

Wyoming Administrative Rules

Agriculture, Dept. of

Food Safety, Wyoming

Chapter 3: Food Care

Effective Date: 12/10/2012 to Current

Rule Type: Current Rules & Regulations

Reference Number: 010.0003.3.12102012



CHAPTER 3

FOOD CARE

Section 1. Compliance with Food Law.

- (a) Food shall be obtained from sources that comply with law.
- (b) Food prepared in a private home may not be used or offered for human consumption in an establishment.
- (c) Packaged food shall be labeled as specified in law, including the Wyoming Food, Drug and Cosmetic Safety Act, W.S. 35-7-110 through 35-7-127, 7 CFR 60 Country of Origin Labeling for Fish and Shellfish, 7 CFR 65 Country of Origin Labeling of Beef, Pork, Lamb, Chicken, Goat Meat, Perishable Agricultural Commodities, Macadamia Nuts, and Peanuts, 21 CFR 101 Food Labeling, 9 CFR 317 Labeling, Marking Devices, and Containers, and 9 CFR 381 Subpart N Labeling and Containers, and as specified under Chapter 3, Sections 11 and 12.
- (d) Fish, other than molluscan shellfish, that are intended for consumption in their raw or undercooked form and allowed as specified in Chapter 3, Section 41(d), may be offered for sale or service if they are obtained from a supplier that freezes the fish as specified under Chapter 3, Section 34; or frozen on the premises as specified under Chapter 3, Section 34, and records are retained as specified under Chapter 3, Section 35.
- (e) Whole-muscle, intact beef steaks that are intended for consumption in an undercooked form without a consumer advisory as specified in Chapter 3, Section 41(c) shall be:
 - (i) Obtained from a processing plant that, upon request by the purchaser, packages the steaks and labels them to indicate that the steaks meet the definition of whole-muscle, intact beef; or
 - (ii) Deemed acceptable by the regulatory authority based on other evidence such as written buyer specifications or invoices, that indicates that the steaks meet the definition of whole-muscle, intact beef, and
 - (iii) If individually cut in a food establishment:
 - (A) Cut from whole-muscle intact beef that is labeled by a processing plant as specified in Chapter 3, Section 1(e)(i) or identified as specified in Chapter 3, Section 1(e) (ii);
 - (I) Prepared so they remain intact; and

(II) If packaged for undercooking in an establishment, labeled as specified in Chapter 3, Section 1 (e) (i) or identified as specified in Chapter 3, Section 1(e) (ii).

(f) Meat and poultry that is not a ready-to-eat food and is in a packaged form when it is offered for sale or otherwise offered for consumption, shall be labeled to include safe handling instructions as specified in law, including 9 CFR 317.2 Labels: definitions; required features, and 9 CFR 381.125 Special handling labeling requirements.

(g) Eggs that have not been specifically treated to destroy all viable *Salmonellae* shall be labeled to include safe handling instructions as specified in law, including 21 CFR 101.17(h).

(h) Food shall be safe, unadulterated, and as specified in Chapter 3, Section 65, honestly presented

Section 2. Food in a Hermetically Sealed Container.

(a) Food in a hermetically sealed container shall be obtained from a processing plant that is regulated by the regulatory authority.

Section 3. Wild Mushrooms.

(a) Except as specified in Chapter 3, Section 3(b), mushroom species picked in the wild shall be obtained from sources where each mushroom is individually inspected and found to be safe by an approved mushroom identification expert.

(b) This section does not apply to:

(i) Cultivated wild mushroom species that are grown, harvested, and processed in an operation that is regulated by the regulatory authority; or

(ii) Wild mushroom species if they are in packaged form and are the product of a processing plant that is regulated by the regulatory authority.

Section 4. Animals Slaughtered and Processed Under Inspection.

(a) All animals except poultry slaughtered and processed for sale shall have antemortem and postmortem inspection and shall meet the requirements of 9 CFR 313, Humane Slaughter of Livestock, 9 CFR 309, Antemortem Inspection, 310 Postmortem Inspection, and 311 Disposal of Diseased or Otherwise Adulterated Carcasses and Parts.

(i) All animals except poultry slaughtered and processed under Inspection shall be conducted in accordance with this Rule by the Wyoming department of agriculture except as specified in 9 CFR 302 Application of Inspection and Other Requirements and 9 CFR 303 Exemptions.

(A) Exempt establishments handling wild game shall:

(I) Conduct operations in accordance with this Rule and 9 CFR 302 Application of Inspection and Other Requirements and 9 CFR 303 Exemptions;

(II) Be required to hold, process, identify, and prepare Wild game separately from all domestic animal carcasses, meat, meat food or meat food by-products;

(III) Labeled and identified as "wild game," or by the species of wild game, "antelope," "deer," "elk," "moose," "bear," etc.;

(IV) Store the heads, horns, capes, feet, skins, or any part thereof in closed containers and shall not create an offensive condition or odor; and

(V) Process wild game meat which is abandoned Pursuant to W.S. 23-3-303.

(b) All poultry slaughtered and processed for sale shall have antemortem and postmortem inspection and shall meet the requirements of 9 CFR 381, Subpart J Antemortem Inspection, Subpart K Postmortem Inspection; Disposition of Carcasses and Parts; except as specified in 9 CFR 381.6 Establishments Requiring Inspection and 9 CFR 381.10 Exemptions.

(c) A voluntary inspection program shall be administered and performed by the Wyoming department of agriculture and meeting the requirements of the USDA for game animals such as exotic animals (reindeer, elk, deer, antelope, water buffalo, or bison) that are "inspected and approved" in accordance with 9 CFR 352 Exotic Animals; Voluntary Inspection or rabbits that are "inspected and certified" in accordance with 9 CFR 354 Voluntary Inspection of Rabbits and Edible Products Thereof shall be performed.

(d) An animal may not be received for sale or service if it is a species of wildlife that is listed in 50 CFR 17 Endangered and Threatened Wildlife and Plants.

(e) Meat or meat food products capable of use as human food shall meet the requirements specified in 9 CFR 325, Transportation.

Section 5. Rendering.

(a) Rendering of carcasses and parts shall be done in accordance with 9 CFR 315 Rendering or Other Disposal of Carcasses and Parts Passed for Cooking.

Section 6. Additives.

(a) As specified in law including the Wyoming Food, Drug and Cosmetic Safety Act, W. S. 35-7-110 through 35-7-127, food may not contain unapproved food additives or additives that exceed amounts specified in 21 CFR 170-180 relating to food additives, generally recognized as safe or prior sanctioned substances that exceed amounts specified in 21 CFR 181-186, substances that exceed amounts specified in 9 CFR Subpart C Section 424.21(b) Food ingredients and sources of radiation, or pesticide residues that exceed provisions specified in 40 CFR 185 Tolerances for Pesticides in Food.

Section 7. Package Integrity.

(a) Food packages shall be in good condition and protect the integrity of the contents so that the food is not exposed to adulteration or potential contaminants.

Section 8. Fluid Milk and Milk Products.

(a) Fluid milk and milk products shall be obtained from sources that comply with Grade A standards as specified in the United States Public Health Service/FDA Grade A Pasteurized Milk Ordinance.

(b) Fluid and dry milk and milk products complying with Grade A standards as specified in United States Public Health Service/FDA Grade A Pasteurized Milk Ordinance shall be obtained pasteurized.

(c) Frozen milk products, such as ice cream, shall be obtained pasteurized as specified in 21 CFR 135 - Frozen Desserts.

(d) Cheese shall be obtained pasteurized unless alternative procedures to pasteurization are specified in the CFR, such as 21 CFR 133 - Cheeses and Related Cheese Products, for curing certain cheese varieties.

