PHF/TCS foods are displayed for sale or service, they must be served to the consumer within the six-hour maximum time limit.
- (VII) Unmarked containers or packages of food held for display and or service would be considered as a violation of the Chapter and the food must be discarded to waste.
- (VIII) Containers or packages of food held for display and or service that are improperly marked with a time limit exceeding 6 hours would be considered as a violation of the Chapter and the food must be discarded to waste.
- (IX) Food must be discarded if the temperature of the food exceeds 70°F (21°C).

2. **(Subsection (6) (g) 4.): Prohibition of Use of Time as a Public Health Control:**
Time as public health control cannot be used for raw eggs in a food service establishment that serves a highly susceptible population for the following reason:

- (a.) Recipes in which more than one egg is combined carry an increased risk of illness and possible serious consequences for certain people. It is due to this increased risk, and documented occurrences of foodborne illness and death among highly susceptible populations from temperature-abused raw shell eggs contaminated with ***Salmonella Enteritidis***, that the use of time as a public health control in institutional settings is not allowed.
- (b.) Time only, as a public health control, cannot be used by food service establishment management to avoid a violation in regards to temperature control as specified in *Rule -.04 Subsection (6)(f)* of the Chapter. Management must choose either time only or temperature control and not both during times of food display or while food is being held for sale or service.

- (c.) Time as a Public Health Control cannot be utilized for transportation of food, such as delivery of food and or delivery of food at off-site catering.
3. Exceptions to When Temperature Control and Time as a Public Health Control applies: Based upon science, some types of foods such as melons and tomatoes are not considered as potentially hazardous foods (time/temperature control for safety foods) until they are sliced or cut. This is due to the introduction of pathogens found on the surface of the skin or rind into the meat of the melon or tomato during the cutting and or slicing process for preparation. If utilized instead of temperature control, time as a public health control will begin at the point in time when the food preparation operation (cutting, slicing, etc.) has been completed. Once preparation has been completed, the following must take place:
- (a.) The prepared melons and or tomatoes must be immediately placed into cold storage to be cooled to 41°F (5°C) or less for service at a later time; or
 - (b.) Immediately go from preparation into cooking; or
 - (c.) Time as a Public Health Control procedures are applied for display, service, or sale of the prepared melons and or tomatoes immediately, if they are to be consumed raw. In this case, time 4 or 6 hours would begin at the point in time when the preparation process has been completed.
- (h) **(Subsection (6) (i))**: Variance Requirements:
- 1. Background:
 - (a.) Specific food processes that require a variance have historically resulted in more foodborne illness than standard processes. They present a significant health risk if not conducted under strict operational procedures. These types of operations may require the person in charge and food employees to use specialized equipment and demonstrate specific competencies. The variance requirement is designed to ensure that the proposed method of operation is carried out safely. **See Part – II Section C of this Manual for more information on Specialty Foods.**
 - (c.) The Food Service Technical Review Committee should consist of members of varying background of study and knowledge. These members should be representative of consulting food scientists, academia, health district environmental health directors, and county

EHS or other experts external to the Division, regarding access to scientific and technical resources in order to make science-based decisions. Further and since the Chapter is adopted from the 2005 FDA Model Food Code, the Committee should have as one of its members a FDA Regional Food Specialists.

- (d.) Unless otherwise deemed appropriate by the Division, members of the Food Service Technical Review Committee will serve on a voluntary basis without compensation.
- 2. **(Subsection (6) (j)):** Application for Variance and Compliance: Any food service establishment operator seeking to process potentially hazardous foods (time/temperature control for safety foods) other than that allowed within *Rule -.04* of the Chapter must submit an application for a variance request with the Division of Public Health as stated in *Rule -.10 Subsection (5) (a) and (b)* of the Chapter. Likewise, an application for a variance request will be required at any time the food service establishment operator wishes to vary from any other Rule of the Chapter. **A copy of the application (Form K-17) can be found in Part II, Section K of this Manual. See Section J of this Manual for Administrative Procedures for a Variance submittal.**
- 3. **Exception to Required Variances:** The following will not require variances:
 - (a.) If temperature control or time as a public health control is utilized instead of food additives to preserve potentially hazardous food (time/temperature control for safety food) or to render it non-potentially hazardous foods, then a variance will not be necessary. Example would be sushi rice (acidified rice) held at $\leq 41^{\circ}\text{F}$ or less or use within 4 hours from a point in time the preparation of the rice (cooking and addition of other ingredients) has been completed.
 - (b.) **(Subsection (6) (j) 4.):** Processing potentially hazardous food (time/temperature control for safety food) using (ROP) or Reduced Oxygen Packaging:
 - 1. **(Subsection (6) (j) 4. and (6) (k) 2. (ii):** When a second barrier is incorporated into the (ROP) process as stated within *Rule -.04 Subsection (6)(k) 2 (ii)* of the Chapter;
 - 2. **(Subsection (6) (k) 5.):** When (ROP) is used to package hard or semisoft cheeses manufactured using Standards of Identity for those cheeses and as required in *Rule -.04 Subsection (6)(k) 5*. Examples of cheeses that may be packaged under ROP include

Asiago medium, Asiago old, Cheddar, Colby, Emmentaler, Gruyere, Parmesan, Reggiano, Romano, Sapsago, Swiss, pasteurized process cheese, Asiago fresh and soft, Blue, Brick, Edam, Gorgonzola, Gouda, Limburger, Monterey, Monterey Jack, Muenster, Provolone, and Roquefort. Soft cheeses such as Brie, Camembert, Cottage, and Ricotta may not be packaged under reduced oxygen because of their ability to support the growth of *L. monocytogenes* under modified atmosphere conditions;

3. **(Subsection (6) (k) 3.):** When (ROP) is used to package fish that has been frozen before, during and after packaging;
4. **(Subsection (6) (k) 4. (ii):** When Cook-chill or Sous Vide (ROP) is used to process and package foods as stated within *Rule -.04 Subsection (6)(k) 4 (ii)*;
5. **(Subsection (6) (j) 1.):** When smoking food for flavor rather than for preservation; and
6. **(Subsection (6) (j) 3. (i)):** When applying additives for flavor rather than for preservation.

(c.) **(Subsection (6) (k)):** Reduced Oxygen Packaging (ROP), Criteria:

1. **Introduction:** Reduced oxygen packaging (ROP) occurs when food is packaged in bags/containers (with a covering film) that do not readily transmit oxygen (O_2 transmission rate of $10-100 \text{ cm}^2/\text{m}^3/24$ hrs.) and the air in the package has been removed, displaced, replaced or controlled. Under appropriate conditions, extended shelf life is the beneficial result. Holding temperature requirements depend on the food being packaged and the type of ROP process. Several different packaging processes qualify as ROP including:
 - (I.) Vacuum packaging (VP) – air is removed and the oxygen impermeable package is hermetically sealed to maintain the vacuum.
 - (II.) Modified atmosphere packaging (MAP) – air is replaced or displaced with other gases, often CO_2 or N_2 , and this new mixture is allowed to equilibrate.

- (III.) Controlled atmosphere packaging (CAP) – air is modified with other gases and maintained at that composition with the use of O₂ scavengers or absorbents.
 - (IV.) Cook chill packaging (CC) – food is cooked and hot filled into oxygen impermeable bags and sealed.
 - (V.) Sous vide packaging (SV) – raw or partially cooked food is placed in oxygen impermeable bags, hermetically sealed and cooked in the bag.
2. Microbiology of ROP: Reduced oxygen, by itself, does not destroy spoilage organisms or foodborne pathogens in food. In fact, most foodborne pathogens are facultative anaerobes and can survive and/or produce toxin with or without oxygen. Exceptions are *Clostridium botulinum*, which requires a reduced oxygen environment, and *Bacillus cereus*, which requires an aerobic environment. Spoilage organisms are inhibited by reduced oxygen but will begin to grow once oxygen is available. In some foods, a secondary barrier (such as pH, a_w, preservatives, nitrite, or intrinsic factors in the food) is used along with refrigeration at 41°F to inhibit pathogenic growth. In other foods that don't contain a secondary barrier (most soups, sauces, gravies, meats, etc. and typically packaged using CC or SV packaging), a lower temperature along with a limited shelf life is used to control pathogens. Both non-proteolytic *C. botulinum* and *L. monocytogenes* are able to multiply and/or form toxin at temperatures below 41°F. Therefore, these microorganisms become the hazard of concern with ROP and any HACCP plan must show how they are controlled. If *C. botulinum* and *L. monocytogenes* can be controlled, other pathogens can be controlled as well.
4. Safety Concerns about ROP Foods: Several safety concerns specific to ROP have been identified and must be addressed. Facultative bacteria (most pathogens) grow under aerobic and anaerobic (ROP) conditions. Spoilage organisms (aerobic) are inhibited with ROP and can no longer be used to indicate temperature abuse or out compete slower growing pathogens. Failure to limit shelf life would allow “slow growers” to reach high numbers. Secondary barriers such as pH or a_w are not always possible with cook chill and sous vide packaged foods. The potential for temperature abuse or inadequate cold holding must be considered. Cooking and

fermenting destroy most vegetative cells but spore formers survive and post-cooking contamination must be prevented.

4. **(Subsection (6) (k) 2. (iii) (II) & (6) (k) 4. (V))**: **Time/Temperature Control for ROP Foods**: Time/temperature control is one of the most effective methods of controlling pathogens in ROP foods. Cooking foods according to Chapter requirements **(see Rule -.04 Subsection (5))** will destroy vegetative cells but bacterial spores remain viable. Cooling according to Chapter parameters **(see Rule -.04 Subsection (6) (d))** is intended to prevent spores from germinating. Refrigeration at $\leq 41^{\circ}\text{F}$ will inhibit or slow down the growth of foodborne pathogens. Holding times and temperatures will vary depending on the food and if secondary barriers are present. Fish must always be frozen before, during and after ROP. Foods with a secondary barrier may be refrigerated at 41°F or less for 14 or 30 days, depending on the food. Foods with no secondary barrier (CC and SV) must be stored at $\leq 34^{\circ}\text{F}$ for no more than 30 days after packaging. Since there are no other secondary barriers, temperature control is vital for CC and SV. To ensure temperature control, *Rule -.04 Subsection (6) (k) 4(ii) (VI)* requirements call for continuously and electronically monitored holding temperatures. This can be accomplished by using thermocouple data loggers, recording charts, temperature monitoring and alarm systems or other similar technology. In addition, this system must be visually checked in person twice daily.
5. **(Subsection (6) (k) 2. (ii) (I) through (IV))**: **Secondary Barriers and Other Controls for ROP**: Secondary barriers specifically defined in the Chapter to be used with refrigeration at $\leq 41^{\circ}\text{F}$ include pH of 4.6 or less, a_w of 0.91 or less, meat or poultry cured with nitrite, high levels of competing organisms and certain intrinsic factors in hard or semi-soft cheeses. Other safety controls provided by the Chapter for food packaged under reduced oxygen in food establishments include implementation of a HACCP plan, use of SSOPs (System Standard Operating Procedures), training for employees, labeling requirements (an expiration date for the 14 or 30 day shelf life, a “keep refrigerated at 41°F or less” statement for product sold to consumers, no sale of cook chill or sous vide packaged products to other businesses or the consumer and a limitation to the extended shelf life based on the secondary barriers and/or temperature controls used with that food. Gases used to back flush packages in ROP do not control the growth of foodborne pathogens but contribute to the culinary quality of the food. Packaging material is designed for

oxygen transmission rate, strength, moisture transmission and other factors.

6. **(Subsection (6) (k))**: **Variance or No Variance**: When a food service establishment operator complies with the parameters for ROP in one of the paragraphs of *Rule -.04 Subsection (6) (k)* in the Chapter, no variance is required although a HACCP plan is necessary. If the operator prefers to use other secondary barriers not listed in this section or other time and temperature combinations for cold holding, then a variance application must be submitted for approval to the Health Authority showing evidence that this option is safe.
7. **ROP Inspection Guide**: A HACCP plan is always required and should be reviewed as part of the inspection process. The EHS should verify compliance with the facility's HACCP plan and confirm all ROP food is identified with CCPs and measurable CLs, who monitors, when and how, evidence that a corrective action plan is in place and used, necessary records identified and held for 6 months [letters of guarantee, recipes, standards of identify, cooling and refrigeration temperatures], who is responsible for verification, acceptable secondary barriers, labels for each ROP food ["keep refrigerated at 41°F or below," "use by" date of 14 or 30 days, product name and if going to a consumer, ingredients in descending order, company name and address and net weight], operational procedures, training programs, etc.). Also, the following will apply:
 - (I.) If parameters are met as specified in *Rule -.04 Subsection (6) (k)* of the Chapter, no variance is required; however, the food service operator must gain prior approval from the Health Authority.
 - (II.) If the operator prefers to use other parameters for ROP, a variance application must be submitted to the Regulatory Authority as specified in *Rule -.10 Subsection (5)*. Check for specific variance requirements.
 - (III.) Observe the preparation and packaging process using ROP techniques, if possible:
 - i Was it in compliance with the HACCP plan and the Chapter?

- ii Was cross-contamination prevented during the preparation and packaging?
 - iii Were appropriate cooking and cooling parameters used?
 - iv Were appropriate refrigeration techniques used?
 - a. Correct temperatures (41° or 34°F)?
 - b. Continuous electronic monitoring? Was the electronic monitoring system checked visually twice daily? By whom and when?
 - c. Are the barrier bags not piled on top of each other to allow good air circulation
- (V) Ask employees who are doing the ROP processing and packaging what kind of training they received (when, content of training, who provided training)
- (VI) In the area where the ROP packages are stored and/or displayed:
 - i Is the product being stored or displayed at the temperature required by the HACCP plan?
 - ii Do all of the ROP packages have a clear expiration date and other required label information?
 - iii Are any of the ROP packages being held beyond the expiration date for that type of food (they must be discarded). Ask about the normal process for checking expiration dates.
 - iv Check that CC or SV packaged food products are not distributed to another business or sold directly to the consumer.
 - v Pick out 3 or 4 different ROP foods packaged on different dates if possible and request the HACCP records that correspond to those packages.

vi Review the records provided to find the dates that correspond to the packages chosen:

- (VII) Are records available for the date that each food was packaged?
- (VIII) Are all records specified in the HACCP plan and by the Chapter available?
- (IX) Check to see if records indicate a corrective action was needed. If so, was the corrective action made?

(5) **(Subsection (7)(a) through (e))**: Food Identity, Presentation, and On-Premises Labeling:

- (a) **(Subsection (7) (b))**: Food Offered for Consumption within the Food Service Establishment: The identity of a food in terms of origin and composition is important for instances when a food may be implicated in a foodborne illness and for nutritional information requirements. Consumers who have allergies to certain food or ingredients need ingredient information. The appearance of a food should not be altered or disguised because it is a cue to the consumer of the food's identity and condition.
- (b) **(Subsection (7) (c) 1.)**: Raw Meats Packaged for Sale within Food Service Establishments: Recent illnesses and deaths from Shiga toxin-producing *Escherichia coli* have occurred across the United States as a result of people eating hamburgers that were contaminated and then undercooked. USDA issued final Rules on August 8, 1994 requiring all raw meat or poultry products have a safe-handling label or sticker or be accompanied by a leaflet that contains information on proper handling and cooking procedures.
- (c) **(Subsection (7) (c) 2. (vi))**: Nutrition Labeling: Certain requirements in the CFR relating to aspects of nutrition labeling became effective in May 1997. The following attempts to provide guidance regarding those requirements and exemptions as they relate to food service establishments and to alert the Health Authority to the authority that has been given to them by the Nutrition Labeling and Education Act (NLEA) of 1990. The statute and the CFR should be reviewed to ensure a comprehensive understanding of the labeling requirements.
 - 1. The following foods need not comply with nutrition labeling in the CFR referenced in *Rule -.04 Subsection (7)(c) 2 (vi)* of the Chapter if they do not bear a nutrient claim, health claim, or other nutrition information:
 - (a.) Foods packaged in a food establishment if:

1. The food service establishment has total annual sales to consumers of no more than \$500,000 (or no more than \$50,000 in food sales alone), and
 2. The label of the food does not bear a reference to the manufacturer or processor other than the food service establishment;
2. Low-volume food products if:
- (a.) The annual sales are less than 100,000 units for which a notification claiming exemption has been filed with FDA's Office of Nutritional Products Labeling and Dietary Supplements Food Labeling by a small business with less than 100 full-time equivalent employees, or
 - (b.) The annual sales are less than 10,000 units by a small business with less than 10 full-time equivalent employees;
3. Foods served in food service establishments with facilities for immediate consumption such as restaurants, cafeterias, and mobile food service establishments other than mobile vehicle vendors (grab & go), and foods sold only in those establishments;
4. Foods similar to those specified in the preceding paragraph (5) (c) 3 but that are sold by food service establishments without facilities for immediate consumption such as bakeries and grocery stores if the food is:
- (a.) Ready-to-eat but not necessarily for immediate consumption,
 - (b.) Prepared primarily in the food service establishment from which it is sold, and
 - (c.) Not offered for sale outside the food service establishment;
5. Game animal meats shall provide nutrition information, which may be provided by labeling displayed at the point of purchase such as on a counter card, sign, tag affixed to the food, or some other appropriate device.
6. Food packaged in a food service establishment, shall meet the requirements specified in *Rule -.04 Subsection (7) (c)* and enforcement by the Health Authority is authorized in the NLEA, Section 4. State Enforcement.
- (d) **(Subsection (7)(c) 2 (v)):** Food Allergen Labeling Required: On August 2, 2004, President Bush signed into law the Food Allergen Labeling and Consumer

Protection Act of 2004 (Public Law 108-282). This new law amended Sections 201 and 403 of the Federal Food, Drug, and Cosmetic Act to establish food allergen labeling requirements for all packaged foods regulated by FDA. The new provisions require that all affected packages of food labeled on or after January 1, 2006 must identify on the label the names of the food sources of any major food allergens (i.e., the following eight foods and any protein derived from them: milk, egg, fish, crustacean shellfish, tree nuts, wheat, peanuts, and soybeans) used as ingredients in the food. The names of the food sources are the same as the names of the eight foods that are major food allergens, with the exception that for fish, crustacean shellfish, and tree nuts, their respective food source names are the specific species of fish (e.g., bass, flounder, or cod), the specific species of crustacean shellfish (e.g., crab, lobster, or shrimp), and the specific types of tree nuts (e.g., almonds, pecans, or walnuts).

(e) **(Subsection (7)(c) 1 and 2): Food Securely Packaged and General Labeling:**

Whether or not food packaged as defined within *Rule 4-.01 (vvv)* of the Chapter depends on how the food item is purchased as follows:

1. If the consumer receives the food directly from the employee of the food service establishment, the food does not have to be securely packaged or labeled. This is allowed because the consumer can question the food service establishment employee concerning the products preparation and/or ingredients. An example of this would be food received over the counter at a fast food establishment.
2. If the consumer receives the food from a self-service counter such as, a grab & go counter or from a mobile food-vending vehicle (the consumer selects food products similar to a grab & go self-service), then the food must be packaged and labeled.
3. If a food service establishment sells product to another entity not owned by the food service establishment, the food must be packaged and properly labeled. In this case, the EHS should consult with local representatives of Georgia Department of Agriculture (the regulator authority), since the Chapter considers such activity as wholesaling of product and is not regulated under the Chapter.

(f) **See Section N in this Manual for referenced applicable Federal Codes of Registry.**

(6) **(Subsection (7) (e)): Consumption of Animal Foods that are Raw, Undercooked, or not Otherwise Processed to Eliminate Pathogens (Advisory):**

(a) Purpose and Location:

1. The purpose of *Subsection (7) (e)* is to make the consumer aware of the inherent risks to their health prior to ordering these types of potentially hazardous foods (time/temperature control for safety foods). In this way, the consumer will have the opportunity to make a well-informed decision concerning their health. Further, as per the FDA guidance document entitled, "Implementation Guidance for the Consumer Advisory Provision of the FDA Food Code", the information contained in both the disclosure and reminder is to be publicly available and readable so that consumers have benefit of the total message (disclosure and reminder) **before making their order selections**. Annex 3 page 415 of the 2005 FDA Model Food Code states, "Disclosure of raw or undercooked animal-derived foods or ingredients and reminders about the risk of consuming such foods **belong at the point where the food is selected by the consumer**. Both the disclosure and the reminder need to accompany the information from which the consumer makes a selection. That information could appear in many forms such as a menu or menu board, a placarded listing of available choices, or a table tent." Therefore, the key to where the advisory must reside within the food service establishment also resides in the question, "What is the location where food is to be ordered by the consumer?"
2. The consumer advisory's requirements are to be applied to all food establishments where raw or undercooked animal foods or ingredients are sold or served for human consumption in a raw or undercooked form. This includes all types of food establishments whenever there is a reasonable likelihood that the food will be consumed without subsequent, thorough cooking - such as restaurants, raw bars, quick-service operations, and carryouts.
3. **(Subsection (4) (w)) - Ready-to-Cook Consumer Self-Service:** In regards to self-service of ready-to-cook individual portions for immediate cooking and consumption by the consumer, a placard located at the grill (place of ordering by consumer) would be appropriate where a menu board was absent. If no menu board is at the grill, then the placard would take its place. In addition, at consumer self-service food bars with ready-to-eat raw or undercooked foods of animal origin, a similar consumer advisory would be necessary as well. On these placards, the permit holder would need to provide the disclosure and reminder statements as noted within *Rule -.04 Subsection (7) (e)*.