(e) Grade A milk and milk for manufacturing purposes shall meet the requirements of the United States Public Health Service/FDA Grade A Pasteurized Milk Ordinance and Grade A Condensed and Dry Milk Ordinance.

(f) Milk produced for processing and manufacturing into products for human consumption shall meet the requirements of the United States Department of

Agriculture/Agriculture Marketing Service Milk for Manufacturing Purposes and its Production and Processing.

(g) Unpasteurized milk and products made from unpasteurized milk (except cheese qualifying under subsection (d)) may not be sold, delivered, served, or provided for human consumption.

(i) This subsection does not apply to individuals who obtain milk from animals owned by them, members of their family, or their employer and who furnish raw milk or products made from raw milk only to members of their family or non-paying guests.

Section 9. Fish.

(a) Fish that are received for sale or service shall be:

- (i) Commercially and legally caught or harvested; or
- (ii) Approved by the regulatory authority.

Section 10. Molluscan Shellfish.

(a) Molluscan shellfish shall be obtained from sources which meet the requirements specified in the U.S. Department of Health and Human Services, Public Health Service, Food and Drug Administration, National Shellfish Sanitation Program Guide for the Control of Molluscan Shellfish.

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

(c) Molluscan shellfish that are recreationally caught may not be received for sale or service.

Section 11. Shucked Shellfish, Packaging and Identification.

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

- (i) Name, address, and certification number of the shucker-packer, or repacker, of the molluscan shellfish; and
- (ii) The "sell by" date for packages with a capacity of less than

one-half (2) gallon (1.87l) or the date shucked for packages with a capacity of one-half (2) gallon (1.87 l) or more.

(b) A package of raw shucked shellfish that does not bear a label or which bears a label which does not contain all the information as specified under Chapter 3, Section 11(a), shall be subject to a hold order, as allowed by law, or seizure and destruction in accordance with 21 CFR Subpart D - Specific Administrative Decisions Regarding Interstate Shipments, Section 1240.60(d).

Section 12. Shellstock Identification.

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

(i) Except as specified under Chapter 3, Section 12(c), on the harvester's tag or label, the following information in the following order:

(A) The harvester's identification number that is assigned by the shellfish control authority;

(B) The date of harvesting;

(C) The most precise identification of the harvest location or aquaculture site that is practicable based on the system of harvest area designations that is in use by the shellfish control authority and including the abbreviation of the name of the state or country in which the shellfish are harvested;

(D) The type and quantity of shellfish; and

(E) The following statement in bold, capitalized type: "This tag is required to be attached until container is empty or retagged and thereafter kept on file for ninety (90) days;

(ii) Except as specified in Chapter 3, Section 12(d), on each dealer's tag or label, the following information in the following order:

(A) The dealer's name and address, and the certification number assigned by the shellfish control authority;

(B) The original shipper's certification number including the abbreviation of the name of the state or country in which the shellfish are harvested;

(C) The same information as specified for a harvester's tag under Chapter 3, Section 12(a)(i)(B)-(D); and

(D) The following statement in bold, capitalized type: "This tag is required to be attached until container is empty and thereafter kept on file for ninety (90) days.

(b) A container of shellstock that does not bear a tag or label or that bears a tag or label that does not contain all the information as specified under Chapter 3, Section 12(a), shall be subject to a hold order pursuant to W.S. 35-7-114, or seizure and destruction in accordance with 21 CFR Subpart D -Specific Administrative Decisions Regarding Interstate Shipments, Section 1240.60(d).

(c) If a place is provided on the harvester's tag or label for a dealer's name, address, and certification number, the dealer's information shall be listed first.

(d) If the harvester's tag or label is designed to accommodate each dealer's identification as specified under Chapter 3, Section 12 (a)(ii)(A) and (B), individual dealer tags or labels need not be provided.

Section 13. Shellstock, Condition.

(a) When received by an establishment, shellstock shall be reasonably free of mud, dead shellfish, and shellfish with broken shells. Dead shellfish or shellstock with badly broken shells shall be discarded.

Section 14. Molluscan Shellfish, Original Container.

(a) Except as specified in Chapter 3, Section 14(b) and (c), molluscan shellfish may not be removed from the container in which they are received other than immediately before sale or preparation for service.

(b) For display purposes, shellstock may be removed from the container in which they are received, displayed on drained ice, or held in a display container, and a quantity specified by a consumer may be removed from the display or display container and provided to the consumer if:

(i) The source of the shellstock on display is identified as specified under Chapter 3, Section 12, and recorded as specified under Chapter 3, Section 15; and

(ii) The shellstock are protected from contamination.

(c) Shucked shellfish may be removed from the container in which they were

received and held in a display container from which individual servings are dispensed upon a consumer's request if:

- (i) The labeling information for the shellfish on display as specified under Chapter 3, Section 11, is retained and correlated to the date when, or dates during which, the shellfish are sold or served; and

- (ii) The shellfish are protected from contamination.

(d) Shucked shellfish may be removed from the container in which they were received and repacked in consumer self service containers where allowed by law if:

- (i) The labeling information for the shellfish is on each consumer self service container as specified in Chapter 3, Section 11 and in Chapter 4, Section 1 (a) and (b) (i)-(v);

- (ii) The labeling information as specified Chapter 3, Section 11 is retained and correlated with the date when, or dates during which, the shellfish are sold or served;

- (iii) The labeling information and dates specified in Chapter 3, Section 14 (d) (ii) are maintained for 90 days; and

- (iv) The shellfish are protected from contamination.

Section 15. Shellstock, Maintaining Identification.

- (a) Except as specified under Chapter 3, Section 15(b)(ii), shellstock tags shall remain attached to the container in which the shellstock are received until the container is empty.

- (b) The identity of the source of shellstock that are sold or served shall be maintained by retaining shellstock tags or labels for ninety (90) calendar days from the dates of harvest:

- (i) Using an approved record keeping system that keeps the tags or labels in chronological order correlated to the date when, or dates during which, the shellstock are sold or served; and

- (ii) If shellstock are removed from their tagged or labeled container:

- (A) Preserves source identification by using a record keeping system as specified under Chapter 3, Section 15(b)(i); and

(B) Ensures that shellstock from one tagged or labeled container are not commingled with shellstock from another container with different certification numbers, different harvest dates, or different growing areas as identified on the tag or label before being ordered by the consumer.

Section 16. Eggs.

(a) Shell eggs shall conform to the requirements of 7 CFR 57 Inspection of Eggs (Egg Products Inspection Act), 7 CFR Part 56 Regulations Governing the Voluntary Grading of Shell Eggs and USDA AMS 56 U.S. Standards, Grades, and Weight Classes for Shell Eggs.

(b) Liquid, frozen, and dry eggs and egg products shall be obtained pasteurized.

Section 17. Packaged and Unpackaged Food; Separation, Packaging, and Segregation.

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

(i) Except as specified in (i) (C) below, separating raw animal foods during storage, preparation, holding, and display from:

(A) Raw ready-to-eat food including other raw animal food such as fish for sushi or molluscan shellfish, or other raw ready-to-eat food such as vegetables; and

(B) Cooked ready-to-eat food;

(C) Frozen, commercially processed and packaged raw animal food may be stored or displayed with or above frozen, commercially processed and packaged, ready-to-eat food.

(ii) Except when combined as ingredients, separating types of raw animal food from each other such as beef, fish, lamb, pork, and poultry during storage, preparation, holding, and display by:

(A) Using separate equipment for each type; or

(B) Arranging each type of food in equipment so that cross contamination of one type with another is prevented; and

(C) Preparing each type of food at different times or in separate

areas;

(iii) Cleaning equipment and utensils as specified under Chapter 7, Section 1, and sanitizing as specified under Chapter 7, Section 17;

(iv) Except as specified in Chapter 3, Section 17(b), storing the food in packages, covered containers, or wrappings;

(v) Cleaning hermetically sealed containers of food of visible soil before opening;

(vi) Protecting food containers that are received packaged together in a case or overwrap from cuts when the case or overwrap is opened;

(vii) Storing damaged, spoiled, or recalled food being held in the food establishment as specified under Chapter 3, Section 22;

(viii) Separating fruits and vegetables, before they are washed as specified under Chapter 3, Section 40, from ready-to-eat food; and

(ix) The use of burlap as a wrapping for meat will not be permitted unless the meat is first wrapped with a food grade paper or cloth which will prevent contamination with lint or other foreign matter.

(b) Chapter 3, Section 17(a) (iv), does not apply to:

(i) Whole, uncut, raw fruits and vegetables and nuts in the shell that require peeling or hulling before consumption;

(ii) Primal cuts, quarters, or sides of raw meat or slab bacon that are hung on clean, sanitized hooks or placed on clean, sanitized racks; smoked or cured sausages that are placed on clean, sanitized racks;

(iii) Food being cooled as specified under Chapter 3, Section 32(b) (ii);
or

(iv) Shellstock.

Section 18. Preventing Contamination when Tasting.

(a) A food employee may not use a utensil more than once to taste food that is to be sold or served.

Section 19. Temperature Requirements.

(a) Except as specified in Chapter 3, Section 19(b), refrigerated, potentially hazardous food shall be at a temperature of 41°F (5°C) or below when received.

(b) If a temperature other than 41°F (5°C) for a potentially hazardous food is specified in law governing its distribution, such as laws governing milk and molluscan shellfish, the food may be received at the specified temperature.

(c) Raw eggs shall be received in refrigerated equipment that maintains an ambient air temperature of 45°F (7°C) or less.

(d) Potentially hazardous food that is cooked to a temperature and for a time specified under Chapter 3, Section 41 through 43, and received hot shall be at a temperature of 135°F (57.2°C) or above.

(e) A food that is labeled frozen and shipped frozen by a processing plant shall be received frozen.

(f) Upon receipt, potentially hazardous food shall be free of evidence of previous temperature abuse.

Section 20. Protection from Unapproved Additives.

(a) Food shall be protected from contamination that may result from the addition of, as specified in Chapter 3, Section 6:

- (i) Unsafe or unapproved food or color additives; and
- (ii) Unsafe or unapproved levels of approved food and color additives.

(b) A food employee may not:

(i) Apply sulfiting agents to fresh fruits and vegetables intended for raw consumption or to a food considered to be a good source of vitamin B₁; or

(ii) Serve or sell food specified under Chapter 3, Section 20(b)(i), that is treated with sulfiting agents before receipt by the establishment, except that grapes need not meet this subparagraph.

Section 21. Food Contact with Equipment and Utensils.

(a) Food shall only contact surfaces of equipment and utensils that are cleaned as specified under Chapter 7, Section 1, of this Rule and sanitized as specified under Chapter 7, Section 15, of this Rule or single-service and single-use articles.

Section 22. Segregation and Location of Distressed Merchandise.

(a) Products that are held by the license holder for credit, redemption, or return to the distributor, such as damaged, spoiled, or recalled products, shall be segregated and held in designated areas that are separated from food, equipment, utensils, linens, and single-service and single-use articles.

Section 23. Miscellaneous Sources of Contamination.

(a) Food shall be protected from contamination that may result from a factor or source not specified under Chapter 3, Sections 38 and 55.

Section 24. Linens and Napkins, Use Limitation.

(a) Linens and napkins may not be used in contact with food unless they are used to line a container for the service of foods and the linens and napkins are replaced each time the container is refilled for a new consumer.

Section 25. Food Storage, Allowable Areas.

(a) Except as specified in Chapter 3, Section 25(b) and (c), food shall be protected from contamination by storing the food:

- (i) In a clean, dry location;
- (ii) Where it is not exposed to splash, dust, or other contamination; and
- (iii) At least six (6) inches (15 cm) above the floor.

(b) Food in packages and working containers may be stored less than six (6) inches (15 cm) above the floor on case lot handling equipment as specified under Chapter 6, Section 43.

(c) Pressurized beverage containers, cased food in waterproof containers such as bottles or cans, and milk containers in plastic crates may be stored on a floor that is clean and not exposed to floor moisture.

Section 26. Food Storage, Prohibited Areas.

- (a) Food may not be stored:
 - (i) In locker rooms;
 - (ii) In toilet rooms;
 - (iii) In dressing rooms;
 - (iv) In garbage rooms;
 - (v) In mechanical rooms;
 - (vi) Under sewer lines that are not shielded to intercept potential drips;
 - (vii) Under leaking water lines, including leaking automatic fire sprinkler heads, or under lines on which water has condensed;
 - (viii) Under open stairwells; or
 - (ix) Under other sources of contamination.

Section 27. Storage or Display of Food in Contact with Water or Ice.

- (a) Packaged food shall not be stored in direct contact with ice or water if the food is subject to the entry of water because of the nature of its packaging, wrapping, or container or it's positioning in the ice or water.
- (b) Except as specified in Chapter 3, Section 27(c) and (d), unpackaged food may not be stored in direct contact with undrained ice.
- (c) Whole, raw fruits or vegetables; cut, raw vegetables such as celery or carrot sticks or cut potatoes; and tofu may be immersed in ice or water.
- (d) Raw chicken and raw fish that are received immersed in ice in shipping containers may remain in that condition while in storage awaiting preparation, display, service, or sale.

Section 28. Food Storage Containers, Identified with Common Name of Food.

- (a) Working containers holding food or food ingredients that are removed from their original packages for use in the establishment, such as cooking oils, flour,

herbs, potato flakes, salt, spices, and sugar, shall be identified with the common name of the food except that containers holding food that can be readily and unmistakably recognized such as dry pasta need not be identified.

Section 29. Vended Potentially Hazardous Food, Original Container.

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

Section 30. Cooling, Heating, and Holding Capacities.

(a) Equipment for cooling and heating food, and holding cold and hot food, shall be sufficient in number and capacity to provide food temperatures as specified under Chapter 3, Sections 31, 41, 42, 43, 46, and 51.

Section 31. Cooling Times and Temperatures.

(a) Cooked potentially hazardous food shall be cooled:

- (i) Within two (2) hours, from 135°F (60°C) to 70°F (21°C); and
- (ii) Within four (4) hours from 70 (21°C) to 41°F (5°C) or less.

(b) Potentially hazardous food shall be cooled within four (4) hours to 41°F (5°C) or less if prepared from ingredients at ambient temperature, such as reconstituted foods and canned tuna.

(c) Except as specified in Chapter 3, Section 31(d), a potentially hazardous food received in compliance with laws allowing a temperature above 41°F (5°C) during shipment from the supplier as specified in Chapter 3, Section 19(b), shall be cooled within four (4) hours to 41°F (5°C) or less

(d) Raw eggs shall be received as specified under Chapter 3, Section 19(c) and immediately placed in refrigerated equipment that is capable of maintaining food at 41°F (5°C) or less.

Section 32. Cooling Methods.

(a) Cooling shall be accomplished in accordance with the time and temperature criteria specified under Chapter 3, Section 31, by using one or more of the following methods based on the type of food being cooled:

- (i) Placing the food in shallow pans;
- (ii) Separating the food into smaller or thinner portions;
- (iii) Using rapid cooling equipment;
- (iv) Stirring the food in a container placed in an ice water bath;
- (v) Using containers that facilitate heat transfer;
- (vi) Adding ice as an ingredient; or
- (vii) Other effective methods.