(b) **(Subsection (7) (e)2.): The Disclosure Statement:**

1. Descriptive Disclosure: It can describe the animal-derived food directly where the item is named on a menu. For example, if oysters were offered on the

menu, then the disclosure could be stated, “oysters on the half shell (raw oysters), “raw-egg Caesar salad,” and “Hamburgers (can be cooked to order); or

2. Asterisk Identified Disclosure: As an alternative to 1 above, an asterisk can be placed by the animal-derived food item pointing to a footnote. The footnote must state that the items are served raw or undercooked, or contains (or may contain) raw or undercooked ingredients. For example, an asterisk could be placed by hamburgers on a menu and then, another asterisk would be placed by a statement, “Hamburgers are served to order” which was located at the bottom of the page where the food item is asterisked; or
 3. Food items may be grouped by category. An example would be a category of which all types of “Hamburgers” would be placed under the category, “Hamburgers”. In this example the asterisk “*” is placed adjacent to the category of food items.
- (c) **(Subsection (7) (e) 3.) – Reminder Adaptability to Requirements**: Consumer advisories may be tailored to be product-specific if a food establishment either has a limited menu or offers only certain animal-derived foods in a raw or undercooked ready-to-eat form. For example, a raw bar serving molluscan shellfish on the half shell, but no other raw or undercooked animal food, could elect to confine its consumer advisory to only shellfish. However, this raw bar would still need to have a reminder statement that would highlight the increased risk incurred when persons with certain medical conditions ingest shellfish that has not been adequately heat-treated.
- (d) Advisory Configuration: The Consumer Advisory may be configured to be displayed on the menu, placard or menu board in varied ways as long as the required principle tenets of the *Subsection (7) (e)* are met. Suggested uses are as shown in the following examples:

Descriptive Disclosure

* Hamburger all the way –
(Cooked to Order).....2.50
Chicken Fingers.....3.00
French Fries.....1.00

*CONSUMING RAW OR UNDERCOOKED
MEATS, POULTRY, SEAFOOD,
SHELLFISH, OR EGGS MAY INCREASE
YOUR RISK OF FOODBORNE ILLNESS.

Asterisk Identified Disclosure

* Hamburgers all the way.....3.50
Chicken Fingers.....3.00
French Fries.....1.00

* ADVISORY: HAMBURGERS AND
STEAKS MAY BE COOKED TO ORDER.
COMSUMING RAW OR
UNDERCOOKED MEATS, POULTRY,
SEAFOOD, SHELLFISH, OR EGGS MAY
INCREASE YOUR RISK OF
FOODBORNE ILLNESS, ESPECIALLY IF
YOU HAVE CERTAIN MEDICAL
CONDITIONS.

Category Identified

* Hamburgers	Melts
Double ¼ lb Cheeseburger...3.00	Turkey Club.....3.50
½ lb Steak Burger.....4.00	The Number One.....2.00
½ lb Cheeseburgers.....4.25	Out of this World.....4.25
The original.....2.50	The original.....2.50

* ADVISORY: HAMBURGERS AND STEAKS MAY BE COOKED TO ORDER. HOWEVER, THE CONSUMPTION OF RAW OR UNDERCOOKED FOOD SUCH AS MEAT WHICH MAY CONTAIN HARMFUL BACTERIA MAY CAUSE SERIOUS ILLNESS ESPECIALLY IF YOU HAVE CERTAIN MEDICAL CONDITIONS.

(Only Hamburgers offered undercooked)

(7) **(Subsection (8)(a) and (b))**: Contaminated Food:

(a) **(Subsection (8)(a))**: Discarding or Reconditioning Unsafe, Adulterated, or Contaminated Food:

1. Pathogens may be transmitted from person to person through contaminated food. The potential spread of illness is limited when food is discarded if it may have been contaminated by employees who are infected, or are suspected of being infected, or by any person who otherwise contaminates it.
2. The person in charge should be asked to voluntarily dispose of unsafe, adulterated, or contaminated food. Food to be discarded must be disposed of safely by denaturing it so as to render it to become inedible or in-consumable. For food received from commerce, as directed within an official recall notice from a regulatory agency (Food and Drug Administration, United States Department of Agriculture, and or Georgia Department of Agriculture) having jurisdiction over the food item. An example of denaturing of food to be discarded would be pouring bleach over contaminated chicken.

3. In the event that a person in charge refuses to voluntarily dispose of the unsafe, adulterated, contaminated food, a hold order must be issued in regards to the food item or items as required within *Rule -.10 Subsection (3) (b)*.
4. Food that is to be held for return to the distributor, such as that required within an official recall, must store food as required within *Rule -.04 Subsection (4) (c) 1 (vii)* of the Chapter.
5. If needed, the local Health Authority may consult with the State Environmental Health Office for additional guidance.

(b) **(Subsection (8) (b))**: Expired Food:

1. All packaged, commercially processed foods (frozen and or refrigerated) that are located within a food service establishment and has exceeded their manufacturer's expiration date or their sell-by date must be immediately removed from use by the food service establishment or remove from sale to the consumer.
2. Freezing expired foods, such as in date marking, does not exempt foods from being discarded, once the expiration date or sell-by date has been exceeded.
3. Expired food may be held for return to the distributor, such as that required within an official recall, must store food as required within *Rule -.04 Subsection (4) (c) 1 (vii)* of the Chapter.
4. Expired food that is not to be returned to its distributor must be disposed of safely by denaturing it so as to become inedible or in-consumable. If not disposed of voluntarily, a hold order must be issued in regards to the food item or items as required within *Rule -.10 Subsection (3) (b)* **(See Forms K-13, K-14 and K-15 in Part-II Section K of this Manual)**.
5. If needed, the local Health Authority may consult with the State Environmental Health Office for additional guidance.

(8) **(Subsection (9))**: Special Requirements for Highly Susceptible Populations - Pasteurized, Prohibited Re-Service, and Prohibited Food:

- (a) The Chapter provisions that relate to highly susceptible populations are combined within the following paragraphs for ease of reference and to add emphasis to special food safety precautions that are necessary to protect those who are particularly vulnerable to foodborne illness and for whom the implications of such illness can be dire.

- (b) **(Subsection (9) 1.):** As a safeguard for highly susceptible populations from the risk of contracting foodborne illness from juice, prepackaged juice is required to be obtained pasteurized or in a commercially sterile, shelf-stable form in a hermetically sealed container. It is important to note that the definition of a “juice” means it is served as such or used as an ingredient in beverages. Puréed fruits and vegetables, which are commonly prepared as food for service to highly susceptible populations, are not juices and do not require HACCP plans or compliance with 21 CFR Part 120. There are documented cases of foodborne illness throughout the United States that were associated with the consumption of various juice products contaminated with microorganisms such as ***Cryptosporidium***, Shiga toxin-producing ***Escherichia coli***, ***Salmonella*** spp., and ***Vibrio cholera***. As new information becomes available, this Manual will be modified or interim interpretive guidance will be issued regarding foodborne illness interventions for on-site juicing and puréeing.
- (c) The 21 CFR 120 regulation applies to products sold as juice or used as an ingredient in beverages. This includes fruit and vegetable purees that are used in juices and beverages, but is not intended to include freshly prepared fruit or vegetable purees that are prepared on-site in a facility for service to a highly susceptible population.
- (d) In lieu of meeting the requirements of 21 CFR 120, juices that are produced as commercially sterile products (canned juices) are acceptable for service to a highly susceptible population. Persons providing pureed meals to highly susceptible populations may also wish to use fruit and vegetables that are produced as commercially sterile products (canned fruit or vegetables) as a means of enhancing food safety.
- (e) **(Subsection (9) 2. through 5.):** *Salmonella* often survives traditional preparation techniques. It survives in a lightly cooked omelet, French toast, stuffed pasta, and meringue pies. In 1986 there was a large multistate outbreak of ***Salmonella Enteritidis*** traced to stuffed pasta made with raw eggs and labeled fully cooked. Eggs remain a major source of these infections, causing large outbreaks when they are combined and undercooked as was the case in the 1986 outbreak linked to stuffed pasta. Therefore, special added precautions need to be in place with those most susceptible to foodborne illness.
- (f) Operators of food service establishments serving highly susceptible populations may wish to discuss buyer specifications with their suppliers. Such specifications could stipulate eggs that are produced only by flocks managed under a ***Salmonella Enteritidis*** control program that is recognized by a regulatory agency that has animal health jurisdiction. Such programs are designed to reduce the presence of ***Salmonella Enteritidis*** in raw shell eggs. In any case, the food

service establishment operator must use adequate time and temperature controls within the establishment to minimize the risk of a foodborne illness outbreak relating to ***Salmonella Enteritidis***.

- (g) Since 1995, raw seed sprouts have emerged as a recognized source of foodborne illness in the United States. The FDA and CDC have issued health advisories those persons who are at a greater risk for foodborne disease should avoid eating raw alfalfa sprouts until such time as intervention methods are in place to improve the safety of these products. Further information is available at the FDA website, <http://www.fda.gov>, by entering “sprouts” in the search window.
- (h) **(Subsection (9) 6.):** Variance requests related to the preparation of food for highly susceptible populations must be considered with particular caution and scrutiny. With all variances, the hazard(s) must be clearly identified and controlled by a HACCP plan that is instituted in conjunction with a standard operating plan that implements good retail practices. Variances that will impact a highly susceptible population must be considered in light of the fact that such a population is at a significantly higher risk of contracting foodborne illnesses and suffering serious consequences including death from those illnesses, than is the general population.
- (i) *Rule -.04 Subsection (9) (6)* requires a HACCP plan for the use of raw shell eggs when eggs are combined in food establishments serving highly susceptible populations. A variance is not required since the HACCP plan criteria are specific, prescriptive, and conservative and require a cooking temperature and time to ensure destruction of ***Salmonella Enteritidis***.
- (j) **(Subsection (9) 8.):** Prohibited Re-Service of Food - the Food Code addresses two issues concerning persons in isolation:
 - 1. **(Subsection (9) 8. (i)):** Contamination from an isolated patient to others outside:
 - (a.) The re-service of any food including unopened, original, intact packages in sound condition, of non-potentially hazardous food (temperature controlled for safety) from a person in isolation or quarantine for use by anyone else (other patients, clients, or consumers) is not permitted. The “isolation or quarantine” terminology in the Code text refers to a patient-care setting that isolates the patient, thereby preventing spread of key pathogens to other patients and healthcare employees. Once food packages come to a contact isolation room, they stay there until the patient uses or discards them. If packages of food are still in the room when the patient is discharged or moved from isolation, they must be discarded.

2. **(Subsection (9) 8. (ii)):** Contamination from the outside into a room with a patient in a “protective environment” isolation setting which protects the patient from contacting pathogens from other patients, healthcare employees, or other persons:
 - (a.) Packages of food from any patients, clients or other consumers should not be re-served to persons in protective environment isolation. Precautions similar to the isolation setting apply to this setting, i.e., once an unopened, original, intact package of condiment is delivered to this patient, the package stays there until used or discarded. New (not re-served) packages of food should be delivered to this patient each time.
3. **To summarize the key difference between the two scenarios:**
 - (a.) Food packages served to patients in contact isolation may not be re-served to other patients because of the potential for disease transmission to other patients.
 - (b.) Patients in protective environments should not be re-served with food packages from other patients because of the potential for disease transmission to the protective environment patient.

E. Rule 290-5-14-.05 Equipment and Utensils. Amended:

(1) (Subsection (1) (a) through (j)): Materials:

(a) (Subsection (1) (a)): Multiuse equipment:

1. Multiuse equipment is subject to deterioration because of its nature, i.e., intended use over an extended period of time. Certain materials allow harmful chemicals to be transferred to the food being prepared which could lead to foodborne illness. In addition, some materials can affect the taste of the food being prepared. Surfaces that are unable to be routinely cleaned and sanitized because of the materials used could harbor foodborne pathogens. Deterioration of the surfaces of equipment such as pitting may inhibit adequate cleaning of the surfaces of equipment so that food prepared on or in the equipment becomes contaminated.
2. Inability to effectively wash, rinse and sanitize the surfaces of food equipment may lead to the buildup of pathogenic organisms transmissible through food. Studies regarding the rigor required to remove biofilms from smooth surfaces highlight the need for materials of optimal quality in multiuse equipment.

- (b) **(Subsection (1) (f))**: Sponges, Use Limitation: Sponges are difficult, if not impossible, to clean once they have been in contact with food particles and contaminants that are found in the environment. Because of their construction, sponges provide harborage for any number and variety of microbiological organisms, many of which may be pathogenic. Therefore, sponges are to be used only where they will not contaminate cleaned and sanitized or in-use, food-contact surfaces such as for cleaning equipment and utensils before rinsing and sanitizing.
 - (c) **(Subsection (1) (g))**: Wood: The limited acceptance of the use of wood as a food-contact surface is determined by the nature of the food and the type of wood used. Moist foods may cause the wood surface to deteriorate and the surface may become difficult to clean. In addition, wood that is treated with preservatives may result in illness due to the migration of the preservative chemicals to the food; therefore, only specific preservatives are allowed.
 - (d) **(Subsection (1) (i))**: Nonfood-Contact Surfaces: Nonfood contact surfaces of equipment routinely exposed to splash or food debris are required to be constructed of nonabsorbent materials to facilitate cleaning. Equipment that is easily cleaned minimizes the presence of pathogenic organisms, moisture, and debris and deters the attraction of rodents and insects.
 - (e) **(Subsection (1) (j))**: Single Service and Single Use Articles: The safety and quality of food can be adversely affected through single service and single use articles that are not constructed of acceptable materials. The migration of components of those materials to food they contact could result in chemical contamination and illness to the consumer. In addition, the use of unacceptable materials could adversely affect the quality of the food because of odors, tastes, and colors transferred to the food.
- (2) **(Subsection (2) (a) through (j))**: Design and Construction:
- (a) **(Subsection (2) (a))**: Equipment and Utensils: Equipment and utensils must be designed and constructed to be durable and capable of retaining their original characteristics so that such items can continue to fulfill their intended purpose for the duration of their life expectancy and to maintain their easy cleanability. If they cannot maintain their original characteristics, they may become difficult to clean, allowing for the harborage of pathogenic microorganisms, insects, and rodents. Equipment and utensils must be designed and constructed so that parts do not break and end up in food as foreign objects or present injury hazards to consumers. A common example of presenting an injury hazard is the tendency for tines of poorly designed single service forks to break during use.

- (b) **(Subsection (2) (b))**: **Food Temperature Measuring Devices**: Temperature measuring devices may not have sensor or stems constructed of glass except thermometers with glass sensors or stems that are encased in a shatterproof coating (candy thermometer) may be used.
- (c) **(Subsection (2) (c))**: **Multiuse Food-Contact Surfaces**: The purpose of the requirements for multiuse food-contact surfaces is to ensure that such surfaces are capable of being easily cleaned and accessible for cleaning. Food-contact surfaces that do not meet these requirements provide a potential harbor for foodborne pathogenic organisms. Surfaces, which have imperfections such as cracks, chips, or pits, allow microorganisms to attach and form biofilms. Once established, these biofilms can release pathogens to food. Biofilms are highly resistant to cleaning and sanitizing efforts. The requirement for easy disassembly recognizes the reluctance of food employees to disassemble and clean equipment if the task is difficult or requires the use of special, complicated tools.
- (d) **(Subsection (2) (d))**: **Clean In Place (CIP) Equipment**:
1. Certain types of equipment are designed to be cleaned in place (CIP) where it is difficult or impractical to disassemble the equipment for cleaning. Because of the closed nature of the system, CIP cleaning must be monitored via access points to ensure that cleaning has been effective throughout the system.
 2. The CIP design must insure that the circulating cleaning and sanitizing solutions contact all food-contact surfaces of the equipment. Dead spots in the system, i.e., areas that are not contacted by the cleaning and sanitizing solutions, could result in the buildup of food debris and growth of pathogenic microorganisms. There is equal concern that cleaning and sanitizing solutions might be retained in the system, which may result in the inadvertent adulteration of food. Therefore, the CIP system must be self-draining.
 3. An example of CIP would be a soft-service machine that has an enclosed, self-cleaning and sanitizing cycle.

(e) **In Place Cleaning Equipment**:

These are a type of equipment that are so designed that must be cleaned and sanitized where they are installed because they cannot be placed in a warewashing sink or warewashing machine. They also may be designed so that the parts may be removed, cleaned, and sanitized in a ware washing machine or warewashing sink. Parts that cannot be removed for cleaning and sanitizing are clean and sanitized in place using procedures as stated within *Rule -05 Subsection*

(7)(h)(wet cleaning) and Rule .05 Subsection (8)(b) 3 (sanitizing- hot water and chemicals).

1. Examples of equipment that must be cleaned and sanitized in place are steam kettles and meat slicing machines.

(f) **(Subsection (2) (k)):** Temperature Measuring Devices, Food:

1. Accuracy:

- (a.) The Metric Conversion Act of 1975 (amended 1988, 1996, and 2004, 15 USC 205a et seq) requires that all Federal government regulations use the Celsius scale for temperature measurement. The Fahrenheit scale is included in the Code for those jurisdictions using the Fahrenheit scale for temperature measurement.
- (b.) The small margin of error specified for thermometer accuracy is due to the lack of a large safety margin in the temperature requirements themselves. The accuracy specified for a particular food temperature-measuring device is applicable to its entire range of use, that is, from refrigeration through cooking temperatures if the device is intended for such use.
- (c.) The right thermometer is needed to measure food product temperatures. Bimetallic Stem Thermometers have thicker stems that would not give an accurate reading of thin foods and would be difficult to use for thin meats, such as hamburger patties. However, it would be acceptable for measuring large pieces of meat or liquid foods. This is because the bi-metallic sensing element is about 1.5 inches from the tip up and its accuracy is obtained only by totally immersing the probe tip about 2 inches into the food product. In contrast, some thermistor type thermometers have a digital display with minimum and maximum hold reading capabilities. Thermocouples have small needle-like tips that will give accurate reading of thin foods. They would be ok for thick foods too. On the other hand, infrared thermometers are generally not going to be of any use for the type of measurements needed for food product temperature monitoring. However, they can be used general survey of stored product.

- (e.) These are examples of these types of food thermometers:

Bimetallic Stem Thermometers



Thermocouple



(g) **(Subsection (2) (m))**: Pressure Measuring Devices:

1. Flow pressure is a very important factor with respect to the efficacy of sanitization. A pressure below the design pressure results in inadequate spray patterns and incomplete coverage of the utensil surfaces to be sanitized. Excessive flow pressure will tend to atomize the water droplets needed to convey heat into a vapor mist that cools before reaching the surfaces to be sanitized.
2. A flow pressure device is not required on ware washing machines such as low temperature machines that use only a pumped or recirculated sanitizing rinse.

(h) **(Subsection (2) (o))**: Equipment Openings, Closures and Covers:

1. Equipment openings and covers must be designed to protect stored or prepared food from contaminants and foreign matter that may fall into the food. The requirement for an opening to be flanged upward and for the cover to overlap the opening and be sloped to drain prevents contaminants, especially liquids, from entering the food-contact area.
2. Some equipment may have parts that extend into the food-contact areas. If these parts are not provided with a watertight joint at the point of entry into the food-contact area, liquids may contaminate the food by adhering to shafts or other parts and running or dripping into the food.
3. An apron on parts extending into the food-contact area is an acceptable alternative to the watertight seal. If the apron is not properly designed and installed, condensation, drips, and dust may gain access to the food.

(i) **(Subsection (2) (s))**: Beverage Tubing, Separation:

1. Beverage tubing and coldplate cooling devices may result in contamination if they are installed in direct contact with stored ice. Beverage tubing installed in contact with ice may result in condensate and drippage contaminating the ice as the condensate moves down the beverage tubing and ends up in the ice.
2. The presence of beverage tubing and/or coldplate cooling devices also presents cleaning problems. It may be difficult to adequately clean the ice bin if they are present. Because of the high moisture environment, mold and algae may form on the surface of the ice bins and any tubing or equipment stored in the bins.
3. In order to allow cold plates to be in the ice storage bin, it must be constructed integrally (part of) with the bin. Tubing and or difficult cleaning surfaces will not be exposed within the ice bin.

(j) **(Subsection (2) (v)):** Molluscan Shellfish Life-Support Systems:

1. Shellfish are filter feeders allowing concentration of pathogenic microorganisms that may be present in the water. Due to the number of shellfish and the limited volume of water used, display tanks may allow concentration of pathogenic viruses and bacteria.
2. Since many people eat shellfish either raw or lightly cooked, the potential for increased levels of pathogenic microorganisms in shellfish held in display tanks is of concern. If shellfish stored in molluscan shellfish tanks are offered for consumption, certain safeguards must be in place as specified in a detailed HACCP plan that is approved by the Health Authority. Opportunities for contamination, such as water used with fish other than molluscan shellfish, must be controlled or eliminated. Procedures must emphasize strict monitoring of the water quality of the tank including the filtering and disinfection system. Also, the identity of source of shellfish is retained as specified under *Rule -.04 Subsection (3) (l)*.
3. **For more information, please see Part-I Section E entitled, “Facilities to Protect Food” and Part II Section W entitled, “Forms and Documents” within the “Food Service Establishment Manual for Design, Installation and Construction”.**

(k) **(Subsection (2) (ii)):** Food Service Equipment, Acceptability:

1. Under ANSI document CA-1 ANSI Policy and Criteria for Accreditation of Certification Programs, it has been stipulated that:
 - (a.) "For food equipment programs, standards that establish sanitation requirements shall be specified government standards or standards that have been ratified by a public health approval step. ANSI shall verify that this requirement has been met by communicating with appropriate standards developing organizations and governmental public health bodies."
2. The term certified is used when an item of food equipment has been evaluated against an organization's own standard. The term classified is used when one organization evaluates an item of food equipment against a standard developed by another organization.
3. The burden of compliance to *Rule -.05 Subsection (2) (jj)* of the Chapter is with the food service permit applicant or food service permit holder. Documents, such as manufacturer's equipment specification sheets, may be submitted to demonstrate compliance with the Rule.