(b) When placed in cooling or cold holding equipment, food containers in which food is being cooled shall be:

- (i) Arranged in the equipment to provide maximum heat transfer through the container walls; and
- (ii) Loosely covered, or uncovered if protected from overhead contamination as specified under Chapter 3, Section 25 (a)(ii), during the cooling period to facilitate heat transfer from the surface of the food.

Section 33. Frozen Food Storage.

- (a) Stored frozen foods shall be maintained frozen.

Section 34. Parasite Destruction in Fish.

(a) Except as specified in Chapter 3, Section 34 (b), before service or sale in ready-to-eat form, raw, raw-marinated, partially cooked, or marinated-partially cooked fish other than molluscan shellfish shall be frozen throughout to a temperature of:

- (i) -4°F (-20°C) or below for a minimum of one hundred sixty eight (168) hours (7 days) in a freezer; or
- (ii) -31°F (-35°C) or below until solid and stored at -31°F (-35°C) or below for a minimum of fifteen (15) hours or;
- (iii) -31°F (-35°C) or below until solid and stored at -4°F (-20°C) or below for a minimum of 24 hours.

(b) Chapter 3, Section 34 (a) does not apply to:

(i) Molluscan shellfish;

(ii) Tuna of the species *Thunnus alalunga*, *Thunnus albacares* (Yellowfin tuna), *Thunnus atlanticus*, *Thunnus maccoyii* (Bluefin tuna, Southern), *Thunnus obesus* (Bigeye tuna), or *Thunnus thynnus* (Bluefin tuna, Northern); or

(iii) Aquacultured fish, such as salmon, that:

(A) If raised in open water, are raised in net-pens, or

(B) Are raised in land-based operations such as ponds or tanks,
and

(C) Are fed formulated feed, such as pellets, that contains no live parasites infective to the aquacultured fish.

(D) Fish eggs that have been removed from the skein and rinsed.

Section 35. Records, Creation and Retention for Freezing Fish.

(a) Except as specified in Chapter 3, Section 35(b), if raw-marinated, partially cooked, or marinated-partially cooked fish are served or sold in ready-to-eat form, the person in charge shall record the freezing temperature and time to which the fish are subjected and shall retain the records at the establishment for ninety (90) calendar days beyond the time of service or sale of the fish.

(b) If the fish are frozen by a supplier, a written agreement or statement from the supplier stipulating that the fish supplied are frozen to a temperature and for a time specified under Chapter 3, Section 34, may substitute for the records specified under Chapter 3, Section 35(a).

(c) If raw, raw-marinated, partially cooked, or marinated-partially cooked fish are served or sold in ready-to-eat form, and the fish are raised and fed as specified in Chapter 3, Section 34 (b) (i), a written agreement or statement from the supplier or aquaculturist stipulating that the fish were raised and fed as specified in Chapter 3, Section 34 (b) (i) shall be obtained by the person in charge and retained in the records of the food establishment for 90 calendar days beyond the time of service or sale of the fish.

Section 36. Ice.

(a) Ice for use as a food or a cooling medium shall be made from drinking water.

Section 37. Ice Used as Exterior Coolant, Prohibited as Ingredient.

(a) After use as a medium for cooling the exterior surfaces of food such as melons or fish, packaged foods such as canned beverages, or cooling coils and tubes of equipment, ice may not be used as food.

Section 38. Food Preparation Preventing Contamination.

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

Section 39. Preventing Contamination from Hands.

(a) Food employees shall wash their hands as specified under Chapter 5.

(b) Except when washing fruits and vegetables as specified under Chapter 3, Section 40, or when otherwise approved, food employees shall minimize contact with exposed, ready-to-eat food with their bare hands through the use of suitable utensils such as deli tissue, spatulas, tongs, single-use gloves or dispensing equipment.

(c) Food employees shall minimize bare hand and arm contact with exposed food that is not in a ready-to-eat form.

Section 40. Washing Fruits and Vegetables.

(a) Raw fruits and vegetables shall be thoroughly washed in water to remove soil and other contaminants before being cut, combined with other ingredients, cooked, served, or offered for human consumption in ready-to-eat form except as specified in Chapter 3, Section 40(b), and except that whole, raw fruits and vegetables that are intended for washing by the consumer before consumption need not be washed before they are sold.

(b) Chemicals used to wash or peel raw, whole fruits and vegetables shall meet the requirements specified in 21 CFR 173.315 - Chemicals used in washing or to assist in the lye peeling of fruits and vegetables.

(c) Ozone as an antimicrobial agent used in the treatment, storage, and processing of fruits and vegetables in an establishment or processing plant shall meet the requirements specified in 21 CFR 173.368 Ozone.

Section 41. Raw Animal Foods, Heating Times and Temperatures.

(a) Except as specified under Chapter 3, Section 41(b) and (c), raw animal foods, such as eggs, fish, meat, poultry and foods containing these raw animal foods, shall be cooked to heat all parts of the food to a temperature and for a time that complies with one of the following methods based on the food that is being cooked:

(i) 145°F (63°C) or above for 15 seconds for:

(A) Raw eggs that are broken and prepared in response to a consumer's order and for immediate service; and

(B) Except as specified under Chapter 3, Section 41(a)(ii) and (iii) and (b), fish and meat including game animals commercially raised for food as specified under Chapter 3, Section 4(a) and (b), and game animals under a voluntary inspection program as specified under Chapter 3, Section 4(c);

(ii) 155°F (68°C) for 15 seconds or the temperature specified in the following chart that corresponds to the holding time for ratites, mechanically tenderized, and injected meats; the following if they are comminuted: fish, meat, game animals commercially raised for food as specified under Chapter 3, Section 4(a) and (b); game animals under a voluntary inspection program as specified under Chapter 3, Section 4(c); and raw eggs that are not prepared as specified under Chapter 3, Section 41(a)(i)(A):

(iii)

Minimum	
Temperature °F (°C)	Time
145 (63)	3 minutes
150 (66)	1 minute
158 (70)	<1 second (instantaneous)

or

(iv) 165°F (74°C) or above for 15 seconds for poultry, wild game animals as specified under Chapter 3, Section 4(b) and (c), stuffed fish, stuffed meat, stuffed pasta, stuffed poultry, stuffed ratites or stuffing containing fish, meat, poultry or ratites.

(b) Whole meat roasts, including beef, corned beef, lamb, pork, and cured pork roasts such as ham, shall be cooked:

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

Oven Type	Oven Temperature Based on Roast Weight	
	Less than 10 lbs (4.5 kg)	10 lbs (4.5 kg)
Still Dry	350°F (177°C) or more	250°F (121°C) or more
Convection	325°F (163°C) or more	250°F (121°C) or more
High Humidity¹	250°F (121°C) or more	250°F (121°C) or more
¹ Relative humidity greater than 90% for at least 1 hour as measured in the cooking chamber or exit of the oven; or in a moisture-impermeable bag that provides 100% humidity		

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

Temperature °F (°C)	Time ¹ in Minutes	Temperature °F (°C)	Time ¹ in Seconds
130 (54.4)	112	146 (63.3)	169
131 (55.0)	89	147 (63.9)	134
132 (55.6)	71	148 (64.4)	107
133 (56.1)	56	149 (65.0)	85
134 (56.7)	45	150 (65.6)	67
135 (57.2)	36	151 (66.1)	54
136 (57.8)	28	152 (66.7)	43
137 (58.4)	23	153 (67.2)	34
138 (58.9)	18	154 (67.8)	27
139 (59.5)	15	155 (68.3)	22
140 (60.0)	12	156 (68.9)	17
141 (60.6)	9	157 (69.4)	14
142 (61.1)	8	158 (70.0)	0
143 (61.7)	6	159 (70.6)	0
144 (62.2)	5	160 (71.1)	0
145 (62.8)	4		
¹ Holding time may include postoven heat rise.			