(3) **(Subsection (3) (a) through (j)):** Numbers and Capacities:

(a) **(Subsection (3)(a)):** Cooling, Heating, and Holding Capacities:

1. There must be enough equipment for cooling and heating of food, and holding cold and hot food in sufficient numbers and capacities to provide food product temperatures as specified within *Rule -.04* of the Chapter.
2. **See Part-I Section D – Facilities to Maintain Product Temperature in the "Food Service Establishment Manual for Design, Installation and Construction" in the determination the minimum capacities.**

(b) **(Subsection (3) (b)):** Manual Warewashing, Sink compartment Requirements:

1. A 3-compartmented sink must be provided even if other cleaning and sanitizing equipment such as a warewashing machine is present within the food service establishment. The 3-compartment requirement allows for proper execution of the 3-step manual warewashing procedure. If properly used, the 3 compartments reduce the chance of contaminating the sanitizing water and therefore diluting the strength and efficacy of the chemical sanitizer that may be used.
2. The flow of the cleaning and sanitizing process will be from left (soiled side) to the right (cleaned and sanitized side). **See Part-I Section J – Warewashing**

Facilities of the “Food Service Establishment Manual for Design, Installation and Construction” for more information.

3. Some pieces of equipment are fixed or too large to be cleaned in a sink and as such, an alternative manual warewashing procedure must be employed. Nonetheless, cleaning of such equipment requires the application of cleaners for the removal of soil and rinsing for the removal of abrasive and cleaning chemicals, followed by sanitization. It is important to rinse off detergents, abrasive, and food debris after the wash step to avoid diluting or inactivating the sanitizer.
4. **(Subsection (3) (b) 3.):** Alternative manual warewashing equipment, allowed under certain circumstances and conditions, must provide for accomplishment of the same 3 steps:
 - (a.) Application of cleaners and the removal of soil;
 - (b.) Removal of any abrasive and removal or dilution of cleaning chemicals; and
 - (c.) Sanitization.
- (4) **(Subsection (4) (a) through (c)):** Location and Installation:
 - (a) **(Subsection (4) (b) and (b)):** Fixed Equipment, Elevations or Sealing:
 1. **See Part-I Section H – Food Equipment and Installation of the “Food Service Establishment Manual for Design, Installation and Construction” for more information.**
- (5) **(Subsection (5)):** Acceptability of Equipment:
 - (a.) The use of food service equipment located within food service establishments that are permitted prior to the December 1, 2007 implementation date of the Chapter will be allowed to continue to use their equipment until on-site evaluation by the local county EHS determines through inspection that the following conditions exist:
 1. Food service equipment is maintained in good repair (it will function as the manufacturer intended and/or will meet the requirements of the Chapter, ex.

Refrigerators must maintain potentially hazardous foods (time/temperature control for safety foods) at 41° F during holding for service;
Food service equipment is capable of being maintained in a sanitary condition (meaning that it can be kept in a clean condition free of food buildup, etc.);
and

2. Food contact surfaces of food equipment are non-toxic (will not react with cleaning and sanitizing solutions or impart anything harmful to food that encounters these surfaces).
4. Any piece of existing food equipment that has been evaluated by the local Health Authority as not being acceptable under *Rule -.05 Subsection (5)* will have to be replaced with equipment that meets *Rule -.05 Subsection (2)(jj)*.

(6) (Subsection (6) (a) through (r)): Maintenance and Operation:

- (a) **(Subsection (6) (c)): Microwave Ovens:** Failure of microwave ovens to meet the CFR standards could result in human exposure to radiation leakage, resulting in possible medical problems to consumers and employees using the machines.

(b) **(Subsection (6) (f)): Warewashing sinks, Use Limitation:** If the wash sink is used for functions other than warewashing, such as washing wiping cloths or washing and thawing foods, contamination of equipment and utensils could occur. However, *Rule -.05 Subsection (6) (f) 2* of the Chapter does allow the preparation and thawing of food in warewashing sinks under certain conditions:

1. Fruits and vegetables cannot be washed or prepared in warewashing sinks;
2. Warewashing sinks must be cleaned and sanitized before and after each use;
3. The volume of food to be washed or prepared must fit within a colander in such a way that none of the food touches any surfaces of warewashing sinks;
4. No other operation can be conducted at the same time while food is being prepared or thawed.

Note: Dependent upon menu and volume of food, a dedicated sink for preparation and thawing of foods, such as meat, fish and or poultry may be necessary. This food preparation sink is separate from warewashing sinks, fruit and vegetable sinks, hand washing sinks or janitor sinks.

- (c) **(Subsection (6) (n)): Manual and Mechanical Warewashing Equipment, Chemical Sanitizers – Temperature, pH, Concentration, and Hardness:**

1. With the passage of the Food Quality Protection Act of 1996 and the related Antimicrobial Regulation Technical Correction Act of 1998, Federal regulatory responsibility for chemical hard surface sanitizers was moved from FDA (CFSAN/OFAS) to EPA (Office of Pesticides Programs, Antimicrobial Division). As a result, the relevant Federal regulation has moved from 21 CFR 178.1010 to 40 CFR 180.940.
2. The effectiveness of chemical sanitizers can be directly affected by the temperature, pH, concentration of the sanitizer solution used, and hardness of the water. All sanitizers approved for use under 40 CFR 180.940 must be used under water conditions stated on the label to ensure efficacy. Therefore, it is critical to sanitization that the sanitizers are used properly and the solutions meet the minimum standards required in the Chapter.
3. With respect to chemical sanitization, *Rule -.05 Subsection (6) (n)* of the Chapter addresses the proper make-up of the sanitizing solution, i.e., chemical concentration, pH, and temperature at the required maximum levels specified when considered together and, with respect to quaternary ammonium compounds (quats), the maximum hardness level. If these minimums (maximum hardness) are not as specified, then this provision is violated.
4. By contrast, paragraph *Rule -.05 Subsection (8) (b) 3.* of the Chapter addresses exposure time in seconds. For chemical sanitization, this paragraph is only violated when the specified exposure time is not met.
5. *Rule -.07 Subsection (6) (g)* of the Chapter addresses two additional considerations. The first is whether or not the chemical agent being applied as a sanitizer is approved and listed for that use under *40 CFR 180.940*. If the chemical used is not listed, this section is violated.
6. The second consideration under this section is whether the product, if approved and listed, is being used in accordance with the "Limits" provided for that product under its 40 CFR 180.940 listing. The concern here is an indirect food additives concern, since chemical sanitizing solutions are not rinsed off in this country. For example, 40 CFR 180.940(a) lists several quaternary ammonium compounds as approved for “food-contact surfaces in public eating places, dairy-processing equipment, and food-processing equipment and utensils,” each listing adding a limit that states, “When ready for use, the end-use concentration of all quaternary chemicals in the solution is not to exceed 200 ppm of active quaternary compound.” If the Health

Authority determines that a solution of any of these quats is at 600 ppm, then *Rule -.07 Subsection (6) (g)* of the Chapter would be violated.

7. To summarize, a too weak sanitizing solution would be a violation of *Rule -.05 Subsection (6) (n)*. A too strong solution would be a violation of *Rule -.07 Subsection (6) (g)*. *Rule -.07 Subsection (6) (e)* would not be violated due to the existence of *Rule -.07 Subsection (6) (g)* that specifically addresses the use of chemical sanitizers.

(d) **(Subsection (6) (o))**: Manual Warewashing Equipment, Chemical Sanitization Using Detergent-Sanitizers: Some chemical sanitizers are not compatible with detergents when a 2 compartment sink operation is used. When using a sanitizer that is different from the detergent-sanitizer of the wash compartment, the sanitizer may be inhibited by carry-over, resulting in inadequate sanitization. This is why the same detergent-sanitizer used in the washing step must be used in the sanitizing step where there is no distinct water rinse between the washing and sanitizing steps.

(e) **(Subsection (6) (s))**: Shells, Use Limitation:

1. The reuse of mollusk and crustacean shells as multiuse utensils is not allowed in food establishments. This prohibition does not apply to the removal of the oyster or other species from the shell for preparation, then returning the same animal to the same shell for service.
2. The shell itself may be potentially unsafe for use as a food utensil because of residues from natural and environmental contamination occurring after the mollusk or crustacean is removed. In addition, natural shells are not durable or easily cleanable as specified in *Rule -.05 Subsection (6) (r) 1*. When mollusk or crustacean shells (from commercial sources) are re-used by filling them with shucked shellfish, the food is considered **misleading and not honestly presented**.

(7) **(Subsections (a) through (k))**: Cleaning and Sanitizing Equipment:

(a) **(Subsection (7) (a))**: Equipment, Food-Contact Surfaces, Nonfood-Contact Surfaces, and Utensils: The objective of cleaning focuses on the need to remove organic matter from food-contact surfaces so that sanitization can occur and to remove soil from nonfood contact surfaces so that pathogenic microorganisms will not be allowed to accumulate and insects and rodents will not be attracted.

(b) **(Subsection (7) (b))**: Equipment Food-Contact Surfaces and Utensils – Frequency:

1. Microorganisms may be transmitted from a food to other foods by utensils, cutting boards, thermometers, or other food-contact surfaces. Food-contact surfaces and equipment used for potentially hazardous (time/temperature control for safety) foods should be cleaned as needed throughout the day but

must be cleaned no less than every 4 hours to prevent the growth of microorganisms on those surfaces.

2. Refrigeration temperatures slow down the generation time of bacterial pathogens, making it unnecessary to clean every four hours. However, the time period between cleaning equipment and utensils may not exceed 24 hours. A time-temperature chart is provided in *Rule -.05 Subsection (7) (b) 3. (ii) (I)* to accommodate operations that use equipment and utensils in a refrigerated room or area that maintains a temperature between 41°F or less and 55°F. However, the frequencies of cleaning under *Subsection (7) (b) 3. (ii) (I)* must be documented as stated in *Subsection (7) (b) 3. (ii) (II)*.
3. In regards to *Rule -.05 Subsection (7) (b) 5*, surfaces of utensils and equipment contacting food that is not potentially hazardous (time/temperature control for safety food) such as iced tea dispensers, carbonated beverage dispenser nozzles, beverage dispensing circuits or lines, water vending equipment, coffee bean grinders, ice makers, and ice bins must be cleaned on a routine basis to prevent the development of slime, mold, or soil residues that may contribute to an accumulation of microorganisms. Some equipment manufacturers and industry associations, e.g., within the tea industry, develop guidelines for regular cleaning and sanitizing of equipment. If the manufacturer does not provide cleaning specifications for food-contact surfaces of equipment that are not readily visible, the person in charge must develop a cleaning regimen that is based on the soil that may accumulate in those particular items of equipment as stated in *Subsection (7) (b) 5. (iv) (II)*.
4. Regarding the possible adulteration from one species of meat to another between cleaning of food-contact surfaces, USDA/FSIS does not automatically consider species adulteration as a health hazard.
5. **(Subsection (7) (b) 4.): Dining Counters/Table-Tops/Food Trays:**
 - a. **General Meaning and Purpose:** These surfaces are not considered as food-contact surfaces even though *Rule -.05 Subsection (7) (b) 4* does require both cleaning and sanitizing after each use by the consumer. The purpose of this provision is to provide an extra precautionary step to enhance efforts to prevent cross-contamination of food and or table ware between consumers. This is necessary because at times food may contact these

surfaces, i.e. french-fry dropped on dining table and then, picked up by consumer and eaten.

- b. Cleaning and Sanitizing Methodologies: *Rule -.05 Subsection (7) (b) 4* provides methods for cleaning and sanitizing counter and table tops, once all soiled tableware has been removed. They are as follows:
- (I). The Two Step Method: One cloth rinsed in sanitizing solution is used to clean off food debris and then, a second cloth is rinsed in a second (different solution) sanitizer to sanitize the surface. This implies that you are using two separate and distinct sanitization solutions and two separate cloths. This is similar to what was provided for within the 1996 version of the Chapter; but, different in that two separate solutions and cloths are used - one for cleaning and the other for sanitizing.
 - (II). The Spray and Wipe Method: This procedure allows a spray bottle of sanitizing solution to be sprayed onto the surface and then a clean disposable towel is used to wipe the surface clean. The requirement here is to use a separate disposable towel after each cleaning operation and not to continue to use the same towel. Since there will be no build up of contamination on the towel to spread to the next table or counter top, the guiding principle of the *Rule -.05 Subsection (7) (b) 4 (ii)* is that by using a separate (new) clean disposable towel between each table will lower the risk of cross contamination to an acceptable level. If a clean disposable towel is not used for each cleaning operation (one per each table), then method (I), “The Two Step Method”, would have to be utilized instead.
 - (III) Alternative Methods: The statement, "... other method approved by the Health Authority", in *Rule -.05 Subsection (7) (b) 4* allows combinations of the methods (I) and (II) noted above. An alternative procedure where a clean cloth rinsed in sanitization solution is used to clean the surface first and then, a spray of sanitization solution is applied and the surface is wiped clean with a disposable towel, could be done also with the approval of the Health Authority. In addition, this same alternate procedure could be done in reverse with the Health Authority's approval, as well.
- (c) (Subsection (7) (e)): Dry Cleaning: Dry cleaning methods are indicated in only a few operations, which are limited to dry foods that are not potentially hazardous (time/temperature control for safety foods). Under some circumstances, attempts at wet cleaning may create microbiological concerns.
- (d) (Subsection (7) (k)): Returnables, Cleaning for Refilling: The refilling of consumer-owned beverage containers introduces the possibility of contamination of the filling equipment or product by improperly cleaned containers or the improper operation of the equipment. To prevent this contamination and possible

health hazards to the consumer, the refilling of consumer-owned containers is limited to beverages that are not potentially hazardous (time/temperature control for safety) foods. Equipment must be designed to prevent the contamination of the equipment and means must be provided to clean the containers at the facility.

(8) **(Subsection (8) (a) and (b))**: Sanitizing of Equipment and Utensils:

- (a) Objective: Effective sanitization procedures destroy organisms of public health importance that may be present on wiping cloths, food equipment, or utensils after cleaning, or which has been introduced into the rinse solution. It is important that surfaces be clean before being sanitized to allow the sanitizer to achieve its maximum benefit.
- (b) Frequency: Sanitization is accomplished after the warewashing steps of cleaning and rinsing so that utensils and food-contact surfaces are sanitized before coming in contact with food and before use.
- (c) Methods:
 - 1. Efficacious sanitization depends on warewashing being conducted within certain parameters. Time is a parameter applicable to both chemical and hot water sanitization. The time hot water or chemicals contact utensils or food-contact surfaces must be sufficient to destroy pathogens that may remain on surfaces after cleaning. Other parameters, such as rinse pressure, temperature, and chemical concentration are used in combination with time to achieve sanitization.
 - 2. When surface temperatures of utensils passing through warewashing machines using hot water for sanitizing do not reach the required 71°C (160°F), it is important to understand the factors affecting the decreased surface temperature. A comparison should be made between the machine manufacturer's operating instructions and the machine's actual wash and rinse temperatures and final rinse pressure. The actual temperatures and rinse pressure should be consistent with the machine manufacturer's operating instructions and within limits specified in *Rule .05 Subsections (6) (l) and (m)*.
 - 3. If either the temperature or pressure of the final rinse spray is higher than the specified upper limit, spray droplets may disperse and begin to vaporize resulting in less heat delivery to utensil surfaces. Temperatures below the specified limit will not convey the needed heat to surfaces. Pressures below

the specified limit will result in incomplete coverage of the heat-conveying sanitizing rinse across utensil surfaces.

(9) **(Subsection (10))**: Protection of Clean Items:

- (a) **(Subsection (10) (a))**: Equipment and Utensils, Air-Drying Required: Items must be allowed to drain and to air-dry before being stacked or stored. Stacking wet items such as pans prevents them from drying and may allow an environment where microorganisms can begin to grow. Cloth drying of equipment and utensils is prohibited to prevent the possible transfer of microorganisms to equipment or utensils.
- (b) **(Subsection (10) (i))**: Preset Tableware: Once cleaned and sanitized, tableware must be protected from contamination through mishandling by food employees and or consumers as well as from their coughing and sneezing discharges. This protection of tableware may be accomplished as specified in *Rule -.05 Subsection (10) (i) 1*. Understanding the language within *Subsection (10) (i) 1* will be interpreted as follows:
 - 1. The provision of *Rule -.05 Subsection (10) (i)*, Preset Tableware, is the same as noted within the *2005 FDA Model Food Code Section 4-904.13* - to prevent or reduce the risk of contamination of clean tableware. The best practice (and therefore the general rule) is provided for in *subparagraph (10) (i) 1* which states that preset tableware shall be protected from contamination by wrapping, covering, or inverting. However, the Chapter does allow preset tableware to be exposed in certain circumstances. These circumstances are detailed in *subparagraph (10) (i) 2*.
 - 2. Unfortunately, the way *Subsection (10) (i)* is currently written in the Chapter as a reflection of *Section 4-904.13 in the 2005 FDA Model Food Code*, *Subsections (10) (i) 1 and (10) (i) 2* are contradictory. The Chapter cannot in one paragraph, i.e. *Subsection (10) (i) 1*, dictate an absolute requirement that says that all preset tableware must be protected from contamination by wrapping, covering, or inverting, and then turn right around in another Subsection, i.e. *Subsection (10) (i) 2*, and talk about how you should handle exposed tableware. If *Subsection (10) (i) 1* is followed, then you would never have "exposed" tableware as specified in *Subsection (10) (i) 2*.
 - 3. In light of the above and in addition of thinking in terms of risk, if *Subsection (10) (i) 2* is followed, a reasonable level of protection is provided and a food service establishment can provide the ambiance etc. that presetting tableware provides. However, *Subsection (10) (i) 2* gives two choices: one or the other and not both. Food service establishments must choose to use either

Subsection (10) (i) 2 (i), i.e. remove table ware at the time when a consumer or consumer(s) is seated at a table or Subsection (10) (i) 2 (ii), i.e. remove tableware and clean and sanitize it before the next time that tableware is used, if the settings are not removed when a consumer is seated. Further, food service management must monitor consumer-seating activities to ensure that their wait staff is properly handling preset tableware.

4. At the time of future revision of the Chapter, the present conflicting language in *Rule -.05 Subsection (10) (i)* will be corrected to clarify this provision of the Chapter.

F. Rule 290-5-14-.06 Sanitary Facilities and Controls. Amended:

(1) **(Subsection (1)):** Water:

(a) **(Subsection (1) (a)):** Approved System:

1. Water, unless it comes from a safe supply, may serve as a source of contamination for food, equipment, utensils, and hands. The major concern is that water may become a vehicle for transmission of disease organisms. Water can also become contaminated with natural or man-made chemicals. Therefore, for the protection of consumers and employees, water must be obtained from a source regulated by law and must be used, transported, and dispensed in a sanitary manner.
2. **See Part-I Section G - Water Supply and Sewage Disposal in the “Food Service Establishment Manual for Design, Installation and Construction” for more information.**

(b) **(Subsection (1) (b)):** System Flushing and Disinfection:

1. During construction, repair, or modification, water systems may become contaminated with microbes from soil because pipes are installed underground or by chemicals resulting from soldering and welding. Floods and other incidents may also cause water to become contaminated. Chemical contaminants such as oils may also be present on or in the components of the system. To render the water safe, the system must be properly flushed and disinfected before being placed into service.
2. If the drinking water system is from a public water system, then the flushing and disinfection will be as per requirements established by the regulatory authority of which governs the public water supply.
3. If the drinking water system is from a nonpublic water system, the flushing and disinfection of such system will be as per requirements established by

Georgia Department of Natural Resource's Environmental Protection Division or the Health Authority which ever has jurisdiction.

4. **See Part-I Section G - Water Supply and Sewage Disposal in the "Food Service Establishment Manual for Design, Installation and Construction" for more information.**

(c) **(Subsection (1) (c)):** Bottled Drinking Water:

1. Bottled water is obtained from a public water system or from a private source such as a spring or well. Either means of production must be from a commercial source that is regulated by the Georgia Department of Agriculture or other regulatory authority having jurisdiction.
2. Bottled drinking water may only be used in case of a temporary emergency as stated in *Rule -.06 Subsection (k)*.

(d) **(Subsection (1) (d)):** Standards - (Quality):

1. Bacteriological and chemical standards have been developed for public drinking water supplies to protect public health. All drinking water supplies must meet standards required by law.
2. **See Part-I Section G - Water Supply and Sewage Disposal in the "Food Service Establishment Manual for Design, Installation and Construction" for more information.**

(e) **(Subsection (1) (e)):** Nondrinking Water:

1. Food establishments may use nondrinking water for purposes such as air-conditioning or fire protection. Nondrinking water is not monitored for bacteriological or chemical quality or safety, as is drinking water. Consequently, certain safety precautions must be observed to prevent the contamination of food, drinking water, or food-contact surfaces. Identifying the piping designated as nondrinking waterlines and inspection for cross connections are examples of safety precautions.
2. **See Part-I Section G - Water Supply and Sewage Disposal in the "Food Service Establishment Manual for Design, Installation and Construction" for more information.**

(f) **(Subsection (1) (f)):** Sampling:

1. Wells and other types of individual water supplies may become contaminated through faulty equipment or environmental contamination of ground water. Periodic sampling is required by law to monitor the safety of the water and to detect any change in quality. The controlling agency must be able to ascertain that this sampling program is active and that the safety of the water is in conformance with the appropriate standards. Laboratory results are only as accurate as the sample submitted. Care must be taken not to contaminate samples. Proper sample collection and timely transportation to the laboratory are necessary to ensure the safety of drinking water used in the establishment.
 2. **See Part-I Section G - Water Supply and Sewage Disposal and Section N – Plumbing and Cross Connection Control in the “Food Service Establishment Manual for Design, Installation and Construction” for more information.**
- (g) **(Subsection (1) (g))**: Sampling Report:
1. A copy of the most recent water sampling report must be kept on file within the food service establishment to document a safe water supply. Likewise and as applicable, the original most recent water sampling report must be kept within each food service establishment’s inspection record file maintained by the local Health Authority.
 2. **See Part-I Section G - Water Supply and Sewage Disposal in the “Food Service Establishment Manual for Design, Installation and Construction” for more information.**
- (h) **(Subsection (1) (h))**: Capacity:
1. Availability of sufficient water is a basic requirement for proper sanitation within a food establishment. An insufficient supply of safe water will prevent the proper cleaning of items such as equipment and utensils and of food employees' hands.
 2. Hot water required for washing items such as equipment and utensils and employees' hands must be available in sufficient quantities to meet demand during peak water usage periods. Booster heaters for warewashers that use hot water for sanitizing are designed to raise the temperature of hot water to a level that ensures sanitization. If the volume of water reaching the booster heater is not sufficient or hot enough, the required temperature for sanitization can not be reached. Manual washing of food equipment and utensils is most

effective when hot water is used. Unless utensils are clean to sight and touch, they cannot be effectively sanitized.

3. Inadequate water pressure could lead to situations that place the public health at risk. For example, inadequate pressure could result in improper handwashing or equipment operation. Sufficient water pressure ensures that equipment such as mechanical warewashers operate according to manufacturer's specifications. Therefore, pressure generated by water under gravity flow is only allowed as applicable in *Rule -.06 Subsection (1) (k)*.
 4. **See Part-I Section G - Water Supply and Sewage Disposal, Section K – Hot Water Supply Requirements and Section N - Plumbing and Cross connection Control in the “Food Service Establishment Manual for Design, Installation and Construction” for more information.**
- (i) **(Subsection (1) (i))**: System: Inadequate water systems may serve as vehicles for contamination of food or food- contact surfaces. This requirement is intended to ensure that sufficient volumes of water are provided from supplies shown to be safe, through a distribution system that is protected.
- (j) **Alternative Water Supply**:
1. Water from an approved source can be contaminated if inappropriately conveyed. Improperly constructed and maintained water mains, pumps, hoses, connections, and other appurtenances, as well as transport vehicles and containers, may result in contamination of safe water and render it hazardous to human health. Therefore, alternative sources of water must meet *Rule -.06 Subsection (1) (a) through (j)* and it can only be utilized temporarily, such as in a temporary interruption of a permanent water supply or as a potable water supply for a temporary food service establishment. It can also be a potable water storage tank on a mobile food service unit.
 2. In the case of the mobile food service unit, the water supply must be obtained from a potable water source supplying the permitted base of operation. It is this base of operation that these units must report at least daily for supplies

and/or cleaning and servicing operations, such as flushing and refilling the potable water tank.

(2) **(Subsection (2) (a) through (r))**: Plumbing System:

- (a) **(Subsection (2) (a))**: Approved: Plumbing systems and hoses conveying water must be made of approved materials and is smooth, durable, nonabsorbent, and corrosion-resistant. If not, the system may constitute a health hazard because

unsuitable surfaces may harbor disease organisms or it may be constructed of materials that may, themselves, contaminate the water supply. Applicable State or local plumbing codes will apply.

(b) **(Subsection (2) (c))**: Handwashing Facility, Installation:

1. Warm water is more effective than cold water in removing the fatty soils encountered in kitchens. An adequate flow of warm water will cause soap to lather and aid in flushing soil quickly from the hands. ASTM Standards for testing the efficacy of handwashing formulations specify a water temperature of $40^{\circ}\text{C} \pm 2^{\circ}\text{C}$ (100 to 108°F).
2. An inadequate flow or temperature of water may lead to poor handwashing practices by food employees. A mixing valve or combination faucet is needed to provide properly tempered water for handwashing. Steam mixing valves are not allowed for this use because they are hard to control and injury by scalding is a possible hazard.

(c) **(Subsection (2) (d))**: Backflow Prevention, Air Gap:

1. During periods of extraordinary demand, drinking water systems may develop negative pressure in portions of the system. If a connection exists between the system and a source of contaminated water during times of negative pressure, contaminated water may be drawn into and foul the entire system. Standing water in sinks, dipper wells, steam kettles, and other equipment may become contaminated with cleaning chemicals or food residue. To prevent the introduction of this liquid into the water supply through back siphonage, various means may be used.
2. The water outlet of a drinking water system must not be installed so that it contacts water in sinks, equipment, or other fixtures that use water. Providing an air gap between the water supply outlet and the flood level rim of a plumbing fixture or equipment prevents contamination that may be caused by backflow.

3. **See Part-I Section N - Plumbing and Cross Connection Control in the “Food Service Establishment Manual for Design, Installation and Construction” for more information.**

- (d) **(Subsection (2) (e))**: Backflow Prevention Device, Design Standard: In some instances, an air gap is not practical such as is the case on the lower rinse arm for the final rinse of warewashers. This arm may become submerged if the machine drain becomes clogged. If this failure occurs, the machine tank would fill to the flood level rim, which is above the rinse arm. A backflow prevention device is

used to avoid potential backflow of contaminated water when an air gap is not practical. The device provides a break to the atmosphere in the event of a negative pressure within the system. Minerals contained in water and solid particulate matter carried in water may coat moving parts of the device or become lodged between them over time. This may render the device inoperative. To minimize such an occurrence, only devices meeting certain standards of construction, installation, maintenance, inspection, and testing for that application may be used. Installing these devices in accessible locations can facilitate the necessary maintenance.

(e) **(Subsection (2) (g) and (l)):** Handwashing Facilities – Numbers and Capacities/Location and Placement:

1. **(Subsection (2) (g)):** Because handwashing is such an important factor in the prevention of foodborne illness, sufficient facilities must be available to make handwashing not only possible, but likely. The local Health Authority will decide the adequacy of location and numbers of handwashing sinks as they relate to food employee workstations.
2. **(Subsection (2) (l)):** Hands are probably the most common vehicles for the transmission of pathogens to foods in an establishment. Hands can become soiled with a variety of contaminants during routine operations. Some employees are unlikely to wash their hands unless properly equipped handwashing facilities are accessible in the immediate work area. Facilities, which are improperly located, may be blocked by portable equipment or stacked full of soiled utensils and other items, rendering the facility unavailable for regular employee use. Nothing must block the approach to a handwashing facility thereby discouraging its use, and the facility must be kept clean and well stocked with soap and sanitary towels to encourage frequent use.
3. **See Part-I Section F – Handwashing in the “Food Service Establishment Manual for Design, Installation and Construction” for more information.**

(f) **(Subsection (2) (k)):** Backflow Prevention Device, Carbonator:

1. When carbon dioxide is mixed with water, carbonic acid, a weak acid, is formed. Carbonators on soft drink dispensers form such acids as they carbonate the water to be mixed with the syrups to produce the soft drinks. If carbon dioxide backs up into a copper water line, carbonic acid will dissolve some of the copper. The water containing the dissolved copper will subsequently be used in dispensing soft drinks and the first few customers receiving the drinks are likely to suffer with the symptoms of copper poisoning.

2. An air gap or a vented backflow prevention device meeting ASSE Standard No. 1022 will prevent this occurrence, thereby reducing incidences of copper poisoning.
 3. **See Part-II Section N - Plumbing and Cross Connection Control in the "Food Service Establishment Manual for Design, Installation and Construction" for more information.**
- (g) **(Subsection (2) (o))**: Using a Handwashing Sink: Facilities must be maintained in a condition that promotes handwashing and restricted for that use. Convenient accessibility of a handwashing facility encourages timely handwashing, which provides a break in the chain of contamination from the hands of food employees to food or food-contact surfaces. Sinks used for food preparation and warewashing can become sources of contamination if used as handwashing facilities by employees returning from the toilet or from duties that have contaminated their hands.
- (3) **(Subsection (3) (a) through (n))**: Mobile Water Tank and Mobile Food service Unit Water Tanks:
- (a) **(Subsection (3) (a))**: Approved:
1. Materials used in the construction of a mobile water tank are affected by the water they contact. Tank liners may deteriorate and flake. Metals or platings can be toxic. To prevent the degradation of the quality of the water, it is important that the materials used in the construction of the tank are suitable for such use.
 2. Applicants for a mobile food service permit must submit documentation that potable water tanks and all related components comply with criteria set forth within *Rule -.06 Subsection (3) (a) 1. through 3.*
- (b) **(Subsection (3) (b))**: Enclosed System Sloped to Drain:
1. The tank must be a closed system from the filling inlet to the outlet to prevent contamination of water. It is important that the bottom of the tank be sloped to the outlet to allow the tank to drain completely, to facilitate the proper cleaning and disinfection of the tank, and to prevent the retention of water or solutions after cleaning.
 2. Some tanks are designed with an access opening to facilitate the cleaning and servicing of the water tank. The access must be constructed to prevent the opening from becoming a source of contamination of the water.

(c) **(Subsection (3) (e))**: Tank Vent, Protected:

1. Water tanks are equipped with a vent to preclude distortion during filling or draining. The vent should be equipped with a suitable screen or filter to protect the tank against the entry of insects or other vermin that may contaminate the water supply.

(d) **(Subsection (3) (g))**: Hose, Construction and Identification:

1. Hoses used to fill potable water tanks must be dedicated for that one task and must be identified for that use only to prevent contaminating the water. Hoses must be made of a material that will not leach detrimental substances into the water.

(e) **(Subsection (3) (k))**: System Flushing and Sanitization:

1. Contaminants of various types may be introduced into a water system during construction or repair or other incidents. The system must be flushed and sanitized after maintenance and before it is placed into service to prevent contamination of the water introduced into the tank.
2. Sanitizers used to sanitize the system must meet criteria set within *Subsection (6) (n) of Rule -.05*.

(f) **(Subsection (3) (l))**: Using a Pump and Hoses, Backflow Prevention:

1. When a water system includes a pump, or a pump is used in filling a water tank, care must be taken during hookup to prevent negative pressure on the supplying water system. Backflow prevention to protect the water supply is especially necessary during cleaning and sanitizing operations on a mobile system.

(g) **(Subsection (3) (n))**: Tank, Pump, and Hoses, Dedication:

1. Hoses, pumps, and tanks used for food or water may not be used for other liquids because this may contaminate the water supply. If a hose, tank, or pump has been used to transfer liquid food, the equipment must be cleaned and sanitized before using it for water delivery. Failure to properly clean and sanitize the equipment would introduce nutrients, and possibly bacteria, into the water as well as inactivate residual chlorine from public water supplies.

(4) **(Subsection (4) (a) through (i))**: Sewage, Other Liquid Waste, and Rainwater:

- (a) **Subsection (4) (a): Mobile Holding Tank, Capacity and Drainage:** Liquid waste from a mobile or temporary food establishment must be stored in a properly constructed waste tank to discourage the attraction of flies and other vermin. The waste tank must be 15% larger than the water storage tank to allow for storage of wastes and used water from the drinking water supply tank. The drain from the waste tank must be larger than the filling hose to prevent the use of the drinking water filling hose to drain the waste tank.
- (b) **Subsection (4) (c): Backflow Prevention:**
1. Improper plumbing installation or maintenance may result in potential health hazards such as cross connections, back siphonage or backflow. These conditions may result in the contamination of food, utensils, equipment, or other food-contact surfaces. It may also adversely affect the operation of equipment such as warewashing machines.
 2. The exception in *Subsection (4) (c) 2. of Rule -.06* allows for a direct connection to the sanitary sewer system for floor drains originating in refrigerated spaces that are constructed as an integral part of the building structure. Examples of refrigerated spaces that are considered an integral part of the building include refrigerated preparation rooms, meat cutting rooms, and refrigerated storage rooms. The exception specifically targets refrigerated spaces that are considered an integral part of the building. It does not apply to prefabricated walk-in refrigerators and freezers with prefabricated floors. It is not intended to apply to pieces of equipment, including those which may be located in a refrigerated room and which indirectly drain to a floor drain within the room. Drainage from equipment is addressed under *Subsection (4) (c) 1 of Rule -.06*.
- (c) **Subsection (4) (e): Conveying Sewage:**
1. Improper disposal of waste provides a potential for contamination of food, utensils, and equipment and, therefore, may cause serious illness or disease outbreaks. Proper removal is required to prevent contamination of ground surfaces and water supplies, or creation of other insanitary conditions that may attract insects and other vermin. Therefore, the conveyance and disposal of sewage must be under routine inspection by the Health Authority.
 2. Sewage must be conveyed to a point of disposal available to or on the premises of the food service establishment that is connected to a public sewer system or a properly designed and installed onsite sewage management

system. In the case of mobile food service units, sewage may be conveyed to the point of disposal provided at the base of operation (food service establishment) by:

- (a.) A hose and pump system connected to a quick connect hook-up (recreational vehicle sewer connection); or
- (b.) A sewage transport vehicle (hand-pushed, portable waste retention tank on wheels) that is taken to a properly design and built dump station.

3. **See Part-I Section G - Water Supply and Sewage Disposal in the “Food Service Establishment Manual for Design, Installation and Construction” for more information.**

(d) **(Subsection (4) (f)):** Removing Mobile Food Service Wastes:

- 1. All sewage and other liquid wastes must be removed from a mobile food service unit at an approved waster servicing area located on the premises of the unit’s base of operation; or by
- 2. A sewage transport vehicle (hand-pushed, portable waste retention tank on wheels) at the unit’s base of operation.

(5) **(Subsection (5) (a) through (t)):** Refuse, Recyclables, And Returnables:

(a) **General Requirements:**

- 1. Proper storage and disposal of garbage and refuse are necessary to minimize the development of odors, prevent such waste from becoming an attractant and harborage or breeding place for insects and rodents, and prevent the soiling of food preparation and food service areas. Improperly handled

garbage creates nuisance conditions, makes housekeeping difficult, and may be a possible source of contamination of food, equipment, and utensils.

- 2. Storage areas for garbage and refuse containers must be constructed so that they can be thoroughly cleaned in order to avoid creating an attractant or harborage for insects or rodents. In addition, such storage areas must be large enough to accommodate all the containers necessitated by the operation in order to prevent scattering of the garbage and refuse.
- 3. All containers must be maintained in good repair and cleaned as necessary in order to store garbage and refuse under sanitary conditions as well as to prevent the breeding of flies.

4. Garbage containers must be available wherever garbage is generated to aid in the proper disposal of refuse.
5. Outside receptacles must be constructed with tight-fitting lids or covers to prevent the scattering of the garbage or refuse by birds, the breeding of flies, or the entry of rodents. Proper equipment and supplies must be made available to accomplish thorough and proper cleaning of garbage storage areas and receptacles so that unsanitary conditions can be eliminated. Drain-hole plugs must be in place on large waste storage receptacles, such as dumpsters, to preclude the discharge of contained liquid waste.
6. If facilities and equipment for on-site cleaning of waste receptacles, such as dumpsters, are not provided as per *Subsection (5) (i) 1*, then these facilities and equipment will not be necessary as stated in *Subsection (5) (i) 2*. If this arrangement is the case, then requirements in *Rule -.07 Subsection (2) (r)* will not be applicable unless local Codes would require such facilities.
7. Should spillage be found to occur on the waste storage facility area as the result of missing drain-hole plugs, then these plugs are to be put back in place and the leakage spot dry cleaned using absorbent material such as that used to clean-up oil spills. Once used, the absorbent material may be disposed of as garbage.
8. The hosing down of areas surrounding waste facility storage areas such as parking lots and drives are not considered as part of the garbage storage/cleaning operation and any resulting run-off would not be deemed as sewage.

(b) **(Subsection (5) (r) and (s))**: Removal- Frequency/Receptacles or Vehicles: Refuse, recyclables, and returnable items, such as beverage cans and bottles, usually contain a residue of the original contents. Spillage from these containers soils receptacles and storage areas and becomes an attractant for insects, rodents, and other pests. The handling of these materials entails some of the same problems and solutions as the handling of garbage and refuse. Problems are minimized when all of these materials are removed from the premises at a reasonable frequency.

G. Rule 290-5-14-.07 Physical Facilities:

(1) **(Subsection (1) (a) and (b))**: Materials for Construction and Repair:

(a) **(Subsection (1) (a))**: Indoor Materials:

1. Floors, walls, and ceilings that are constructed of smooth and durable surface materials are more easily cleaned.
 2. Floor surfaces that are graded to drain and consist of effectively treated materials will prevent contamination of foods from dust and organisms from pooled moisture.
 3. The special requirements for carpeting materials and nonabsorbent materials in areas subject to moisture are intended to ensure that the cleanability of these surfaces is retained.
 4. Although food served from temporary food establishments is subject to the same potential for contamination as food served in permanent establishments, the limited capabilities and short duration of operation are recognized by less stringent requirements for surface characteristics.
 5. **See Part-I Section L - Finish Schedule – Floors, Walls, and Ceilings in the “Food Service Establishment Manual for Design, Installation and Construction” for more information.**
- (b) **(Subsection (1) (b)):** Outdoor Surfaces: The requirements concerning surface characteristics of outdoor areas are intended to facilitate maintenance and minimize the accumulation of dust and mud on walking and driving areas, provide durable exterior building surfaces, and prevent the attracting, harboring, or breeding of insects, rodents, and other pests where refuse, recyclables, or returnables are stored.
- (2) **(Subsection (2) (a) through (t)):** Design, Construction, and Installation:
- (a) **(Subsection (2) (a) and (b)):** Cleanability –Floors, Walls, and Ceilings, Utility Lines:
1. Floors that are of smooth, durable construction and that are nonabsorbent are more easily cleaned. Requirements and restrictions regarding floor coverings, utility lines, and floor/wall junctures are intended to ensure that regular, effective cleaning is possible, and that insect and rodent harborage is minimized.
 2. The only exception to the requirement for coverings to be smooth and easily cleanable is found in Subsection (2) (a) to allow for antislip floor coverings or applications that may be used for safety reasons.

- (b) **(Subsection (2) (c))**: Floor and Wall Junctions, Coved, and Enclosed or Sealed: When cleaning is accomplished by spraying or flushing, coving and sealing of the floor/wall junctions is required to provide a surface that is conducive to water flushing. Grading of the floor to drain allows liquid wastes to be quickly carried away, thereby preventing pooling which could attract pests such as insects and rodents or contribute to problems with certain pathogens such as *Listeria monocytogenes*.
- (c) **(Subsection (2) (d))**: Floor Carpeting, Restrictions and Installation: Requirements and restrictions regarding floor carpeting are intended to ensure that regular and effective cleaning is possible and that insect harborage is minimized. The restrictions for areas not suited for carpeting materials are designed to ensure cleanability of surfaces where accumulation of moisture or waste is likely.
- (d) **(Subsection (2) (f), (g) and (h))**: Wall and Ceiling Coverings and Coatings/ Walls and Ceilings, Attachments. / Walls and Ceilings, Studs, Joists, and Rafters:
1. Walls and ceilings that are of smooth construction, nonabsorbent, and in good repair can be easily and effectively cleaned. Special requirements related to the attachment of accessories and exposure of wall and ceiling studs, joists, and rafters are intended to ensure the cleanability of these surfaces.
 2. The exception to *Subsection (2) (f) 2* is only for dry storage areas as defined in *Rule -.01 (ee)* where unopened, packaged or containerized bulk food that is not potentially hazardous (time/temperature control for safety food) and dry goods such as single-service items are stored. These types of foods are still in the case or in their original, commercial packaging. Within these dry storage areas, the concrete block or brick surfaces do not have to be finished to provide a nonabsorbent, light colored, easily cleanable surface.
- (e) **(Subsection (2) (k))**: Insect Control Devices, Design and Installation:
1. Insect electrocution devices are considered supplemental to good sanitation practices in meeting the Chapter's requirement for controlling the presence of flies and other insects in a food establishment.
 2. Improper design of the device and dead insect collection tray could allow dead insect parts and injured insects to escape, rendering the device itself a source of contamination.
 3. Exposed food and food-contact surfaces must be protected from contamination by insects or insect parts. Installation of the device over food preparation areas or in close proximity to exposed food and/or food-contact

surfaces could allow dead insects and/or insect parts to be impelled by the electric charge, fall, or be blown from the device onto food or food-contact surfaces.

4. **See Part-I Section O – Insect and Rodent Control in the “Food Service Establishment Manual for Design, Installation and Construction” for more information.**

(f) **(Subsection (2) (m)):** Outer Openings, Protected:

1. Insects and rodents are vectors of disease-causing microorganisms that may be transmitted to humans by contamination of food and food-contact surfaces. Protecting outer openings to the food establishment minimizes the presence of insects and rodents.
2. In the National Fire Protection Association’s NFPA 101, Life Safety Code 7, 2003 Edition, doors to exit enclosures such as stairs, horizontal exits, or exit passageways are required to be self closing. The Life Safety Code does not require exterior doors used as exits to be self-closing, but they can be.
3. The provision of *Subsection (2) (m) 1. (iii) of Rule -.07* provides direction to protect food establishments from the entry of insects and rodents by keeping doors closed when not in use. Self-closing devices allow a door to return to its closed position after use. If an exterior door is not routinely used for entry or exit because its use is restricted by the fire protection authority for emergency use only, it is not a portal for the entry of pests and does not need a self-closing device. Doors not requiring a self-closing device include exterior

emergency exit doors that open into a public way from a fire and that meet the criteria in *Subsection (2) (m) 3. (iii)*.

(g) **(Subsection (2) (p)):** Outdoor Servicing Areas, Overhead Protection:

1. This subsection provides for an exception to *Rule -.08 Subsection (1) (g) 2. (i)* requiring overhead protection (i.e., carport, garage, awning, roof, etc.) as long as loading water and disposal of waste is accomplished through a closed system of hoses. Disposal of liquid wastes and sewage would be similar to RV (Recreational Vehicle) waste hose to dump station connection.