(c) An undercooked whole-muscle, intact beef steak may be served or offered for sale in a ready-to-eat form if:

(i) The establishment serves a population that is not a highly susceptible population;

(ii) The steak is labeled to indicate that it meets the definition of "whole-muscle, intact beef" as specified under Chapter 3, Section 1(e); and

(iii) The steak is cooked on both the top and bottom to a surface temperature of 145°F (63°C) or above and a cooked color change is achieved on all external surfaces.

(d) A raw animal food such as raw egg, raw fish, raw-marinated fish, raw molluscan shellfish, or steak tartare; or a partially cooked food such as lightly cooked fish, soft cooked eggs, or rare meat other than whole-muscle, intact beef steaks as specified in Chapter 3, Section 41(c), may be served or offered for sale in a ready-to-eat form if:

(i) The food establishment serves a population that is not a highly susceptible population;

(ii) The food, if served or offered for service by consumer selection from a children's menu, shall not offer raw or undercooked comminuted meat; and

(iii) The food is prepared in response to a consumer's order and for immediate service; or

(iv) The regulatory authority grants a variance from Chapter 3, Section 41 (a) or (b), as specified in Chapter 1, Section 5(a), based on a HACCP plan that:

(A) Is submitted by the license holder and approved a specified under Chapter 1, Section 6;

(B) Documents scientific data or other information showing that a lesser time and temperature regimen results in a safe food; and

(C) Verifies that equipment and procedures for food preparation and training of food employees at the establishment meet the conditions of the variance.

Section 42. Raw Animal Food, Microwave Cooking.

(a) Raw animal food cooked in a microwave oven shall be:

- (i) Rotated or stirred throughout or midway during cooking to compensate for uneven distribution of heat;
- (ii) Covered to retain surface moisture;
- (iii) Heated to a temperature of at least 165°F (74°C) in all parts of the food; and
- (iv) Allowed to stand covered for two (2) minutes after cooking to obtain temperature equilibrium.

Section 43. Plant Food Cooking for Hot Holding.

- (a) Fruits and vegetables that are cooked for hot holding shall be cooked to a temperature of 135°F (57.2°F).

Section 44. Non-Continuous Cooking of Raw Animal Foods.

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

- (i) Subject to an initial heating process that is no longer than sixty (60) minutes in duration;

- (ii) Immediately after initial heating, cooled according to the time and temperature parameters specified for cooked potentially hazardous food (time/temperature control for safety food) under Chapter 3, Section 31(a);

- (iii) After cooling, held frozen or cold, as specified for potentially hazardous food (time/temperature control for safety food) under Chapter 3, Section 51 (a)(ii);

- (iv) Prior to sale or service, cooked using a process that heats all parts of the food to a temperature of at least 165°F (74°C) for 15 seconds;

- (v) Cooled according to the time and temperature parameters specified for cooked potentially hazardous food (time/temperature control for safety food) under Chapter 3, Section 31(a) if not either hot held as specified under Chapter 3, Section 51 (a)(i), served immediately, or held using time as a public health control as specified under Chapter 3, Section 62 after complete cooking; and

- (vi) Prepared and stored according to written procedures that:

- (A) Have prior approval from the regulatory authority;
- (B) Are maintained in the food establishment and are available to the regulatory authority upon request;
- (C) Describe how the requirements specified under Chapter 3, Section 45 (a) (i)-(v) are to be monitored and documented by the permit holder and the corrective actions to be taken if the requirements are not met;
- (D) Describe how the foods, after initial heating but prior to complete cooking, are to be marked or otherwise identified as foods that must be cooked as specified under Chapter 3, Section 45 (a) (iv) prior to being offered for sale or service; and
- (E) Describe how the foods, after initial heating but prior to cooking as specified under Chapter 3, Section 45 (a)(iv), are to be separated from ready-to-eat foods as specified under Chapter 3, Section 17.

Section 45. Pasteurized Eggs, Substitute for Raw Eggs for Certain Recipes.

- (a) Pasteurized eggs or egg products shall be substituted for raw eggs in the preparation of foods such as caesar salad, hollandaise or Bearnaise sauce, mayonnaise, meringue, eggnog, ice cream, and egg-fortified beverages that are not:
 - (i) Cooked as specified under Chapter 3, Section 41(a)(i) or (ii); or
 - (ii) Included in Chapter 3, Section 41(d).

Section 46. Reheating for Hot Holding.

- (a) Except as specified under Chapter 3, Section 46 (b), (c), and (e), potentially hazardous food that is cooked, cooled, and reheated for hot holding shall be reheated so that all parts of the food reach a temperature of at least 165°F (74°C) for fifteen (15) seconds.
- (b) Except as specified under Chapter 3, Section 46 (c), potentially hazardous food reheated in a microwave oven for hot holding shall be reheated so that all parts of the food reach a temperature of at least 165°F (74°C) and the food is rotated or stirred, covered, and allowed to stand covered for two (2) minutes after reheating.
- (c) Ready-to-eat food taken from a commercially processed, hermetically sealed container, or from an intact package from a processing plant that is inspected by the regulatory authority shall be heated to a temperature of at least 135°F (57.2°F) for hot

holding.

(d) Reheating for hot holding as specified in (a)-(c) of this Section shall be done rapidly and the time the food is between the temperature specified under Chapter 3, Section 51 (a)(ii), and as specified in (a)-(c) of this Section may not exceed two (2) hours.

(e) Remaining unsliced portions of meat roasts that are cooked as specified under Chapter 3, Section 41(b), may be reheated for hot holding using the oven parameters and minimum time and temperature conditions specified under Chapter 3, Section 41(b).

Section 47. Reheating for Immediate Service.

(a) Cooked and refrigerated food that is prepared for immediate service in response to an individual consumer order, such as a roast beef sandwich au jus, may be served at any temperature.

Section 48. Food Temperature Measuring Devices.

(a) Food temperature measuring devices shall be provided and readily accessible for use in ensuring attainment and maintenance of food temperatures as specified under Chapter 3.

(b) A temperature measuring device with a suitable small-diameter probe that is designed to measure the temperature of thin masses shall be provided and readily accessible to accurately measure the temperature in thin foods such as meat patties and fish filets.

Section 49. Thawing Potentially Hazardous Foods.

(a) Except as specified in Chapter 3, Section 49 (a)(iv), potentially hazardous food shall be thawed:

(i) Under refrigeration that maintains the food temperature at 41°F (5°C) or less; or

(ii) Completely submerged under running water:

(A) At a water temperature of 70°F (21°C) or below;

(B) With sufficient water velocity to agitate and float off loose particles and overflow; and

(C) For a period of time that does not allow thawed portions of ready-to-eat food to rise above 41°F (5°C); or

(D) For a period of time that does not allow thawed portions of a raw animal food requiring cooking as specified under Chapter 3, Section 41(a) or (b), to be above 41°F (5°C) for more than four (4) hours including:

(I) The time the food is exposed to the running water and the time needed for preparation for cooking; or

(II) The time it takes under refrigeration to lower the food temperature to 41°F (5°C).

(iii) As part of a cooking process if the food that is frozen is:

(A) Cooked as specified under Chapter 3, Section 41(a) or (b), or Chapter 3, Section 42; or

(B) Thawed in a microwave oven and immediately transferred to conventional cooking equipment, with no interruption in the process; or

(iv) Using any procedure if a portion of frozen ready-to-eat food is thawed and prepared for immediate service in response to an individual consumer's order.