(h) **(Subsection (2) (r)):** Outdoor Refuse Areas, Curbed and Graded to Drain:

1. If refuse areas are not graded properly, wastewater will pool and attract insects and rodents.

2. If cleaning operations for large storage containers, such as dumpsters, is conducted off-site, i.e. a contract with a garbage collection company, then the outdoor refuse areas do not have to be designed to collect liquid waste for disposal. Should spillage be found to occur on the waste storage facility area, as the result of missing drain-hole plugs, then these plugs are to be put back in place and the leakage spot dry cleaned using absorbent material, such as that used to clean-up oil spills. Once used, the absorbent material may be disposed of as garbage.
3. Liquid wastes have to be disposed of as per applicable local Codes.

(i) **(Subsection (2) (t)):** Living or Sleeping Quarters, Separation:

1. Protection from contamination: Areas or facilities that are not compatible with sanitary food establishment operations must be located or separated from other areas of the establishment to preclude potential contamination of food and food-contact surfaces from poisonous or toxic materials, dust or debris, the presence of improperly designed facilities and equipment, and the traffic of unauthorized and/or unnecessary persons or pets.
2. Accessibility to Inspection: Further, Article IV of the Amendments to the U.S. Constitution ensures the right of persons to be secure in their homes against unreasonable search and seizure. This provision could hinder the Health Authority's access to conduct routine inspections of a food establishment operated in the living area of a private home. A search warrant may be the only mechanism by which to gain entry; yet, it may be difficult to obtain and might not authorize the necessary inspectional activities.

(3) **(Subsection (4) (a), (b), and (c)):** Location and Placement:

(a) **(Subsection (4) (b)):** Designated Areas for Employee Activity:

1. Because employees could introduce pathogens to food by hand-to-mouth-to-food contact and because street clothing and personal belongings carry contaminants, areas designated to accommodate employees' personal needs must be carefully located. Food, food equipment and utensils, clean linens, and single-service and single-use articles must not be in jeopardy of contamination from these areas.
2. Street clothing and personal belongings can contaminate food, food equipment, and food-contact surfaces. Proper storage facilities are required for articles such as purses, coats, shoes, and personal medications.

(b) **(Subsection (4) (c)):** Segregation and Location – Distressed Merchandise:

1. Products which are damaged, spoiled, or otherwise unfit for sale or use in a food establishment may become mistaken for safe and wholesome products and/or cause contamination of other foods, equipment, utensils, linens, or single-service or single-use articles. To preclude this, separate and segregated areas must be designated for storing unsalable goods.
2. The distressed products or food items must be plainly and unmistakably identified at least in English.

(4) **(Subsection (5) (a) through (o))**: Maintenance and Operation:

- (a) **(Subsection (5) (a))**: Good Repair: Poor repair and maintenance compromises the functionality of the physical facilities. This requirement is intended to ensure that the physical facilities are properly maintained in order to serve their intended purpose.

(b) **(Subsection (5) (b))**: Cleaning, Frequency and Restrictions:

1. Cleaning of the physical facilities is an important measure in ensuring the protection and sanitary preparation of food. A regular cleaning schedule must be established and followed to maintain the facility in a clean and sanitary manner. Primary cleaning must be done at times when foods are in protected storage and when food is not being served or prepared.
2. The exception for scheduled cleaning during times when foods are in protected storage and when food is not being served or prepared is for that due to spills or other accidents.

- (c) **(Subsection (5) (d))**: Cleaning Ventilation Systems, Nuisances and Discharge Prohibitions: Both intake and exhaust ducts can be a source of contamination and must be cleaned regularly. Filters that collect particulate matter must be cleaned or changed frequently to prevent overloading of the filter. Outside areas under or adjacent to exhaust duct outlets at the exterior of the building must be maintained in a clean and sanitary manner to prevent pest attraction.

(d) **(Subsection (5) (n))**: Maintaining Premises:

1. The presence of unnecessary articles, including equipment that is no longer used, makes regular and effective cleaning more difficult and less likely. It can also provide harborage for insects and rodents.

2. Unused articles, including equipment that is no longer used, must be removed from the food service establishment premises.
3. Areas designated as equipment storage areas and closets must be maintained in a neat, clean, and sanitary manner. They must be routinely cleaned to avoid attractive or harborage conditions for rodents and insects.

(e) **(Subsection (5) (o))**: Prohibiting Animals:

1. Animals carry disease-causing organisms and can transmit pathogens to humans through direct and/or indirect contamination of food and food-contact surfaces. The restrictions apply to live animals with limited access allowed only in specific situations and under controlled conditions and to the storage of live and dead fish bait. Employees with service animals are required in *Subsection (7) (c) 1(iii) of Rule 290-5-14* to wash their hands after each contact with animals to remove bacteria and soil.
2. Animals shed hair continuously and may deposit liquid or fecal waste, creating the need for vigilance and more frequent and rigorous cleaning efforts.
2. The definition for a “service animal” is adapted from 28 CFR 36.104 adopted pursuant to the Americans with Disabilities Act (ADA) of 1990 (42 U.S.C. 12101 et seq.). A service animal performs some of the functions that persons with a disability cannot perform for themselves, such as those provided by “seeing-eye dogs”; alerting persons with hearing impairments to sounds; pulling wheelchairs or carrying and picking up things for persons with mobility impairments; and assisting persons with mobility impairments with balance. A service animal is not considered a pet.
4. Under Title III of the ADA, privately owned businesses that serve the public are prohibited from discriminating against individuals with disabilities. The ADA requires these businesses to allow people with disabilities to bring their service animals onto business premises in whatever areas customers are generally allowed. Some, but not all, service animals wear special collars or harnesses. Some, but not all, are licensed or certified and have identification papers.
5. Decisions regarding a food employee or applicant with a disability who needs to use a service animal should be made on a case-by-case basis. An employer must comply with health and safety requirements, but is obligated to consider whether there is a reasonable accommodation that can be made. Guidance is available from the U.S. Department of Justice, Civil Rights Division, Disability Rights Section or the U.S. Equal Employment Opportunity

Commission, the Federal agency which has the lead in these matters, in documents such as, “Commonly Asked Questions About Service Animals in Places of Business”; “The Americans with Disabilities Act Questions and Answers”; “A Guide to Disability Rights Laws@; and “Americans with Disabilities Act Title III Technical Assistance Manual, 1994 Supplement.” The ADA Information Line is 800-514-0301 (voice) or 800-514-0383 (TDD) and the Internet Home Page address is <http://www.usdoj.gov/crt/ada/adahom1.htm>.

6. Exception – Capuchin Monkey:

- (a.) Capuchin monkeys held as service animals may be held with a Wild Animal Permit for Disabled Assistants as per OCGA 27-5-4(b). Further, pursuant to OCGA 27-5-4(b) (4), under no circumstances may the monkey be present on the premises where food is sold.
- (b.) The Georgia Department of Natural Resources’ Georgia Wildlife Resources Division regulates Wild Animals coming into Georgia and it issues the Wild Animal Permit for Disabled Assistants **(See Part II Section I of this Manual for more information)**.

(5) **(Subsection (6) (a) through (s)):** Poisonous or Toxic Materials:

- (a) **(Subsection (6) (a)):** Original Containers, identifying Information: The accidental contamination of food or food-contact surfaces can cause serious illness. Prominent and distinct labeling helps ensure that poisonous and toxic materials including personal care items are properly used.
- (b) **(Subsection (6) (b)):** Working Containers, Common Name: It is common practice in food establishments to purchase many poisonous or toxic materials including cleaners and sanitizers in bulk containers. Working containers are frequently used to convey these materials to areas where they will be used, resulting in working containers being stored in different locations in the establishment. Identification of these containers with the common name of the material helps prevent the dangerous misuse of the contents.
- (c) **(Subsection (6) (c)):** Storage, Separation: Separation of poisonous and toxic materials in accordance with the requirements of this section ensures that food, equipment, utensils, linens, and single-service and single-use articles are properly protected from contamination. For example, the storage of these types of

materials directly above or adjacent to food could result in contamination of the food from spillage.

(d) **(Subsection (6) (d))**: Restriction:

1. The presence in the establishment of poisonous or toxic materials that are not required for the maintenance and operation of the establishment represents an unnecessary risk to both employees and consumers.
3. Preserving food safety depends in part on the appropriate and proper storage and use of poisonous or toxic materials that are necessary to the maintenance and operation of a food establishment. Even those that are necessary can pose a hazard if they are used in a manner that contradicts the intended use of the material as described by the manufacturer on the material's label. If additional poisonous or toxic materials are present, there is an unwarranted increased potential for contamination due to improper storage (e.g., overhead spillage that could result in the contamination of food, food-contact surfaces, or food equipment) or inappropriate application.
3. Only those poisonous or toxic materials that are required for the operation and maintenance of the food service establishment shall be allowed on the premises of a food service establishment.

(e) **(Subsection (6) (e))**: Conditions of Use:

1. Failure to properly use poisonous or toxic materials can be dangerous. Many poisonous or toxic materials have general use directions on their label. Failure to follow the stated instructions could result in injury to employees and consumers through direct contact or the contamination of food.
2. Particular precautions must be taken during the application of poisonous or toxic materials to prevent the contamination of food and other food-contact surfaces. Residues of certain materials are not discernible to the unaided eye and present an additional risk to the employee and consumer.
3. Because of the toxicity of restricted use pesticides, they can only be applied by certified operators. A certified operator would be aware of the dangers involved in the contamination of food and food-contact surfaces during the application of these materials. Improperly applied pesticides present health risks to employees as well as consumers and special precautions must be taken when restricted use pesticides are applied

4. Only those poisonous or toxic materials that are approved for use within a food service establishment, as stated within the manufacturer's use direction including labeling, and, for a pesticide, manufacturer's label instructions, may be present on the premises of the establishment.
- (f) **(Subsection (6) (q))**: Chemical Sanitizers, Criteria: Chemical sanitizers are included with poisonous or toxic materials because they may be toxic if not used in accordance with requirements listed in the Code of Federal Regulations (CFR). Large concentrations of sanitizer in excess of the CFR requirements can be harmful because residues of the materials remain. The CFR reference that is provided lists concentrations of sanitizers that are considered safe.
- (g) **(Subsection (6) (h) and (i))**: Chemicals for Washing Fruits and Vegetables, Criteria/ Boiler Water Additives, Criteria/ Drying Agents, Criteria:
1. If the chemical wash, boiler water additive, or drying agent used is not made up of components that are approved as food additives or generally recognized as safe, illness may result. This could be due to residues that may remain from the use of compounds such as unrecognized drying agents. This is why only those chemicals that are listed in the CFR can be used.
 2. Chemicals that are not listed for these uses may be submitted for review by filing a Food Additive Petition. Wash chemicals, boiler water additives, and drying agents are classified as food additives because of the possibility that they may end up in food. Therefore, they are subject to review before being used or listed in the CFR.
 5. 21 CFR Section 173.315 specifically identifies chemicals that may be used in washing fruits and vegetables, but it **does not specify any maximum level** (2000 ppm or otherwise) of chemical usage for sodium hypochlorite. FDA acknowledges the use of sodium hypochlorite on fruits and vegetables and also allows calcium hypochlorite to be used interchangeably with sodium hypochlorite under 21 CFR 173.315.
 5. Boiler water additives that may be safely used in the preparation of steam that may contact food, and their condition of use, are identified in 21 CFR 173.310 Boiler Water Additives.
- (h) **(Subsection (6) (k))**: Lubricants, Incidental Food Contact Surfaces: Lubricants used on food equipment may directly or indirectly end up in the food. Therefore, the lubricants used must be approved as food additives or generally recognized as safe and listed in the CFR. Lubricants that are not safe present the possibility of foodborne illness if they find their way into the food.

- (i) **(Subsection (6) (l))**: Restricted Use Pesticide, Criteria: Open bait stations may result in the spillage of the poison being used. Also, it is easier for pests to transport the potentially toxic bait throughout the establishment. Consequently, the bait may end up on food-contact surfaces and ultimately in the food being prepared or served.
- (j) **(Subsection (6) (n))**: Tracking Powder, Pest Control and Monitoring: The use of tracking powder pesticides presents the potential for the powder to be dispersed throughout the establishment. Consequently, the powder could directly or indirectly contaminate food being prepared. This contamination could adversely affect both the safety and quality of the food and, therefore, tracking powder pesticides are not allowed.
- (k) **(Subsection (6) (o))**: Medicines, Restriction and Storage:
 - 1. Medicines that are not necessary for the health of employees present an unjustified risk to the health of other employees and consumers due to misuse and/or improper storage.
 - 2. There are circumstances that require employees to have personal medications on hand in the establishment. To prevent misuse, personal medications must be labeled and stored in accordance with the requirements stated for poisonous or toxic materials. Proper labeling and storage of medicines to

ensure that they are not accidentally misused or otherwise contaminate food or food-contact surfaces.
- (l) **(Subsection (6) (p))**: Refrigerated Medicines, Storage:
 - 1. Some employee medications may require refrigerated storage. If employee medications are stored in a food refrigerator, precautions must be taken to prevent the contamination of other items stored in the same refrigerator.
 - 2. Refrigerated medications within refrigeration units, such as walk-in coolers, must be stored within a closed leak-proof, labeled container, such as “Tupperware” or zip-lock bags.

H. Rule 290-5-14-.08 Special Food Service Operations:

(1) Overview:

- (a) Mobile Food Service Establishments (MFSEs), Extended Food Service Establishments (EFSEs) and Temporary Food Service Establishments (TFSEs), collectively recognized within Chapter 290-5-14 as “Special Food Service Operations”, are in operation throughout the country and in Georgia. MFSEs

present unique challenges because they travel from location to location, whereas EFSEs remain on the premises of their base of operations. Mobile food service units are known as being difficult to track down for the Health Authority's inspection. Identifying the source of food used by both of these units and along with their food preparation practices can be difficult.

- (b) Mobile food service units include a wide range of units from pushcarts to all types of four-wheeled vehicles and trailers, where as extended food service units tend to be pushcarts or kiosks. It is essential that the requirements for both MFSEs and EFSEs are based upon a menu review of the items to be transported, prepared, cooked, held, and served. Many mobile food service units are high-risk operations engaging in the preparation of raw ingredients and in processes that include the cooking, hot and cold holding, cooling, and reheating of potentially hazardous food (time/temperature control for safety foods) or PHF/TCS foods.
- (c) Temporary food service establishments (TFSEs) present their own set of challenges to the Health Authority. They operate under the minimum basic standards for food safety. They usually serve large numbers of consumers for a limited time period in an environment outside of the protective physical facilities and equipment that is provided within a permanent fixed food service

establishment. Health Authority decisions in applying the requirements of the Chapter for these establishments are at times difficult and may take some creative thinking on the part of the environmentalist. More times than not, food employees lack any formal or informal food safety training. Many volunteers (also employees) participate in TFSEs and when they do, they bring their home food handling practices with them to the event, as well as their education, beliefs, values, etc. Screening for potential disease problems can be more difficult for participants of TFSEs as compared to other types of food service establishments. Participants of TFSEs can be divided into 5 groups as follows:

1. The Professional:

- (a.) “Professional Eventster”: These are participants who do TFSEs for a living (or as a main source of income). They are usually experienced and participate at many events over a wide geographical area, usually staying with the same menu and equipment. Their main reason for participation at TFSEs is to obtain a stable income or profit. This particular group may include some mobile food service units.
- (b.) “Restaurateur or Fixed Permitted Food Service Establishment Operating in the Field”: These are the professionals in the food service business that occasionally participate in local or regional events. They serve their establishment menu items using current facilities or equipment to

prepare food. Usually, the reason for participating at the TFSE is profit driven or for civic reasons.

2. “The Social or Civic Organization”: Some of these groups are very experienced and organized and some are not. They can participate in one or many events per year. Their menus vary but they tend to stick with what has worked in the past and has been the easiest to prepare and most cost effective. The main reason to participate is usually for fundraising.
3. “The Cottage Industrialist”: At times, members of this group have been termed as the “Mom & Pop” variety. They can have prior experience in food safety but usually they do not. Their menu ranges from the very simple to the very complex. Their main motivation to participate at TFEs is usually to supplement their income due to retirement and/or change in a career. They may also have a need to participate in community events.
4. “The Volunteer or Innocent Bystander”: These are groups of participants, such as church or civic groups, that participate for a variety of reasons and they have good intentions in regards to food safety. They may have experience in participating at TFSEs; but, more often, they do not. They

usually perform specific tasks, such as filling beverage cups with ice or dispensing popcorn into bags; however, more complex tasks, such as cooking, is done by the more seasoned volunteer.

5. “The Novice”: This group presents the most challenge to the Health Authority. Members of this group that participate at TFSEs do not have any experience in operating a food service establishment nor do they have any food safety training. Most often, they have not planned out a formal menu and when they do, they usually want to offer food items that cannot be safely prepared and served at TFSEs. They usually have limited resources, facilities, and equipment. They may change their menu or method of operation to compete with other operations participating at TFSEs. They participate at TFSEs for varied reasons but primarily, for profit.
- (d) According to data from the Centers for Disease Control and Prevention (CDC), the most commonly reported risk factors that contribute to food borne disease are:
1. Improper holding temperature;
 2. Inadequate cooking of food;
 3. Poor personal hygiene;
 4. Contaminated equipment; and

5. Foods from unsafe sources

- (e) Regardless of whether food is prepared at a fixed, seasonal, or temporary food service establishment, or on mobile food service units or extended food service units, these above listed risk factors must be controlled in order to ensure the safety of the foods being served.
 - (f) Special Food Service Operations can be operated safely when they comply with regulatory standards in the Chapter that are established to control and minimize the contributing risk factors of food borne disease identified above. Therefore, like any food service establishment, it is important that Special Food Service Operations are in compliance with Chapter 290-5-14 requirements **BEFORE** they begin their operations.
- (2) **(Subsection (1) (a) through (k))**: **Mobile Food Service Units and Extended Food Service Units**:
- (a) **(Subsection (1) (a))**: **Compliance Required**:
 - 1. Mobile food service units, as well as extended food service units, must be constructed and operated so as to be in full compliance with the Chapter 290-5-14". The exception to these units being in full compliance with the Chapter is found within *Subsections (1) (a) 1. through 3. and (1) (b) of Rule -.08* can only be applied to the food service operations after the Health Authority has conducted a hazard analysis of the proposed operation. This analysis of the proposed operation can be mainly accomplished first through review of the proposed menu, then through the food service plans and specifications along with the method of operation. The following will help to explain:
 - (a.) Depending on how the mobile food service establishment is designed and operated, the permit holder may be required by the Health Authority to do all food preparation at the base-of-operation or within the fixed food service establishment used as a base of operation. In this case, the mobile food unit would only be allowed to vend or sell food possibly because it did not have sufficient equipment on board to do safe food processing. Any decision to allow or disallow any menu item or processing step will be based upon a hazard analysis of all processing steps of foods on the proposed menu along with that of the proposed methodology for operating the proposed mobile food service operation. **See Part – I Section B entitled, “Menu Review” of the Chapter’s Food Service Establishment Manual for Design, Installation and construction for more information.**

- (b.) ***(Subsection (1) (a) 1., 2., and 3.):*** The Health Authority may prohibit the sale of some or all potentially hazardous food. The determining factor in this case would be if risk factors noted during the review of the menu and food processing involved could be satisfactory controlled by the permit holder. Two examples could be applied. The first example of this would be the restriction of preparing chopped barbeque sandwiches on an enclosed-type mobile food unit, such as a hot-dog cart. The permit holder could not be allowed to prepare or assemble these type food products on a unit that is not fully enclosed where both the food employee and food preparation/service is conducted from inside the mobile food unit. Since the potentially hazardous food preparation and service would not be conducted from within the protective environment of a fully enclosed unit, there would be unacceptable risk of cross-contamination of the product from the environment. The second example would be a mobile food vehicle vendor (designed as a grab & go self-service) proposing to sell plated lunches. This proposed activity cannot be allowed due to the unacceptable risk of temperature abuse of foods. However, the permit holder may be allowed to serve any food as long as it is **prepackaged in individual servings**, transported and stored

under conditions meeting the requirements of the Chapter. He or she would be allowed to individually package food before placing it on the vehicle at the base-of-operation or fixed food service establishment used as a base-of-operation. The food must be in individual portions and packaged as defined in *Rule -.01 (vvv)* and labeled as stated within *Rule -.04 Subsection (7) (c) 2*. Packaging of food can be bottled, canned, cartoned, securely bagged or securely wrapped. Packaged **does not** include attempting to package food in a wrapper, carry-out box or other nondurable container used to containerize food with the purpose of facilitating food protection during service as would occur between a food establishment employee and a consumer. The idea is that the consumer is assured the food has been protected from contamination, mishandling, or mislabeling prior to them receiving the food - there would be physical evidence of package tampering. He or she could only serve beverages that are not potentially hazardous such as coffee served out of covered urns or other protected dispensing equipment.

- (c.) If after review of the menu and the proposed food processing steps the Health Authority determines that no health hazards will result, the Health Authority, at its option, may modify all other requirements with *Rule -.08* in regards to physical facilities. The allowed modifications mentioned here are found in *Subsections (1) (b) 2; (1) (g) second sentence of 1; (1) (g) 2. (iii) and (v); and (1) (i) 2*. The two modifications that are not allowed by the Chapter are found within *Subsection (1) (a) 3 that refers to Subsection (1) (e) “Liquid Waste”* and to *Subsection (1) (f)*

“Operations”. *Subsection (1) (e)* requires a liquid waste storage tank, meeting all of the requirements regarding *Rule - .06 Subsections (4) (a), (e), (f), (g), (h) and (i)* as related to capacity, drainage, design, construction, installation, operation, maintenance and sewage disposal, onboard mobile food service units should they have a potable water supply onboard. *Subsection (1) (f)* lists the general operational requirements for mobile food service and extended food service establishments to be in compliance with the Chapter.