Section 50. Potentially Hazardous Food, Slacking.

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

(i) Under refrigeration that maintains the food temperature at 41°F (5°C) or less; or

(ii) At any temperature if the food remains frozen.

Section 51. Potentially Hazardous Food, Hot and Cold Holding.

(a) Except during preparation, cooking, or cooling, or when time is used as the public health control as specified under Chapter 3, Section 62, potentially hazardous food shall be maintained:

(i) At 135°F (57.2°C) or above, except that roasts cooked to a temperature and for a time specified under Chapter 3, Section 41(b), or reheated as specified in Chapter 3, Section 45(e), may be held at a temperature of 130°F (54°C) or

above; or

- (ii) At 41°F (5°C) or less.

(b) Eggs that have not been treated to destroy all viable *Salmonellae* shall be stored in refrigerated equipment that maintains an ambient air temperature of or less.

Section 52. Condiments, Protection.

(a) Condiments shall be protected from contamination by being kept in dispensers that are designed to provide protection, protected food displays provided with the proper utensils, original containers designed for dispensing, or individual packages or portions.

(b) Condiments at a vending machine location shall be in packages or provided in dispensers that are filled at an approved location, such as the establishment that provides food to the vending machine location, a processing plant, or a properly equipped facility that is located on the site of the vending machine location.

Section 53. Utensils, Consumer Self-Service.

(a) A food dispensing utensil shall be available for each container displayed at a consumer self-service unit such as a buffet or salad bar.

Section 54. Using Clean Tableware for Second Portions and Refills.

(a) Except for refilling a consumer's drinking cup or container without contact between the pouring utensil and the lip-contact area of the drinking cup or container, food employees may not use tableware, including single-service articles, soiled by the consumer, to provide second portions or refills.

(b) Except as specified in Chapter 3, Section 54 (c), self-service consumers may not be allowed to use soiled tableware, including single-service articles, to obtain additional food from the display and serving equipment.

(c) Drinking cups and containers may be reused by self-service consumers if refilling is a contamination-free process as specified under Chapter 6, Section 30 (a)(i)(ii), and (iv).

Section 55. In-Use Utensils, Between-Use Storage.

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

(i) Except as specified under Chapter 3, Section 55 (a) (ii), in the food with their handles above the top of the food and the container;

(ii) In food that is not potentially hazardous with their handles above the top of the food within containers or equipment that can be closed, such as bins of sugar, flour, or cinnamon;

(iii) On a clean portion of the food preparation table or cooking equipment only if the in-use utensil and the food-contact surface of the food preparation table or cooking equipment is cleaned and sanitized at a frequency specified under Chapter 7, Sections 1 and 16;

(iv) In running water of sufficient velocity to flush particulates to the drain, if used with moist food such as ice cream or mashed potatoes;

(v) In a clean, protected location if the utensils, such as ice scoops, are used only with a food that is not potentially hazardous; or

(vi) In a container of water if the water is maintained at a temperature of at least 135°F (57.2°C) and the container is cleaned at a frequency specified under Chapter 7, Section 1(d) (vii).

Section 56. Refilling Returnables.

(a) A take-home food container returned to a food establishment may not be refilled at an establishment with a potentially hazardous food.

(b) Except as specified in Chapter 3, Section 56 (c), a take-home food container refilled with food that is not potentially hazardous shall be cleaned as specified under Chapter 7, Section 37(b).

(c) Personal take-out beverage containers, such as thermally insulated bottles, nonspill coffee cups and promotional beverage glasses, may be refilled by employees or the consumer if refilling is a contamination-free process as specified under Chapter 6, Section 30(a)(i), (ii) and (iv).

Section 57. Returned Food, Re-Service or Sale.

(a) Except as specified Chapter 3, Section 57 (b), after being served or sold and in the possession of a consumer, food that is unused or returned by the consumer may

not be offered as food for human consumption.

(b) Except as specified under Chapter 3, Section 69, a container of food that is not potentially hazardous may be transferred from one consumer to another if:

(i) The food is dispensed so that it is protected from contamination and the container is closed between uses, such as a narrow-neck bottle containing catsup, steak sauce, or wine; or

(ii) The food, such as crackers, salt, or pepper, is in an unopened original package and is maintained in sound condition.

Section 58. Food Display Protection.

(a) Except for nuts in the shell and whole, raw fruits and vegetables that are intended for hulling, peeling, or washing by the consumer before consumption, food on display shall be protected from contamination by the use of packaging; counter, service line, or salad bar food guards, display cases; or other effective means.

Section 59. Consumer Self-Service Operations.

(a) Raw, unpackaged animal food, such as beef, lamb, pork, poultry, and fish may not be offered for consumer self-service. This paragraph does not apply to:

(i) Consumer self-service of ready-to-eat foods at buffets or salad bars that serve foods such as sushi or raw shellfish;

(ii) Ready-to-cook individual portions for immediate cooking and consumption on the premises such as consumer-cooked meats, consumer-selected ingredients for Mongolian barbecue; or

(iii) Raw, frozen, shell-on shrimp or lobster.

(b) Consumer self-service operations for ready-to-eat foods shall provide suitable utensils or effective dispensing methods that protect the food from contamination.

(c) Consumer self-service operations such as buffets and salad bars shall be monitored by food employees trained in safe operating procedures.

Section 60. Ready-to-Eat, Potentially Hazardous Food, Date Marking.

(a) Except when packaging food using a reduced oxygen packaging method as specified in Chapter 3, Section 64, and except as specified in Chapter 3, Section 60 (d), refrigerated, ready-to-eat, potentially hazardous food prepared and held in an establishment for more than twenty four (24) hours shall be clearly marked to indicate the date or day by which the food shall be consumed on the premises, sold, or discarded, based on the temperature specified in Chapter 3, Section 51 (a) (ii) and the times noted below. The day of preparation shall be counted as Day 1.

(i) A maximum of seven (7) days at 41°F (5°C) or less

(b) Except as specified in Chapter 3, Section 60 (d) and (e), if the food is held for more than twenty four (24) hours refrigerated, ready-to-eat, potentially hazardous food prepared and packaged by a processing plant shall be clearly marked, at the time the original container is opened in an establishment to indicate the date or day by which the food shall be consumed on the premises, sold, or discarded, based on the temperature and time combinations specified in Chapter 3, Section 60 (a); and

(i) The day the original container is opened in the establishment shall be counted as Day 1; and

(ii) The day or date marked by the establishment may not exceed a manufacturer's use-by date if the manufacturer determined the use-by date based on food safety.

(c) A refrigerated, ready-to-eat, potentially hazardous food (time/temperature control for safety food) ingredient or a portion of a refrigerated, ready-to-eat, potentially hazardous food (time/temperature control for safety food) that is subsequently combined with additional ingredients or portions of food shall retain the date marking of the earliest-prepared or first-prepared ingredient.

(d) A date marking system that meets the criteria stated in Chapter 3, Section 60 (a) and (b) may include:

(i) Using a method approved by the regulatory authority for refrigerated, ready-to-eat potentially hazardous food that is frequently rewrapped, such as lunchmeat or a roast, or for which date marking is impractical, such as soft serve mix or milk in a dispensing machine;

(ii) Marking the date or day of preparation, with a procedure to discard the food or on before the last date or day by which the food must be consumed on the premises, sold, or discarded as specified in (a) of this Section;

(iii) Marking the date or day the original container is opened in a food establishment, with a procedure to discard the food on or before the last date or day by which the food must be consumed on the premises, sold, or discarded as specified

in (b) of this Section; or

(iv) Using calendar dates, days of the week, color-coded marks, or other effective marking methods, provided that the marking system is disclosed to the regulatory authority upon request.