(b) **(Subsection (1) (b)):** Exceptions to Compliance:

1. *Rule -.08 Subsection (1) (b) entitled, “Exceptions to Compliance.”* provides for the exception as stated within *Rule -.08 Subsection (1) (a)*. that both mobile food service units and extended mobile food service units may be granted certain exemptions for construction and equipment that is required in *Rule -.08 Subsection (1) (g) 1. and Rule -.08 Subsection (1) (c) 1. through 4.* based upon a limited menu and method of operation. The two types of units are as follows:

- (a.) **(Subsection (b) 1. and 2.):** The mobile vehicle vendor unit (grab & go self-service) will not be required to have a hand sink nor a warewashing sink onboard if these pieces of equipment are provided at the base of operation or food service establishment used as a base of operation. In addition, all food items must be prepackaged in individual servings **(see Rule -.01(vvv)) and properly labeled (Rule -.04 (7) (c)).** All beverages will be non-potentially hazardous such as coffee and served from covered urns. All condiments will be commercially packaged in single servings.

(b.) **(Subsection (1) (b) 3.):** Pushcart or Pull-Behind-A-Vehicle Units:

1. **Potentially Hazardous Food (Time Temperature Control for Safety Food) Limited Menu:** More often than not, pushcarts and/or pull-behind-a-vehicle units are hot dog carts. The food storage area or areas on the unit must be equipped with a closable cabinet where the operator can stand outside and reach in to prepare the food product. The unit will have over-head protections in the form of a canopy large enough to completely cover the unit and the operator. A hand sink and a three-compartmented warewashing sink with sufficient hot and cold running water under pressure is provided for a minimum of one days supply. It will also be equipped with a properly sized wastewater storage tank as mentioned within *Rule - .06 subsections (4) (a), (e), (f), (g), (h) and (i)*. Its menu will be limited to potentially hazardous foods such as commercially processed foods, frankfurters, and precooked encased sausages that

only require removal from its packaging and heating prior to service. All condiments will be commercially packaged in single servings and only single-use, disposable articles will be offered for consumer use. It must be operated at a fixed location and from a base of operation or a food service establishment used as its base of operation.

2. **(Subsection (1) (q) 1.):** Units preparing non-potentially hazardous foods, such as snow cones and popcorn, must be constructed so that food preparation and service areas are fully enclosed by accessible, protective cabinets. The food is prepared and served from these enclosed accessible, protective cabinets by the food employee. Handwashing and warewashing facilities sinks must be located on the unit. The unit will have over-head protections in the form of a canopy large enough to completely cover the unit and the operator.
3. **See Part-I Section U- Special Food Service of the “Food Service Establishment Manual for Design, Installation and Construction” for more information.**

(c) **(Subsection (1) (c)):** Equipment and Supplies Required:

1. All mobile food units where processing of food such as chopping, slicing, grinding, mixing, formulating, blending, juicing, or otherwise preparing potentially hazardous foods occurs within the unit, the following pieces of equipment will be required onboard:
 - (a.) Thermostatic control hot holding, refrigeration, and freezer equipment must be provided. Ice chests are not adequate for this purpose;
 - (b.) Food thermometers of proper tip size and scale for testing food product temperature;
 - (c.) A hand sink and a separate three-compartmented, warewashing sink with large enough compartments for the complete immersion of the largest piece of equipment or utensil. These sinks must be separate from each other in that the warewashing sink cannot be used as a hand sink; and
 - (d.) Only individually wrapped single-service articles are offered for consumer use.

(d) **(Subsection (1) (f)):** Operation:

1. In order for a mobile food service and/or an extended mobile food service operation to be in compliance with the Chapter, the following must be adhered to by the operation:
 - (a.) Mobile food service units and extended food service units must co-exist with a base of operation or a fixed food service establishment used as its base of operation. The base of operation or fixed food service establishment used as a base of operation cannot exist without its associated mobile food service unit or extended food service unit.
 - (b.) Each mobile food service unit must report back to its base of operation or fixed food service establishment used as its base of operation at least once a day for all re-supplying, cleaning and servicing of the unit or units. If this symbiotic relationship does not exist, then the mobile food service operation is not in compliance with the Chapter.
 - (c.) Extended mobile food units differ from mobile food service units because they do not move off from the premises of its base of operation or fixed food service establishment used as its base of operation. Examples of these locations would be such as within Shopping Malls or Office Buildings. They are serviced daily from their base of operation or food service establishment used as their base of operations. This means they are located at a fixed location and supplies, etc. are brought to it from the base of operation. Likewise, wastewater may be transported to its base of operation by means of transport vehicle. Its water supply can also be transported to the extended unit from its base of operation using approved water transport equipment. Finally, units that are mobile may be taken back to the base of operations for servicing.
 - (d.) Mobile food service units must be stored at the base of operation when not in operation. The exception would be if the local Health Authority agreed to allow the unit or units to be stored elsewhere, such as the operator's residence. In this case, the permit applicant must enter into a written agreement concerning this arrangement with the local Health Authority.
- (e) **(Subsection (1) (q))**: Construction:
 1. Basic Construction: With the exception of units as described within *Rule -.08 Subsection (1) (b)*, units, both mobile food service and extended food service, that are preparing potentially hazardous food as defined in *Rule -.01 Subsection (jjjj)* must be constructed so as to be fully enclosed. This means that the operator must prepare and serve the food from within an area of the mobile food service unit or the extended food service unit. However, units

serving non-potentially hazardous foods, such as popcorn or snow cones may be constructed similar to that of a hot dog cart in that the food preparation area, storage, service areas are fully enclosed within a cabinet. In this case, the operator would be able to open the cabinet to retrieve the food for service.

2. **(Subsection (1) (q) 2.): Servicing Areas:** Servicing areas only apply to mobile food service units. Whether or not a base of operation will be required to have a servicing area depends on if its mobile food service unit has a wastewater tank or if unpackaged food is loaded onto the unit. The required presence of a wastewater tank would also mean that potable water supply that is under pressure is also required to be on the unit. Should servicing areas be required, they must have at least overhead protection. This overhead protection can be as elaborate as a garage or as simple as an awning. However, the overhead protection must be large enough to completely encompass the entire servicing area taking into account of blowing rain events. In addition, overhead

protection must be connected to the base of operation at the point where unpackaged food will exit from the base of operation and transferred onto the unit.

Note: The above is a physical facility that can be modified by the Health Authority as stated within *Rule -.08 Subsection (1) (a) 3.*

3. **See Part-I Section U – Special Food Service of the “Food Service Establishment Manual for Design, Installation and Construction” for more information.**

(f) **(Subsection (1) (h)) :** Identification:

1. Signage:

- (a.) It is a requirement of the Chapter that mobile food service and extended food service units are identified to the consumer and to the Health Authority. This requirement is necessary for purposes of trace-back in the event of a foodborne illness outbreak and or other enforcement purposes. This requirement is accomplished through a sign posted or lettering that is clearly and conspicuously posted onto the outside of the unit or units. The sign or lettering must indicate the name and address of the owner, the name of the operation along with the mobile food service establishment permit number issued by the county of origin. The lettering and numbers used to create the sign or lettering must be at least two inches (2”) in height (**See Example #8-1 and #8-2 below for examples of signage for mobile food service and extended food service units):**

Example #8-1

TOM'S EATS AND SWEETS
Tom Smith (Owner and Operator)
4321 Smith Road
Anywhere, GA 30000
Permit #0700 Clarke County

Example #8-2

THE FOOD STOP
Metro Food Services, Inc. (Owner)
John Adams (Operator)
4321 Smith Road
Anywhere, GA 30000
Permit #0700 Clarke County

- (b.) **(Subsection (1) (h) 2.)**: A copy of both food service establishment permit and mobile food service unit permit(s) along with current inspection reports conducted by the Health Authority of the base of operation and current inspection report(s) conducted by each Health Authority whose county the unit operates within must be displayed for public view on the mobile food service unit. These documents must be protected from inclement weather by use of waterproof frames or other devices that will not impede clear and unobstructed observation by consumers or by the Health Authority conducting inspections.

(g) **(Subsection (1) (i))**: Location:

1. Background:

- (a.) As to the requirements for two locations and/or areas for mobile food service units, there are two administrative reasons. First, in order to administratively monitor the mobile food service operation's status or an extended food service operation of controlling risk factors and good retail practices (or SOPs), Chapter 290-5-14 requires a permit to be issued to the base-of-operation within the county of origin. In addition, a mobile unit permit must be issued to each mobile food unit (s) in each county in which the mobile unit(s) operates **(see Rule -.02 Subsections (2))**. This provision ensures that each mobile food

service unit will be inspected (or accessed) along with its base-of-operation by the local Health Authority as one food service establishment **(see Rule -.10 Subsection (2) (e))**. Secondly, all food service inspections except for preliminary, informal, follow-up, and the scheduled meeting with the CFSM of Risk-Type III establishments are conducted unannounced by the local Health Authority. Unannounced inspections are needed to get a true assessment of the establishment's compliance with the Chapter. Knowledge of assigned areas or locations of operation will allow the local Health Authority to randomly conduct unannounced food service inspections of the mobile food service unit. In addition, a defined and known point-of-contact with the mobile food service unit and its management is necessary should the operation become part of a foodborne investigation. This is why in *Rule -.02 Subsection (3) (e)* there are provisions for the applicant of both the food service permit (type "Mobile Food Service Establishment") and each mobile food service unit to list schedules of locations and times where the mobile unit or units will be parked and operating. This information of location and operating times given by said applicant must be communicated by both local Health Authorities, the county of origin where the base-of-operation is located and the county in which the mobile food unit or units will be operating. Extended food service units are restricted to two locations and/or areas on the premises of the base-of-operation or food service establishment from which it services for similar reasons as applied to mobile food service units.

(b.) Mobile Food Service Operation vs. Off-Site Catering:

1. Mobile Food Service Operations: The Mobile food service operation permit, issued by the county of origin, and the associated Mobile Food Unit permit(s), issued in each local Health Authority (county) the unit(s) operate within, would only allow the permit holder to

have a food service establishment that operates as a mobile food service establishment. This means the mobile food service unit would be allowed to go from site (location) to site (location) or a maximum of two areas (routes) soliciting sales from non-contractual consumers.

2. Catering Establishments addressed within Chapter 290-5-14:
Caterers are only mentioned one time within the Chapter and that is in *Rule -.01 (yy)* as an example of a type of food service establishment within the definition of food service establishment.

There are no specific Rules to address catering establishments within the Chapter. Traditionally and as a method of operation, food service catering establishments do food service transactions based upon contractual agreement with their consumer. Food is prepared in bulk, containerized and delivered to a specific consumer on a specific date and time for a specified fee. If a catering operation is properly equipped with its own equipment and supplies, it can do some preparation onsite and can provide other services, such as decoration and serving of food, as well.

3. Types of Catering Food Service Establishments: Basically, the food industry has two types of food service catering establishments, onsite catering and off-site catering. An example of on-site catering would be a food service establishment in a hotel being contracted to provide food and service in its banquet room. An example of an off-site catering event would be that for a wedding. The caterer would prepare food and transport it to the site of the wedding. Upon arrival at the site of the wedding, the consumer would take possession of the food or at his request; the caterer could serve prepared food to his wedding guest. With a properly equipped mobile catering unit, the permit holder could prepare food on-site, as well.
4. Distinguishing Factors between Mobile Food Service Operations and Food Service Catering Establishments:
 - (I) The emphasis between a catering establishment and a mobile food service establishment is on how they both operate. There is nothing to restrict a single applicant to be the permit holder of different types of permits (food service establishment, mobile food service, temporary, etc.). A permit holder could have a food service permit and operate as a caterer and at the same time, hold a mobile food service establishment permit/mobile food unit

permit (s) and operate as a mobile food service establishment. In this case, the difference between the two operations is their method of operation and that mobile food service units are restricted to operational locations or areas. In turn, these restrictions in operational locations would require the permit holder to keep the two operations separated. If a unit is permitted as a mobile food service unit, it could not be used as a catering unit. In this case, the regular food service permit, type-catering establishment, would require that separate unit(s) would be used and operated only as an off-site catering unit(s).

(II) Should an individual hold both food service permits, type catering establishment and type mobile food service operation, the permit holder will be responsible for providing documentation, as determined by Health Authority issuing such permits, disclosing how unit(s) are being utilized for each type of food service operation.

5. Home Delivery Service: Home delivery food service, such as pizza or Chinese food delivery service, is sometimes loosely described as being a form of catering, but it is not. The customer will call the establishment and will make a verbal request of the establishment to deliver a food item from their menu. This type of food service is food delivery provided by the establishment. There is no standing contractual agreement for food to be prepared and delivered on or off-site.

6. **(Subsection (1) (i) 1.): Vending “Area” Interpreted:**

(I) "Area" is interpreted as meaning a “Route” and/or a “Fixed Location”:

(i) A “Route” will not be interpreted to mean a city or combination of cities, a county or combination of counties, a health district or combination of health districts, regions, nor the State itself. By making such an allowance for a wide range of operation locations, the local Health Authority’s ability to quickly and easily find a unit at any point in time would be impeded. Instead and in the case of mobile food service units, a “Route” would be a name of a street with points to be visited along that street similar to that of a milk delivery or a mail delivery route. In the case of extended food service units, a “Route” would be a series fixed locations within a defined part of the premises of the base of operation

or food service establishment being used as its base of operation. These points of location would be indicated on a floor plan or site plan of such premises furnished by the permit holder to the Health Authority at time of permit application.

- (ii) In the case of mobile food service units, a “Fixed Location” would be a street address, street corner description, business address, shopping center location or address, or with local Health Authority approval, longitude and latitude GPS

(Global Positioning Satellite) coordinates. For extended food service units, a “Fixed Location” would be a point of reference or longitude and latitude GPS (Global Positioning Satellite) coordinates within the premises of the unit’s base of operation or food service establishment being used as its base of operation. These points of location would be indicated on a floor plan or site plan of such premises furnished by the permit holder to the Health Authority at time of permit application.

2. Food Vending Requirements and Restrictions:

(a.) Mobile food service units:

1. **(Subsection (1) (i) 1. (i)):** Each mobile food service unit operation will be restricted to two (2) routes and/or fixed locations within each county in which it operates, including the county of origin. Each route and/or fixed location will be stipulated as part of the mobile food service unit permit. Should a mobile food service unit operation deviate from the routes and/or fixed locations as stipulated by the mobile food service unit permit, the mobile food service unit permit will become invalid.
2. **(Subsection (1) (i) 1. (ii)):** The operator of unit(s) must provide written evidence from the owner of the premises of the vending site that he has prior legal access to such premises for food vending. The content and format of such written evidence will be determined at the discretion of the Health Authority having jurisdiction,
3. **(Subsection (1) (i) 1. (iii)):** If applicable, permit applicants must provide documentation of compliance with another jurisdiction’s requirements, such as zoning, business licensing, building, and fire safety laws, codes, and or regulations.

(b.) Extended food service units:

1. **(Subsection (1) (i) 1. (i)):** Each extended food service unit operation will be restricted to a maximum of two (2) fixed locations on-site of the base of operation or food service establishment being used as its base of operation. The two fixed locations will be stipulated as part of the extended food service unit permit. Should an extended food service unit operation deviate from its fixed location as stipulated by

the extended food service unit permit, the extended food service unit permit will become invalid.

2. **(Subsection (1) (i) 1. (ii)):** The operator of unit(s) must provide written evidence from the owner of the premises of the vending site that he has prior legal access to such premises for food vending. The content and format of such written evidence will be determined at the discretion of the Health Authority having jurisdiction,
3. **(Subsection (1) (i) 1. (iii)):** If applicable, permit applicants must provide documentation of compliance with another jurisdiction's requirements, such as zoning, business licensing, building, and fire safety laws, codes, and/or regulations.

(c.) **(Subsection (1) (i) 2.):** Exceptions to Food Vending Requirements and Restrictions:

1. **Limitations of Exceptions:** The provisions within *Rule -.08 Subsection (1) (i) 2.* of the Chapter is intended to allow the following methods of operations to occur:
 - (I) A food service establishment operates its own extended food service unit, for example a Kiosk, under its food service permit within an enclosed building, such as a shopping mall and or office building.
 - (II) A food service establishment operates its own mobile food service unit on its premises for special nonpermanent events or occasions such as festival or special advertisement campaigns. In this example, the food service establishment may or may not be inside an enclosed building.
2. **Modification:** The local Health Authority may allow units to function under permits granted to food service establishments. This exemption to *Rule -.02 Subsection (2)*, and *Rule -.08 Subsection (1)*

(i) 1. is one of the Health Authority's discretionary modifications as mentioned within *Rule -.08 Subsection (1)*:

I. The discretionary modification in *Rule -.08 Subsection (1) (i)* 2. will be allowed by the local Health Authority as long as the following criteria is met:

(II) Unit or units must be operated as an extension to the food service establishment with a valid food service permit;

(III) The unit must be operated under the direct and complete managerial authority of that which manages the permitted food service establishment. If the unit is not owned by the permit holder of the fixed food service establishment, then the relationship between the owner of the unit and the permit holder of the food service establishment must meet the criteria as stated within **(2) (b) entitled, "Mobile Food Service Unit and Extended Food Service Unit Legitimacy" in Part-I Section B on page B41 of this Manual;**

(IV) If sanitation, temperature control, and sanitization requirements for operation of the unit are in satisfactorily compliance of the Chapter at the food service establishment as determined by the local Health Authority; and

(V) The permit holder of food service establishment must obtain prior approval from the local Health Authority BEFORE placing an extended food service unit and/or a mobile food service unit into operation.

(h) **(Subsection (1) (j)):** Compliance with Other Regulations: Mobile food service operations and extended food service operations must be in compliance with all applicable laws, regulations and ordinances as stated within *Rule -.08 Subsection (1) (j)*.

(i) **(Subsection (1) (k)):** Prohibition of Service of Home Prepared Foods: *Rule -.08 Subsection (1) (k)* is linked with the provisions of *Rule -.04 Subsection (2) (a) 2* of the Chapter. Food prepared within home kitchens, with their varieties of food and open entry to humans and pet animals, are frequently implicated in the microbial contamination of food. Because commercial items seldom are eaten right away, the home kitchen's limited capacity for maintaining food at proper temperatures may result in considerable microbial growth and toxin production by microorganisms introduced through the diverse sources of contamination.

Controlled processing conducted within a properly designed and equipped food service establishment operating under the guidelines and requirements of Chapter 290-5-14 are required for the safe preparation of food to be served to the public.

(2) **(Subsection (2) (a) through (i))**: Temporary Food Service Establishments:

(a) **(Subsection (2) (a))**: Operation, Permit Application, Responsibilities:

1. It is a requirement of the Chapter that TFSEs be allowed to operate at the same location for no more than 14 consecutive days for any one event or celebration.
2. A celebration is interpreted to mean a transitory gathering of people for the purpose of taking part in organized activities, such as fairs and or festivals, for a specific purpose and it is publicly advertised.
3. An event is interpreted to mean a transitory gathering of people to take part in organized activities, such as a business marketing advertisement, outdoor sporting activities, or fund raisers, for a specific purpose and it is publicly advertised.
4. If a mobile food service unit is to be operated at a temporary food service event or celebration for more than one day, the permit holder of the mobile food service unit must obtain a valid temporary food service permit from the local Health Authority having jurisdiction of where the event and/or celebration is taking place. This action on the part of the mobile food service permit holder is necessary to allow the unit to stay at the event and/or celebration without having to report back to its base of operation for its daily servicing and supplying operations.
5. Unless the requirements in *Subsection (2) (c) 3.* can be met by the applicant, the applicant will be restricted to limited food preparation and cooking as stated within *Subsection (2) (d) 2.* Should the applicant show that he or she can provide a properly equipped and protect food preparation area onsite of his or her temporary food service establishment, then more complex food preparation may be allowed by the Health Authority.
6. Raw or under cooked food of animal origin that are filter feeders, such as oysters, clams, muscles, etc., are prohibited from service. This is necessary due to the potential time necessary for trace-back and investigation, as related to the relative short time of a temporary event, should a foodborne illness outbreak to occur involving these types of foods.
7. **See Part-I Section U – Special Food Service of the “Food Service Establishment Manual for Design, Installation and Construction” for more information.**

(b) **(Subsection (2)(b)3.): Inspections:**

1. Temporary food service inspections will be conducted using the Department's Food Service Inspection Report Form and its associated Addendum Forms. It

is adaptable to the methods of operation and menus of temporary food service establishments, which are widely varied from that of the traditional food service establishment or other special food service operations. Items on the Food Service Inspection Report Form that are not applicable to a temporary food service establishment would be marked as N/A (not applicable). Items that are not observable during the inspection would be marked NO (not observed). All other items (i. e., IN, OUT, COS, etc.) would be marked on the Form the same as it would be on any inspection. However, in the box entitled, "Purpose of Inspection", the bubble labeled, "Other", would be marked for temporary food service inspections.

2. For documenting violations, corrective actions and temperatures use *Forms K-2a and K-2b entitled, "Food Service Establishment Inspection Report Addendum"*.
3. Violations for GRP's must be corrected by the permit holder within the scope of the time-line for the temporary food service operation as intended within *Rule -.10 Subsection (j) 1* of Chapter 290-5-14 which states, "... or as otherwise directed by the Health Authority."
4. **See Document K-11 in Part-II Section K of this Manual for general marking instructions.**

(c) **(Subsection (2) (d)):** Preparation and Service – Potentially Hazardous Foods:

1. **(Subsection (2) (d) 1.):** Acceptable preparation site: *Rule -.08 Subsection (2) (d) 1.* intends that any potentially hazardous food (time/temperature control for safety food) may be served at the site of a temporary food service establishment if the following is met:
 - (a.) The food is prepared and stored within the protective environment of a permitted, fixed food service establishment;
 - (b.) The food is transported from a permitted, fixed food service establishment that meets all of the requirements of the Chapter;
 - (c.) The food is stored and transported in protective containers at food product temperatures of $\leq 41^{\circ}\text{F}$ or at $\geq 135^{\circ}\text{F}$.

3. **(Subsection (2) (d) 2.): Limited On-site preparation and service:** On-site preparation of potentially hazardous foods (time/temperature control for safety foods) is limited to that which requires only seasoning as in adding salt,

pepper, or barbeque sauce. Preparation steps such as mixing, chopping, grinding, blinding, or slicing, etc., are not allowed on-site of the event, unless requirements as stated within *Subsection (2) (c) 3.* can be complied with by the applicant. Further, only those foods that require cooking may be prepared and served.

3. **(Subsection (1) (d) 3.): Prohibited preparation and service:** Potentially hazardous foods (time/temperature control for safety foods) such as listed in *Rule -.08 Subsection (2) (d) 3.* are those with ingredients that are made up in part or all highly protein, moist and starchy of which are ready-to-eat, such as deli meats or potato salad. They can be easily cross-contaminated through mishandling by food employees and soiled equipment and there is no cooking (or kill step) to kill pathogens in or on the food. Temperature control of these products is not easily maintained and is often abused. These types of food products have a history of being a source for foodborne illness caused by pathogens, such as *Staphylococcus aureus*, found on food employee' hands and noses and mouths. It is for these reasons that such food products cannot be safely prepared and served on-site under the limited, basic food safety environment of a temporary food service establishment.
4. **(Subsection (2) (d) 3.) Exemption to prohibited preparation and service of foods listed in Rule -.08 subsection (2) (d) 3.:** The prohibition does not apply to foods listed in *Rule -.08 Subsection (2) (d) 3.* if the following requirements are met:
 - (a.) Food is prepared, packaged in individual servings, and properly labeled in a permitted, fixed food service establishment that meets all requirements of the Chapter stated within *Rule -.08 Subsection (2) (d) 1.*;
 - (b.) Food is transported and held on-site at a product temperatures of $\leq 41^{\circ}\text{F}$ or at $\geq 135^{\circ}\text{F}$ until served to the consumer; and
 - (c.) Food is served to the consumer directly in the unopened container in which it was packaged.
5. **See Part-I Section U – Special Food Service of the “Food Service Establishment Manual for Design, Installation and Construction” for more information.**
- (d) **(Subsection (2) (i)):** Exceptions to Compliance:

1. Background: House Bill 1576 was passed by the Georgia Legislature and signed by Georgia Governor Miller on April 20, 1998 and became known as “Article 14” and as the “Non-Profit Temporary Food Service Law”. With its creation, Article 14 changed

how Georgia’s Food Laws defines food service establishments as reflected within *Rule -.01 (yy)* by exempting certain food service operations should they meet all three conditions listed within this Rule.

2. Conditions for Exemption from *Rule -.01 (yy)*: In order for a food establishment not to fall under the definition of food service establishment as defined within *Rule -.01 (yy)*, the preparation or serving of food is an authorized part of and occurs upon the site of a fair or festival. All three of the following conditions must be met:
 - (a.) The fair or festival must be sponsored by a city, county government or by a nonprofit organization;
 - (b.) The fair or festival must not last more than 120 hours (i.e. 5 days); and
 - (c.) The food service is conducted under the authorization of a permit issued by the city or county government in which the fair or festival is occurring.
3. Organizations: Organizations include entities that are by state charter nonprofit and those that hold an I.R.S. nonprofit tax exemption. City, County and State governments are nonprofit by charter. Organizations, such as religious, charitable, or nonprofit corporations, including but not limited to churches, schools, clubs, lodges, would be consider in Article 14 as examples of nonprofit organizations. A copy of the I.R.S. Form 501C (Certification of nonprofit status) is proof these organization meet the requirement for nonprofit status.
4. Applicability of Sponsorship: The determining factor as to whether or not a food service permit issued under the Georgia Food Service Rules and Regulations Chapter 290-5-14 or a nonprofit temporary food service permit issued under Article 14 depends on who is the organizer. If the fair or festival organizer is a for-profit entity, then all food service occurring at the fair or festival would be considered as food service under Chapter 290-5-14. However, should the organizer of the fair or festival be a nonprofit entity, then all food service occurring on the premises of the fair or festival would be considered as nonprofit and as such, it would fall under the jurisdiction of Article 14.
5. Permit Issuance and Forms: Under *Article 14*, state temporary food service permit as stated within Chapter 290-5-14 cannot be issued to nonprofit temporary food service establishments. Further, the state food service inspection report form and addendums used for routine food service inspections cannot be used to conduct nonprofit temporary food service establishments.

6. Jurisdiction: In order for county boards of health to issue nonprofit temporary food service establishment permits and conduct inspections, city and county governments must request county boards of health to do so on their behalf. If asked, county Boards of Health will issue a permit for the city or county government in which the nonprofit fair or festival is occurring. However, should the city or county governments wish to issue a permit themselves, then county boards of health would not have any part in the permitting and inspection process. However, county boards of health may provide staff assistance to organizations at nonprofit events for providing food safety instruction.
7. Enforcement: No adverse action against an organization may be taken by a county or city government or a county board of health acting as an agent for a city or county government, including denial of a permit or revocation of a permit, or citations for violations of *Article 14*, without the written approval of such action by the district health (medical) director. Any organization which is aggrieved or adversely affected by any final order or action of a county board of health or district health director may have review thereof by appeal, as of July 1, 2009, to the Commissioner of Community Health or his or her designee. Appeals to the Commissioner shall be heard after not more than eight hours.
8. *See K-33, K-34, K-35, K-36, K-37 and K-38 of Section K in Part-II of this Manual for forms and documents used under Article 14.*
9. *See Section F in Part-II of this Manual for reference to Article 14.*

I. Rule 290-5-14-.09 Certification and Standardization of Environmental Health Personnel:

- (l) Environmental Health Specialist (EHS) who have been assigned food service program responsibilities will complete:
 - (a) **(Subsection (1) (a))**: Food Safety Certification: A Certified Food Safety Manager (CFSM) training program and a professionally validated exam that is accredited by the Conference of Food Protection (CFP) is required prior to EHS conducting independent food service program activities. The CFP website has the accredited programs listed. There is a link from the state's website at www.georgiaeh.us to delineate this requirement in *Rule -.09 Subsection (1) (a)*. This certification requirement ensures each EHS at least meets the same requirements as the managers in food service establishments who are required to obtain this same certification. A copy of the certificate should be in each EHS personnel file that is assigned food service program responsibilities. As a minimum requirement, EHS will not conduct routine food service program activities without this CFSM certification.

(Subsection (1) (b)): Standardization:

1. **Standardization** is a procedure to verify that EHS have the capacity to carry-out their assigned duties and responsibilities within the role of a Standardized Food Service Establishment Inspection Officer. This verification is demonstrated through the process of testing their knowledge, skills and abilities to properly apply the food service rules and regulations, use essential equipment, and exhibit necessary communication skills, in conducting a risk-based food service establishment inspection. Each EHS will complete this process within two years upon acquiring food service program responsibilities at which time, EHS must successfully earn a Standardized Food Service Establishment Inspection Officer Certificate. After the two year grace period has expired, EHS will not conduct food service establishment inspections without first obtaining this stated certificate. During the two year grace period, all assigned work conducted within the food service program must be reviewed and signed-off by a Standardized Food Service Establishment Inspection Officer holding a valid certificate. Also, a copy of the current certificate will be maintained within the EHS's personnel file at their place of employment. District Standard-Trainers will notify the State Environmental Health Office of certificate issuance so as to maintain a state database backup of EHS standardization certification.
2. **Re-standardization** of EHS by District Standard-Trainers will be scheduled by each Districts Environmental Health Director to be staggered so as to complete the re-standardization process within a three to five year time period. In this way, not all of the county EHS staff will be re-standardized at the same time and the District Standard-Trainers will have sufficient time to carry-out this important function. However, Certificates will expire 5 years from date of issuance.
3. **Standardization of District Standard-Trainers:** EHS who will be executing the role of a District Standard-Trainer will be standardized by a State Environmental Health Office Standard-Trainer and will earn a Standardized Food Service Establishment Inspection and Training Officer Certificate or they must hold a current FDA Standardized Retail Food Inspection Officer Certificate. Further, District Standard-Trainers must be designated by their applicable District Environmental Health Director. District Environmental Health Directors must keep the State Environmental Health Office's Food Service Program Director up-to-date of District Standard-Trainer designations.

4. **Re-Standardization of District Standard-Trainers:** Re-Standardization of District Standard-Trainers will be conducted by the State Environmental Health Office Standard-Trainers. If a District Standard-Trainer was

previously standardized by a FDA Standard and is due for re-standardization as a FDA Standardized Retail Food Inspection Officer, he or she must successfully complete the FDA re-standardization process and receive a current Standardized Retail Food Inspection Officer Certificate from FDA or be standardized by a State Environmental Health Office Standard-Trainer. Failure to be re-standardized by either the State Environmental Health Office or FDA will disqualify said District Standard-Trainer from standardizing EHS and from performing food service program duties and responsibilities.

5. **District Standardization Self-Assessment:** Each Health District will conduct self-assessments of its standardized risk based food service establishment inspection program twice annually – once during the first six months of the calendar year and once during the second half of the calendar year. Using methodologies established by the State Environmental Health Office, District Standard-Trainers will examine food service inspection reports and send data to the State Environmental Health Office for processing. A report will be generated for each Health District for District Standard-Trainers to evaluate. Occurrences of standardization trends noted will be addressed by District Standard-Trainers through at a minimum of mentoring and instruction of county EHS staff.
6. **District Standard-Trainer Support and Training: State Standard-Trainers will mentor District Standard-Trainers by** reviewing district standardization of county EHS staff. The standardization documents of the first EHS standardized by each newly standardized District Standard-Trainer will be reviewed by a State Standard-Trainer. This review of documents is a continuation of training and feedback support for newly standardized District Standard-Trainers. In addition, the State Environmental Health State Office will continue to provide support and training to all District Standard-Trainers through its provision of statewide, educational-seminars given at least once each year. Theses statewide, educational-seminars will focus on the self-assessment process of district standardized EHS food service establishment inspection activities, feedback on self-assessments by districts, and the provision of up-to-date training on the EHS standardization process. These steps to support District Standard-Trainers will help to provide uniformity throughout the state of Georgia in maintaining uniform food service establishment risk-based inspections. By doing so, the state food service program should be enabled to fulfill its mission of reducing the occurrence of foodborne illness through reduction in the occurrence of foodborne illness risk factors.

5. **State Environmental Health Office District Assessment Processing and Reporting; Verification Assessment; and Reporting and Corrective Action Protocols:** The State Environmental Health Office will examine district EHS standardization activities, the frequency of risk factor violations, and surveys of county EHS staff in determining the state of functionality of the State's Food Service Program. Through such verification activities, the State Environmental Health Office will assess the weaknesses and strengths of its food service program. This verification activity will allow the State Environmental Health Office to make any needed changes within the food service program. These changes will then improve the food service program's effectiveness in reducing the occurrence of risk factors for foodborne illness thereby, resulting in the reduction of the occurrence of foodborne illness itself.
7. **See Part-II Section L entitled, "Standardization," within this Manual for reference to the Georgia Standardization Procedure, the Georgia Food Service Standardization Cooperative Agreement, and District Self-Assessment/State Verification Protocols.**

(c) **(Subsection (1) (c)):** Food Safety Related Continuing Education Unit (CEU)
Credit:

1. An EHS with a Standardized Food Service Establishment Inspection Officer Certificate or Standardized Food Service Inspection and Training Officer Certificate may continue inspections of food service establishments after their first two years of employment provided that they maintain Food Safety Related Credit (CEU). Specific courses taken cannot be repeated in consecutive two (2) year cycles and receive CEU credit. This requirement for the course work not to be repeated each two (2) year cycle is so that EHS will have the opportunity to be exposed to new information on a periodic basis.
2. **Guidelines for Continuing Education Unit (CEU) Credit:**
 - (a.) **Organization Submittal For Food Service Program CEU Credit:**
 1. One half credit hour is assigned for each twenty five minute segment of continuing education lecture or exhibit attendance directly related to the food service program such as but not limited to food service plan review training, foodborne illness (FBI), and or inspection training courses.
 2. Only training or lecturing time given by course instructors will be counted toward CEU credit hours. Breaks, meal times, registration times, etc., do not count toward continuing education credit totals.

3. The sponsoring organization is responsible for submitting a completed application for continuing education to the Department of Public Health, Environmental Health Branch for continuing education approval prior to the training event.
 4. At the conclusion of the training event, the sponsoring organization is responsible for submitting a list of participants on forms provided by the Department for record keeping.
 5. **See Forms K-19 and K-20 in Part II Section K of this Manual.**
- (b.) **FDA/ORAU Training:** CEU food service program related training transcripts such as but not limited to food service plan review training, foodborne illness (FBI), and/or inspection training courses will automatically be accepted as CEU credit to EHS standardization certification. CEU's will be issued based upon that equivalent to contact hours issued by the training agency. Attendance certificates or other training agency documentation indicating contact hours awarded will be evaluated by the State Environmental Health Office. See the following list of FDA/ORAU Training Courses in Chart -.09:

Chart -.09

<u>TITLE OF COURSE</u>	<u>CODE</u>	<u>TYPE</u>	<u>CEUs</u>
PREVAILING STATUTES, REGULATIONS, ORDINANCES			
Basic Food Law for State Regulators	FDA35	online	0.1
Basics of Inspection: Beginning an Inspection	FDA38	online	0.2
Basics of Inspection: Issues & Observations	FDA39	online	0.2
Food Code*		online	

Chart -.09 (Continued)

PUBLIC HEALTH PRINCIPLES			
Public Health Principles	FDA36	online	0.2
COMMUNICATION SKILLS			
Active Listening Skills ^G	EHS02	online	
Communication Skills for Regulators*		online	
MICROBIOLOGY			
Food Microbiological Control 1: Overview of Microbiology	MIC01	online	0.1
Food Microbiological Control 2A: Gram-Negative Rods	MIC02	online	0.1
Food Microbiological Control 2B: Gram-Positive Rods & Cocci	MIC03	online	0.2
Food Microbiological Control 3: Foodborne Viruses	MIC04	online	0.1
Food Microbiological Control 4: Foodborne Parasites	MIC05	online	0.2
Food Microbiological Control: Mid-Series Exam	MIC16	online	
Food Microbiological Control 5: Controlling Growth Factors	MIC06	online	0.2
Food Microbiological Control 6: Control by Refrigeration & Freezing	MIC07	online	0.1
Food Microbiological Control 7A: Control by Thermal Processing	MIC08	online	0.2
Food Microbiological Control 7B: Control by Pasteurization	MIC09	online	0.2
Food Microbiological Control 7C: Control by Retorting	MIC10	online	0.2
Food Microbiological Control 8: Technology-Based Food Processes	MIC11	online	0.2
Food Microbiological Control 9: Natural Toxins	MIC12	online	0.2
Food Microbiological Control 10: Aseptic Sampling	MIC13	online	0.2
Food Microbiological Control 11: Good Manufacturing Practices	MIC14	online	0.2
Food Microbiological Control 12: Cleaning & Sanitizing	MIC15	online	0.2

Chart -.09 (Continued)

EPIDEMIOLOGY			
Foodborne Illness Investigations 1: Collecting Surveillance Data	FI01	online	0.2
Foodborne Illness Investigations 2: Beginning the Investigation	FI02	online	0.2
Foodborne Illness Investigations 3: Expanding the Investigation	FI03	online	0.2
Foodborne Illness Investigations 4: Conducting a Food Hazard Review	FI04	online	0.2
Foodborne Illness Investigations 5: Epidemiological Statistics	FI05	online	0.2
Foodborne Illness Investigations 6: Final Report	FI06	online	0.2
HACCP			
Basics of HACCP: Overview of HACCP	FDA16	online	0.1
Basics of HACCP: Prerequisite Programs & Preliminary Steps	FDA17	online	0.1
Basics of HACCP: The Principles	FDA18	online	0.1

- (c.) Institutional Training: Outside educational institution training such as through the University of Georgia Education Extension Service must be related to the food service program. CEU credits from such training courses will be accepted on a case-by-case basis at the discretion of the Department of Public Health, Environmental Health Branch.
- (d.) DPH/Division Public Health/Environmental Health Branch New EHS Training Modules: To qualify to receive eight (8) hours CEU credit, EHS must attend all days of the course scheduled within the agenda.
- (2) **(Subsection (2))**: Records of EHS Credentials: Records of Training, Standardization, and CEU Credit shall be maintained in the office where each EHS works. Copies of such records will be maintained at the discretion of the Division of Public Health/ Environmental Health Office.
- (3) **(Subsection (3))**: Time Frame for Completion of Credentials: All EHS personnel employed prior to December 1st, 2007 that have enforcement responsibilities of Chapter 290-5-14 will have until December 1st, 2009 to complete all credentialing requirements, food safety certification and standardization, in order to continue these responsibilities within the food service program. Food safety related 2 year cycle CEU credits credentialing requirements will begin for all EHS on January 2nd, 2010 and at least eight (8) hours of these CEU credits must be accumulated each two (2) year cycle thereafter.

J. Rule 290-5-14-10 Compliance Procedures. Amended:

(1) **(Subsection (1) (a) through (e))**: Permits:

(a) **(Subsection (1) (a))**: Issuance:

1. Permits issued to food service establishments by local Health Authorities are to be those that are designed, approved, and distributed by the Department of Public Health's; Environmental Health Branch.
2. A local Health Authority wishing to include its county seal on permits must request permission from the Department of Public Health's Environmental Health Branch.
3. **See Forms K-8, K-9 and K-10 in Part-II Section K of this Manual.**

(b) **(Subsection (1) (b))**: Suspension or Revocation:

1. Background:

- (a.) In order for the local Health Authority to carry out its responsibility to protect the public health through compliance with the Chapter, the local Health Authority, who is charged by law to enforce the provisions of the Chapter, has the power and the authority to suspend and/or revoke food service permits that it issues to food service establishments.
- (b.) As a matter of due process of law, a hearing and notice must be afforded to food service permit applicants and permit holders whenever the following occurs:
 1. An application for a food service permit is denied; or
 2. A food service permit that was previously issued by the Health Authority that is to be suspended or revoked.
- (c.) The food service permit applicant or permit holder must be afforded notice in writing specifically stating all reasons why the Health Authority is taking such action.
- (d.) **(Subsection (1) (b) 3.)**: Purpose of Power to Suspend or Revoke Food Service Permits: The local Health Authority's suspending and/or revocation of a food service permit that it has issued is the minimum action that it must take to protect the public health when the following occurs:

1. Assure compliance with the rules and regulations of the Chapter when the continued operation of a food service establishment presents a substantial and imminent health hazard to the public; or
 2. When a food service establishment is in flagrant or continuing violation of the Chapter.
- (e.) **(Subsection (1) (b) (d))**: An order to suspend a food service permit may be issued by a County Board of Health based upon findings of a formal hearing. Also, an order to suspend a food service permit may occur based upon findings during a food service inspection and/or foodborne illness investigation conducted by an EHS representing a County Board of Health.
- (f.) **Suspension of a Food Service Permit during a Food Service Inspection and/or as a result of a Foodborne Illness Investigation**:
1. **Voluntary Compliance by Permit Holder**: The overall aim of the Chapter is to gain continual voluntary compliance with its Rules and Regulations on the part of the permit holder in order to protect the public. Prior to suspension of a food service permit, the local Health Authority will ask the permit holder to voluntarily close his establishment until all violations and/or imminent health hazard to the public have been corrected or abated. Prior to reopening the establishment, the permit holder must request a re-inspection from the Health Authority.
 2. **Involuntary Compliance by a Permit Holder**: Should the permit holder not wish to comply with requirements of the Chapter when the continued operation of a food service establishment presents a substantial and imminent health hazard to the public or when a food service establishment is in flagrant or continuing violation of the Chapter, then the food service permit must be suspended through the issuance of a "NOTICE OF FOOD SERVICE PERMIT SUSPENSION" and the suspended food service permit is to be removed from the establishment. The permit holder is notified of his right to a preliminary hearing, as predetermined on the "NOTICE OF FOOD SERVICE PERMIT SUSPENSION", to show just cause as to why his food service permit should be reinstated. The notice is to replace the suspended food service permit and it is to be posted publicly at or on the establishment's entry door. The "NOTICE OF FOOD SERVICE PERMIT SUSPENSION" will remain until all violations have been corrected and/or an imminent health threat has been abated. Once the notice has been issued by the EHS, then the

food service establishment must immediately cease operations and close to the public. The permit holder may resume his food service establishment operations upon obtaining approval from the Health Authority. **See Form K-12 in Part-II Section K of this Manual.**

(g) **(Subsection (1) (b) 5. through 9.): Preliminary Hearing and Duties of Hearing Official:**

1. This preliminary hearing is not the same as the formal hearing that is held before the county board of health or before a representative of the county board of health, the medical director or his appointee, a hearing officer. The preliminary hearing official is someone of experienced managerial level employee who has not been involved with the inspection and/or investigation of the food service establishment in question. The appointed hearing officer of a formal hearing must be in accordance with in O.C.G.A. § 31-5, Article I.
2. The function of a preliminary hearing is restricted to determine if a suspension should be reinstated, rescinded, or modified, or to continue the suspension with or without conditions. An example of a suspension modification could be to add additional time to correct an out of compliance risk factor, once the 10 days are up as provided within *Rule -.10 Subsection (2) (i) 2.*, as long as an alternative controls can be applied to temporarily reduce, limit and or eliminate the public health threat within a reasonable time limit, and/or until the local Health Authority can determine the violations have been brought back into compliance with the Chapter.
3. The preliminary hearing official is authorized to oversee the proceedings of the preliminary hearing. If the suspension of a food service permit is not rescinded, the preliminary hearing official must afford the permit holder the right to request an evidentiary (or formal) hearing before the Board of Health or its designated representative. If the permit holder does not request an evidentiary (or formal) hearing before the Board of Health, the suspension of the food service permit will remain in effect until all violations have been corrected, as made apparent through an inspection to reinstate the permit.