(e) Chapter 3, Section 60 (a) and (b), do not apply to individual meal portions served or repackaged for sale from a bulk container upon a consumer's request.

(f) Chapter 3, Section 60 (b) does not apply to the following foods prepared and packaged by a food processing plant inspected by a regulatory authority:

(i) Deli salads, such as ham salad, seafood salad, chicken salad, egg salad, pasta salad, potato salad, and macaroni salad, manufactured in accordance with 21 CFR 110 Current good manufacturing practice in manufacturing, packing, or holding human food;

(ii) Hard cheeses containing not more than 39% moisture as defined in 21 CFR 133 Cheeses and related cheese products, such as cheddar, gruyere, parmesan and reggiano, and romano;

(iii) Semi-soft cheeses containing more than 39% moisture, but not more than 50% moisture, as defined in 21 CFR 133 Cheeses and related cheese products, such as blue, edam, gorgonzola, gouda, and monterey jack;

(iv) Cultured dairy products as defined in 21 CFR 131 Milk and cream, such as yogurt, sour cream, and buttermilk;

(v) Preserved fish products, such as pickled herring and dried or salted cod, and other acidified fish products defined in 21 CFR 114 Acidified foods;

(vi) Shelf stable, dry fermented sausages, such as pepperoni and Genoa salami that are not labeled "Keep Refrigerated" as specified in 9 CFR 317 Labeling, marking devices, and containers, and which retain the original casing on the product; and

(vii) Shelf stable salt-cured products such as prosciutto and Parma (ham) that are not labeled "Keep Refrigerated" as specified in 9 CFR 317 Labeling, marking devices, and containers.

Section 61. Ready-to-Eat, Potentially Hazardous Food, Disposition.

(a) A food specified under Chapter 3, Section 60 (a) or (b), shall be discarded if it:

- (i) Is in a container or package that does not bear a date or day; or
- (ii) Is appropriately marked with a date or day that exceeds a temperature and time combination as specified in Chapter 3, Section 51.

(b) Refrigerated, ready-to-eat, potentially hazardous food prepared in an establishment or processing plant and dispensed through a vending machine with an automatic shut-off control shall be discarded if it exceeds a temperature and time combination as specified in Chapter 3, Section 51.

Section 62. Time as a Public Health Control.

(a) Except as specified in Chapter 3, Section 62 (d), if time only, is used as the public health control for a working supply of potentially hazardous food before cooking, or for ready-to-eat potentially hazardous food that is displayed or held for service for immediate consumption:

(i) Written procedures shall be prepared in advance, maintained in the establishment and made available to the regulatory authority upon request, that specify:

(A) Methods of compliance with Chapter 3, Section 61 (b) (i)-(iii) or (c) (i)-(v); and

(B) Methods of compliance with Chapter 3, Section 31 for food that is prepared, cooked, and refrigerated before time is used as a public health control.

(b) If time only, rather than time in conjunction with temperature control, up to a maximum of 4 hours, is used as the public health control:

(i) The food shall have an initial temperature of 41°F (5°C) or less if removed from cold holding temperature control or 135°F (57°C) or greater if removed from hot holding temperature control:

(ii) The food shall be marked or otherwise identified to indicate the time that is four (4) hours past the point in time when the food is removed from temperature control;

(iii) The food shall be cooked and served, served if ready-to-eat, or discarded within four (4) hours from the point in time when the food is removed from temperature control;

(iv) The food in unmarked containers or packages or marked to exceed a four (4) hour limit shall be discarded.

(c) If time only, rather than time in conjunction with temperature control, up to a maximum of 6 hours, is used as the public health control:

(i) The food shall have an initial temperature of 41°F (5°C) or less when removed from temperature control and the food temperature may not exceed 70°F (21°C) within a maximum time period of 6 hours;

(ii) The food shall be monitored to ensure the warmest portion of the food does not exceed 70°F (21°C) during the 6-hour period, unless an ambient air temperature is maintained that ensures the food does not exceed 70°F (21°C) during the 6-hour holding period;

(iii) The food shall be marked or otherwise identified to indicate:

(A) The time when the food is removed from 41°F (5°C) or less cold holding temperature control, and

(B) The time that is 6 hours past the point in time when the food is removed from cold holding temperature control;

(iv) The food shall be:

(A) Discarded if the temperature of the food exceeds 70°F (21°C), or

(B) Cooked and served, served if ready-to-eat, or discarded within a maximum of 6 hours from the point in time when the food is removed from 41°F (5°C) or less cold holding temperature control; and

(v) The food in unmarked containers or packages, or marked with a time that exceeds the 6-hour limit shall be discarded.

(d) A food establishment that serves a highly susceptible population may not use time as specified in Chapter 3, Section 62 (a)-(c) as the public health control for raw eggs.

Section 63. Variance Requirement.

(a) An establishment or processing plant shall obtain a variance from the regulatory authority as specified in Chapter 1, Section 6, and under Chapter 1, Section 7, before:

(i) Smoking food as a method of food preservation rather than as a method of flavor enhancement;

- (ii) Curing food;
- (iii) Using food additives or adding components such as vinegar:
 - (A) As a method of food preservation rather than as a method of flavor enhancement, or
 - (B) To render a food so that it is not potentially hazardous;
- (iv) Packaging food using a reduced oxygen packaging method except where the growth of and toxin formation by *Clostridium botulinum* and the growth of *Listeria monocytogenes* are controlled as specified under Chapter 3, Section 64;
- (v) Operating a molluscan shellfish life-support system display tank used to store ~~and~~ or display shellfish that are offered for human consumption;
- (vi) Custom processing animals that are for personal use as food and not for sale or service in an establishment or processing plant;
- (vii) Preparing food by another method that is determined by the regulatory authority to require a variance; or
- (viii) Sprouting seeds or beans.

Section 64. Reduced Oxygen Packaging without a variance, Criteria.

- (a) Except for an establishment or processing plant that obtains a variance as specified under Chapter 3, Section 63, an establishment or processing plant that packages potentially hazardous food using a reduced oxygen packaging method shall control the growth and toxin formation of *Clostridium botulinum* and the growth of *Listeria monocytogenes*.
- (b) An establishment or processing plant that packages potentially hazardous food using a reduced oxygen packaging method shall have a HACCP plan that contains the information specified under Chapter 10, Section 2(a)(iv), and that:
 - (i) Identifies the food to be packaged;
 - (ii) Except as specified in (c) and (e) and as specified in (d) of this Section, requires that the packaged food shall be maintained at 41°F (5°C) or less and meet at least one of the following criteria:
 - (A) Has an a_w of 0.91 or less;

- (B) Has a pH of 4.6 or less;
- (C) Is a meat or poultry product cured at a food processing plant regulated by the U.S.D.A. using substances specified in 9 CFR 424.21, Use of food ingredients and sources of radiation and is received in an intact package; or
- (D) Is a food with a high level of competing organisms such as raw meat, raw poultry or raw vegetables;
- (iii) Describes how the packages shall be prominently and conspicuously labeled on the principal display panel in bold type on a contrasting background, with instructions to:
 - (A) Maintain the food at 41°F (5°C) or below; and
 - (B) Discard the food if within fourteen (14) calendar days of its packaging it is not served for on-premises consumption, or consumed if served or sold for off-premises consumption;
 - (iv) Limits the refrigerated shelf life to no more than fourteen (14) calendar days from packaging to consumption, except the time the product is maintained frozen, or the original manufacturer's "sell by" or "use by" date, whichever occurs first;
 - (v) Includes operational procedures that:
 - (A) Prohibit contacting ready-to-eat food with bare hands as specified under Chapter 3, Section 39 (b);
 - (B) Identify a designated area and the method by which:
 - (I) Physical barriers or methods of separation of raw foods and ready-to-eat foods minimize cross contamination; and
 - (II) Access to the processing equipment is limited to responsible trained personnel familiar with the potential hazards of the operation; and
 - (C) Delineate cleaning and sanitization procedures for food-contact surfaces; and
 - (vi) Describes the training program that ensures that the individual responsible for the reduced oxygen packaging operation understands the:
 - (A) Concepts required for a safe operation;
 - (B) Equipment and facilities; and

(C) Procedures specified under Chapter 3, Section 64(a)(vi), and Chapter 10, Section 2(a)(iv).