(2) **(Subsection (2) (a) through (p)): Inspections:**

(a) **(Subsection (2) (a)): Risk Categorization of Food Service Establishments:**

1. In determining the risk type of a food service establishment, the establishment's system of operation must be assessed through the following:
 - (a.) The menu items served;
 - (b.) The food preparation processes performed; and
 - (c.) The previous food safety history in the food service establishment.
2. In determining the risk type of a food service establishment, the risk inherent within the establishment's system of processing potentially hazardous foods (or PHFs/TCSs) must be assessed by the EHS. The EHS must be concerned only with foods that are considered PHFs/TCSs, as defined in *Rule -.01 (gggg)*, and how they are processed. In addition, the EHS must consider how well the food safety of the establishment is being managed by the CFSM. In this regard, item #2(a) 1(c) listed above is automatically addressed by the Chapter through grading and enforcement in *Rule -.10 Subsection (2) (b) 4, 5, 6, 7 and Subsection 7, (c), (i), (j), (n), and (p)*. However, if a risk type I establishment's processing steps are fluctuating back and forth (or yo-yo-effect) from strictly reheating commercially process food to taking in non-ready-to-eat ingredients and cooking it in-house, the establishment would need to be assessed as a risk type II instead of risk type I. Likewise, similar food menu and processing changes can occur within risk type III establishments; therefore, it becomes necessary to periodically reassess all food service establishment menus and processing systems.
3. Risk categorization of food service establishments is not the same as grouping the establishment's menu items into the three processing steps (i.e., no cook process, same day service, and complex). Categorization of food service establishments is primarily based upon whether or not the food process has a cook step and/or it is done under a required HACCP plan in order to determine how many times the establishment is to be inspected routinely per a 12 month period. On the other hand, the menu review process groups foods according to how many times food goes through a complete trip through the food danger zone which is between 41°F and 135°F. The purpose of the food item groupings into the three processing steps is to help the EHS to determine the flow of food through the establishment. By knowing the flow of food through the establishment, the EHS will be enabled to identify the critical control points where hazards must be controlled to make food safe to eat. In this way, the EHS can determine whether the food service establishment is applying control limits at these critical control points along the flow of food through the establishment as required by Chapter 290-5-14.
4. **(Subsection (2) (a) 1.): Risk Type I:**

- (a.) To be a risk type I establishment, there would not be a cooking step in the processing of food. They may reheat precooked foods that have been processed and packaged in a commercially permitted processing plant. The example of such foods is given in the regulations as precooked hotdogs and sausages. Since these food items are ready-to-eat, all that is necessary is to open the package and reheat to any temperature for immediate service or 135° F for hot holding for service. There may also be establishments serving commercially processed deli meats or salads, such as chicken salad. Also, risk type I establishments would not offer any food items that would require disclosure and reminder statements for undercooked or raw PHFs nor would their processing steps require an approved HACCP plan.
 - (b.) If an establishment previously classified as being Risk Type I changes its menu to include animal products, such as raw chicken, it would be reclassified as a risk type II food service establishment. This reclassification would be necessary because it has now changed its system of operation by adding a cook step (cooking PHF) in the flow of food through the establishment. Further, risk type II operations could include a hot holding and reheating processing step - all done in-house. The risk type II processing step creates a higher risk for contaminants to gain entrance into food through the potential for mishandling of food during processing than does that of risk type I. The food is usually handled more in a risk type II establishment (more steps in preparing the food for service). More often, the food comes into the establishment in the raw state with a high bacteria load, requiring cooking or an advisory to be considered ready-to-eat.
 - (c.) Risk type I establishments are only allowed under the Chapter to reheat commercially precooked PHFs/TCSs. Once a food has been reheated and then cooled and reheated for service the next day, the food service establishment falls within risk type II characterization. Because a cooling and an additional reheating process step are added to the flow of food through the establishment – more involved onsite food preparation is occurring within the establishment. As a result, these additional processing steps increase the potential for risk factors being out of control within the establishment, thereby raising the risk type characterization from type I to type II.
5. **(Subsection (2) (a) 2.): Risk Type II:** A risk type II food service establishment would be an establishment that **does have a COOK PROCESSING STEP** within the flow of food through the establishment. It does not have a

processing step that requires a HACCP plan. It may offer raw and/or undercooked PHFs/TCSs requiring a disclosure and a reminder statement. In addition, holding, reheating, cooling and second reheating processing steps could be included within the flow of food through the establishment.

6. **(Subsection (2) (a) 3.): Risk Type III:**

- (a.) **Characteristics:** A risk type III food service establishment most likely will have processing steps similar to a risk type II establishment. However, the significant identifying factor between a risk type II and a risk type III establishment is that a risk type III establishment conducts food processing that is outside the critical limits given in the Chapter to control risk factors to foodborne illness. These food-processing steps can only be carried-out under a required HACCP Plan which indicates such processing steps can be safely conducted on a continual basis.
- (b.) **Inspections:** Since Risk Type III establishments process food as per an approved HACCP Plan, they must be routinely inspected at a minimum of 3 times per 12 month period. One of these inspections will be prearranged when the CFSM of the establishment is present specifically to assess compliance with the required HACCP Plan. During this HACCP Plan assessment, the EHS will review the records and food processing procedures conducted under the HACCP Plan. In order to meet this requirement, this third inspection must be arranged when such food processing is to occur. Because this is an arranged inspection, it cannot be considered as a routine inspection nor as a follow-up inspection or informal inspection. Therefore, the food service inspection report form should not be utilized and the establishment's evaluation will be focused on the compliance with the approved HACCP Plan only. At the conclusion of the third inspection, the EHS will complete a HACCP Plan Verification Worksheet and place the completed form within the establishment inspection file folder at the local Health Department **(See Form K-4 in Section K of Part –II of this Manual).**
- (c.) **Enforcement:** The EHS must assess whether or not the food service establishment complies with its approved HACCP Plan. Should the establishment be found in violation and the person in charge is not implementing corrective action for a HACCP plan provision that is not in compliance with its critical limit as stated within *Rule -.10*

Subsection (2) (i) 1, then the following response will be initiated by the local Health Authority:

1. The food processing will stop until the person in charge has voluntarily taken corrective action to bring the process back into compliance with the approved HACCP Plan. This may be accomplished through a risk control plan (RCP) with follow-up inspection(s); and
 2. Food found to be processed in non-compliance with the approved HACCP Plan will be voluntarily disposed to waste by the person in charge or a withhold from sale order will be issued by the local Health Authority and the food will be subject to condemnation as specified by *Subsection (3) (b) of Rule -.10*; or
 3. Failure of the person in charge and/or permit holder to comply with the direction and/or orders issued by the local Health Authority to correct violations to its satisfaction will result in emergency action (i.e., permit suspension/revocation or injunctive procedures) as specified within *Subsection (2) (i) of Rule -.10*.
7. Monitoring Food Service Establishments for Change in Risk Type Categorization: EHS must become familiar with the individual facility's menu and method of processing food. The EHS that inspects the facility will have the best opportunity to gain sufficient knowledge of their food processing system by asking the appropriate open-ended questions. Re-evaluation of a food service establishment's menu and processing procedures is best done during food service inspections. At a minimum, food service establishment menus and processing steps should be formally examined on a yearly basis.
- (b) **(Subsection (2) (b) 1.): Construction/Preoperational Inspections**: Construction/Preoperational inspections are to verify compliance with Health Authority approved food service plans and specifications, as well as, the requirements of the Chapter. They are not considered routine inspections, follow-up inspections, or informal follow-up inspections. They are to confirm compliance of the installation of food service equipment and physical facilities of the food service establishment with the requirements of the Chapter. They are not for the purpose of confirming compliance of the entire operation of the establishment (food handling, etc.) with the requirements of the Chapter. The Health Authority may or may not announce construction/preoperational inspections to the permit applicant.
- (c) **(Subsection (2) (b) 2.): Initial Inspection**: The initial inspection of the food service establishment is that conducted at the time a food service permit is to be issued to operate the food service establishment. It is to be conducted by the Health Authority after all of the food service establishment's construction and/or

remodeling work have been completed. It may be the first inspection at a change in permit holder and/or one type of food service operation to that of another, (ex. regular food service establishment to mobile food service). The Health Authority usually announces these inspections to the food service applicant.

- (d) **(Subsection (2) (b) 3.): Routine Inspection:** The first routine inspection of a food service establishment is that which occurs after a food service permit is issued to the permit holder. The local Health Authority must conduct this stated routine inspection within sixty (60) days from the date of issuance of a food service permit. Subsequent routine inspections will occur as a result of the first routine inspection and they will be unannounced to the permit holder and/or management of the food service establishment.
- (e) **(Subsection (2) (c) and (n)1. and 2.): Follow-Up Inspections:** Follow-up inspections are conducted by the Health Authority in response to findings of a routine inspection. The Health Authority will complete an inspection of the food service establishment resulting in a new score and grade. Should a food service establishment receive a grade of “C” and/or “U” during a routine inspection, then the Health Authority must conduct a follow-up inspection. However, if a food service establishment receives a grade of “C” during a follow-up inspection with all Risk Factors/Public Health Interventions (RF/PHIs) corrected, as required within *Rule -.10 Subsection (2) (i) 1 and 2*, then at the option of the Health Authority, no additional follow-up inspections will be required by the Chapter.
- (f) **(Subsection (e)):** Mobile Food Service Inspections:
 - 1. **County of Origin:** The local Health Authority in which the base of operation is located is responsible for all food service plan review and initial inspection of both the base of operation and mobile food service units. They are also responsible for food service inspections of the base of operations. Further, it will be the responsibility of the county of origin to notify other local Health Authority’s when the mobile food service establishment operator intends to operate a mobile food service unit within another Health Authority’s jurisdiction.
 - 2. **Local Health Authorities located Outside of the County of Origin:** Whenever a local Health Authority other than the county of origin conducts an inspection of a mobile food service unit operating within their jurisdiction, the local Health authority will contact the county of origin. The purpose of this contact

with the county of origin is to obtain knowledge of violations that occurred at the base of operation during its last inspection. Any violations noted for the base of operation will be noted as violations during the inspection of each mobile food service unit.

- (g) **(Subsection (2) (o))**: Informal Follow-Up Inspections: If a follow-up inspection of a food service establishment cannot be conducted, then at the discretion of the Health Authority, an informal follow-up inspection may be conducted. The purpose of the informal follow-up inspection is to verify the correction of violations that were not corrected during the routine inspection. The main focus is to ensure that RF/PHIs are corrected in a timely manner.
- (h) **Standardization Exercises**: Standardization exercises conducted at food service establishments **are not** construction/preoperational, initial, routine, follow-up, **nor** informal follow-up inspections. Completed food service inspection forms and/or documents associated with standardization exercises **shall not** be posted within food service establishments **nor** shall they be left with management of a food service establishment. Since permit holders are not required by the Chapter to allow use of his food service establishment to conduct standardization exercises and because the standardization exercise is to assess the EHS's inspection proficiency and knowledge of the Chapter and not for purposes of enforcement in regards to the establishment's operation, a fee for the standardization exercise is not to be assessed against the food service establishment.
- (i) **Subsection (2) (q))**: Posting Food Service Inspections:
1. **Base of Operations**: Food service inspection reports shall be publicly posted as per *Rule -.10 Subsection (2) (g)*.
 2. **Mobile Food Service Units**: A copy of the most recent food service inspection report form of the base of operation shall be posted on the mobile food service unit at the location where the consumer makes his order of food. In addition, the most current mobile food service unit inspection report for each county the unit is operating will be posted on the unit at the location where the consumer makes his order of food.
- (j) **(Subsection (2) (m), (n), (o) and (p))**: Relationships between Routine Inspections, Follow-up Inspections, and Same Code Provisions:
1. In determining the relationship between routine inspections and follow-up inspections, one must define a routine inspection, a follow-up inspection, and a same code provision. These relationships are discussed below:
 - (a.) **Same Code Provision**: Code provisions are the preventive measures to protect consumer health by controlling hazards. They are the regulations that are found within each subsection of the Rules that make-up the Chapter. They are linked to each item under each category on the food service inspection form. They are public health interventions and good

retail practices that, if applied to activities and procedures of the food employee, will prevent, eliminate, or reduce hazards to a safe level thereby helping to reduce the presence of foodborne illness. Therefore, a "same code provision" is a public health intervention or good retail practice that is noted as being marked "out" on a food service inspection form on consecutive inspections.

- (b.) Routine Inspection: In regards to “routine inspections”, the current Chapter 290-5-14 does not define a routine inspection; but instead, it describes when it first must occur. This first occurrence of a routine inspection is found within *Rule -.10 Subsection (2) (b) 3.* which states, "The first routine inspection will be conducted within sixty (60) days following the opening of the establishment." After this first routine inspection, it is necessary to determine at what intervals the next routine inspection should occur. *Subsection (2) (b) 4. through 7.* gives clear instructions as to when subsequent routine inspections will be conducted after the first routine inspection. These subsequent routine inspections are scheduled based on the food service establishment’s Risk Categorization as per *subsection (2) (a) "Risk Categorization"*. Since the current Chapter 290-5-14 was adopted from the 2005 FDA Model Food Code, FDA can provide guidance for what is known to be a routine inspection. As defined within the FDA's Recommended National Retail Food Regulatory Program Standards, Voluntary National Retail Food Regulatory Program Standards, "Routine Inspection" means “a full review and evaluation of a food establishment's operations and facilities to assess its compliance with Food Safety Law, at a planned frequency determined by the regulatory authority. This does not include re-inspections and other follow-up or special investigations." The regulatory authority in this case is the Georgia Department of Public Health and its representatives, County Boards of Health. This planned frequency of routine inspections is set within *Rule -.10 Subsection (2) (b).*

- (c.) Follow-Up Inspections: There is one area in *Rule -.10 Subsection (2) (c)* and there are three areas within *subsection (2) (m)* and one in *subsection (2) (n)* that point to the relationship between routine inspections and follow-up inspections. The first is located within *subsection (2) (c)* that states when a follow-up inspection must occur. It states that, “Follow-up

inspections may be conducted at anytime at the discretion of the Health Authority, but must be conducted within ten days after an establishment receives a grade “U”.” The next three areas occur in *subsection (2) (m)* of the Chapter. First, a repeat violation is clearly defined within this subsection and it has provisions for when points are to be deducted on the food service inspection form. It states that, “A repeat violation

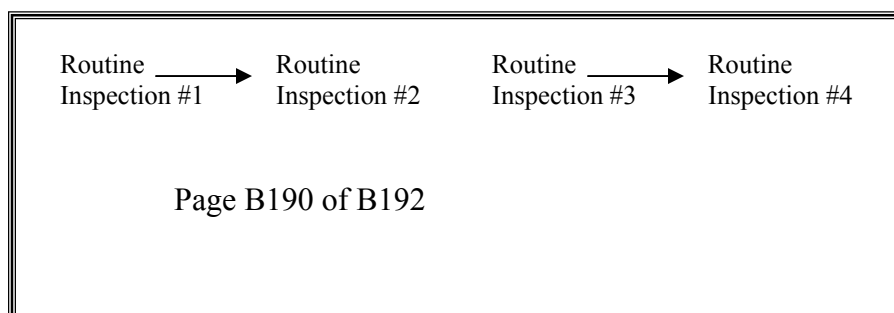
means a violation of the same code provision of this Chapter under an item in a Risk Factors/Public Health Interventions (RF/PHI) or Good Retail Practices (GRP) category as documented in the previous routine inspection.” The second is located within the last sentence in (m) after the wording, “repeat violation”, of which confirms that a follow-up violation is linked to a routine inspection by stating that, “If a repeat violation of the same code provision of this Chapter occurs for three (3) consecutive routine inspections, then the points will be deducted accordingly and the food service establishment...” The third area is found within *Subsection (2) (n) 1 of Rule -.10*. It states, “A follow-up inspection means a complete inspection done as a result of a routine inspection.” In addition and just like with finding guidance with defining “routine inspections”, the FDA’s Recommended National Retail Food Regulatory Program Standards, Voluntary National Retail Food Regulatory Program Standards can be consulted to provide guidance for what is known to be a follow-up inspection. As per the FDA, follow-up inspection means, “an inspection conducted after the initial routine inspection to confirm the correction of a violation(s)”. This is to say that the follow-up inspection is always resulting from findings that occurred during a “routine inspection”.

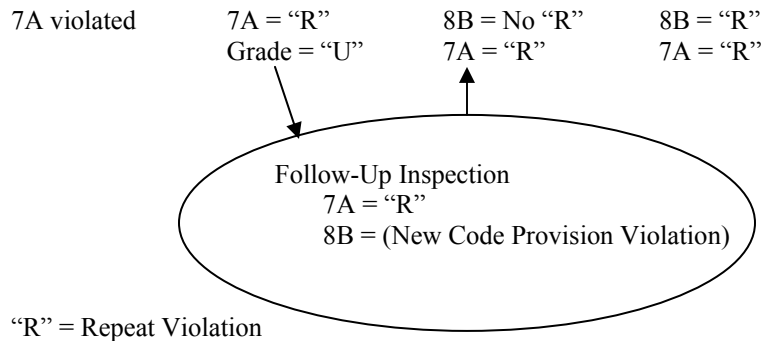
(d.) Enforcement Action:

1. If a code provision of the Chapter is repeated on the next routine inspection and a follow-up inspection is required, then the violation is marked as a repeat violation during all follow-up inspections resulting from this stated routine inspection. Points for repeated violations would be marked until said repeated violations are corrected. However, should a new violation be noted during the follow-up inspection, this newly noted code provision violation would not be marked as a repeat violation during the subsequent following routine inspection. If this stated newly noted code provision violation is still found to be in violation on the second consecutive routine inspection after the follow-up inspection, then it would be marked not only as a repeat violation; but, the associated points with a repeat violation would be taken in calculating the

establishment’s overall score. See the following diagram for clarification of enforcement action:

Diagram (2) (h) 1 (d.)





(k) **(Subsection (2) (p)):** Voluntary Closure of a Food Service Establishment as part of Food Service Inspections:

1. It is a design of the Chapter to encourage active managerial control of food service operations. In doing so, the CFSM and/or person in charge have the responsibility to do ongoing monitoring of activities of employees to ensure compliance with the requirements of the Chapter. It is through their prompt corrective action of out of control risk factors most often contributing to foodborne illness that leads to a successful food safety program within their food service establishment. When the management of a food service operation is not controlling risk factors and general good retail practices - the Health Authority may request that the establishment be voluntarily closed. Should the permit holder, CFSM, and/or person in charge not voluntarily cease operations, the Health Authority must suspend and/or revoke the food service permit as stated within *Rule -.10 Subsection (2) (p) 1 and 2*.
2. **(Subsection (2) (p) 1.):** Grade “U” and Not Earning Grade of “C”: Should a food service establishment earn a grade of “U” and does not earn at least a grade “C” within ten days of earning a grade “U”, the CFSM or person in charge will be requested to voluntarily close the establishment until all violations have been corrected as per requirements of the Chapter. Failure of the food service establishment’s permit holder, CFSM, and/or person in

charge to comply with a voluntary closure request from the Health Authority will require the suspension and/or revocation of the establishment’s food service permit, according to *Rule -.10 Subsection (1) (b)*.

3. **(Subsection (2) (p) 2.):** Grade “U” on Two Consecutive Routine Inspections: Should a food service establishment earn a grade of “U” on two consecutive routine inspections, the CFSM and/or person in charge will be requested to voluntarily close the establishment until all violations have been corrected as per requirements of the Chapter. Failure of the food service establishment’s

permit holder, CFSM, and/or person in charge to comply with a voluntary closure request from the Health Authority will require the suspension and/or revocation of the establishment's food service permit, according to *Rule -10 Subsection (1) (b)*.

4. **(Subsection (1) (e))**: **Reopening a Food Service Establishment**: Once a food service establishment has been voluntarily closed, the permit holder, CFSM, and/or person in charge must request the local Health Authority to conduct a follow-up inspection to determine satisfactory compliance with the Chapter. Such a request for a follow-up inspection by the food service establishment will be required for both voluntary closures and suspension of permits.

(3) **(Subsection (3))**: **Examination, Condemnation and Public Notice**:

- (a) **(Subsection (3) (b) 1.)**: **Probable Cause to With Hold From Sale**: The Health Authority may, upon written notice to the owner or person in charge, place a hold (or Withhold from Sale) order on any food that the Health Authority determines or has probable cause to believe to be:
 1. Unwholesome or otherwise adulterated; or
 2. Misbranded.
- (b) **(Subsection (3) (b) 1.)**: **Posting of Withhold From Sale Order**: The “Withhold From Sale Order” must be attached to food to be held. For example, cases of hamburger being held within a cooler would have a “Withhold From Sale Order” attached to the group of cases. Another example would be an entire cooler of food to be with held from sale. In this case, a “Withhold From Sale Order” describing the food would be attached to the door of the cooler and the cooler would no longer be allowed for utilization by the food service establishment, until resolution of the with hold from sale order.
- (c) **(Subsection (3) (b) 2. and 3.)**: **See Forms K-13, K-14, K-15 and K-16 in Part-II Section K of this Manual.**