(c) Except for fish that is frozen before, during, and after packaging, an establishment may not package fish using a reduced oxygen packaging method.

(d) Except as specified in (c) of this Section, an establishment or processing plant that packages food using a cook-chill or sous vide process shall:

(i) Implement a HACCP plan that contains the information as specified in Chapter 10, Section 2 (iv);

(ii) Ensure the food is:

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

(B) Cooked to heat all parts of the food to a temperature and for a time as specified in Chapter 3, Section 41,

(C) Protected from contamination before and after cooking,

(D) Placed in a package with an oxygen barrier and sealed before cooking, or placed in a package and sealed immediately after cooking and before reaching a temperature below 135°F (57°C),

(E) Cooled to 41°F (5°C) in the sealed package as specified in Chapter 3, Section 31 and subsequently:

(I) Cooled to 34°F (1°C) within 48 hours of reaching 41°F (5°C); and held at that temperature until consumed or discarded within 30 days after the date of packaging;

(II) Cooled to 34°F (1°C) within 48 hours of reaching 41°F (5°C), removed from refrigeration equipment that maintains a 34°F (1°C) food temperature and then held at 41°F (5°C) or below for no more than 72 hours, at which time the food must be consumed or discarded.

(III) Cooled to 38°F (3°C) or less within 24 hours of reaching 41°F (5°C) and held there for no more than 72 hours from packaging, at which time the food must be consumed or discarded; or

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

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

(G) If transported off-site to a satellite location of the same business entity, equipped with verifiable electronic monitoring devices to ensure that times and temperatures are monitored during transportation, and

(H) Labeled with the product name and the date packaged;
and

(iii) The records required to confirm that cooling and cold holding refrigeration time/temperature parameters are required as part of the HACCP plan, are maintained and are:

(A) Make such records available to the regulatory authority upon request, and

(B) Hold such records for at least 6 months; and

(iv) Implement written operational procedures as specified in (b) (v) of this Section and a training program as specified in (b) (vi) of this Section.

(e) An establishment that packages cheese using a reduced oxygen packaging method shall:

(i) Limits the cheeses packaged to those that are commercially manufactured in a processing plant with no ingredients added in the establishment and that meet the Standards of Identity as specified in 21 CFR 133.150 Hard cheeses, 21 CFR 133.169 Pasteurized process cheese or 21 CFR 133.187 Semisoft cheeses;

(ii) Have a HACCP plan that contains the information specified in Chapter 10, Section 2 (a) (iv) and as specified under (b)(i), (b)(iii)(A) and (b)(vi) of this Section;

(iii) Labels the package on the principal display panel with a “use by” date that does not exceed 30 days from its packaging or the original manufacturer’s “sell by” or “use by” date, whichever occurs first; and

(iv) Discards the reduced oxygen packaged cheese if it is not sold for off-premises consumption or consumed within 30 calendar days of its packaging.

Section 65. Standards of Identity, Date Information.

(a) Packaged food shall comply with standard of identity requirements as specified in law including the Wyoming Food, Drug and Cosmetic Safety Act, W. S. 35-7-110 through 35-7-127, 21 CFR 131-169 and 9 CFR 319 Definitions and Standards of Identity or Composition, and the general requirements in 21 CFR 130 - Food Standards: General and 9 CFR 319 Subpart A - General.

(b) Food establishment or manufacturers' dating information on foods may not be concealed or altered and must comply with law including the Wyoming Food, Drug and Cosmetic Safety Act, W. S. 35-7-110 through 35-7-127

Section 66. Honestly Presented.

(a) Food shall be offered for human consumption in a way that does not mislead or misinform the consumer and as specified in law including the Wyoming Food, Drug and Cosmetic Safety Act, W. S. 35-7-110 through 35-7-127.

(b) Food or color additives, colored overwraps, or lights may not be used to misrepresent the true appearance, color, or quality of a food and as specified in law including the Wyoming Food, Drug and Cosmetic Safety Act, W. S. 35-7-110 through 35-7-127.

Section 67. Consumption of Animal Foods that are Raw, Undercooked, or Not Otherwise Processed to Eliminate Pathogens.

(a) Except as specified in Chapter 3, Section 41 (c) and (d) (iv) and in Chapter 3, Section 68 (a) (iii), if an animal food such as beef, eggs, fish, lamb, milk, pork, poultry, or shellfish is served or sold raw, undercooked, or without otherwise being processed to eliminate pathogens either in ready-to-eat form or as an ingredient in another ready-to-eat food, the license holder shall inform consumers of the significantly increased risk of consuming such foods by way of a disclosure and reminder, as specified in (b) and (c) of this section using brochures, deli case or menu advisories, label statements, table tents, placards or other effective written means.

(b) Disclosure shall include:

(i) A description of the animal-derived foods, such as “oysters on the half shell (raw oysters)” “raw-egg Caesar salad,” and “hamburgers (can be cooked to order)”;

(ii) Identification of the animal-derived food by asterisking them to a footnote that states that the items are served raw or undercooked, or contain (or may contain) raw or undercooked ingredients.

(c) Reminder shall include asterisking the animal-derived foods requiring disclosure to a footnote that states:

(i) Written information is available upon request regarding the safety of these items;

(ii) Consuming raw or undercooked meats, poultry, seafood, shellfish, or eggs may increase your risk of food borne illness; or

(iii) Consuming raw or undercooked meats, poultry, seafood, shellfish, or eggs may increase your risk of food borne illness, especially if you have certain medical conditions.

Section 68. Discarding or Reconditioning Unsafe, Adulterated, or Contaminated Food.

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

(b) Food that is not from an approved source as specified under Chapter 3, Sections 1-4 and 8-10, shall be discarded.

(c) Ready-to-eat food that may have been contaminated by an employee who has been restricted or excluded as specified under Chapter 1, Section 13, shall be discarded.

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

Section 69. Pasteurized Foods, Prohibited Re-Service, and Prohibited Food.

(a) In an establishment that serves a highly susceptible population:

(i) The following criteria apply to juice:

(A) For the purposes of this paragraph only, children who are age 9 or less and receive food in a school, day care setting, or similar facility that provides custodial care are included as highly susceptible populations;

(B) Prepackaged juice or a prepackaged beverage containing juice that bears a warning label as specified in 21 CFR, Section 101.17(g) Food Labeling, or a packaged juice or beverage containing juice, that bears a warning label as specified under Chapter 3, Section 76 (a) (ii) may not be served or offered for sale; and

(C) Unpackaged juice that is prepared on the premises for service or sale in a ready-to-eat form shall be processed under a HACCP plan that contains the information specified under Chapter 10, Section 2 (a)(ii)-(v) and as specified in 21 CFR Part 120 - Hazard Analysis and Critical Control Point (HACCP) Systems, Subpart B Pathogen Reduction, 120.24 Process controls.

(ii) Pasteurized eggs or egg products shall be substituted for raw eggs in the preparation of:

(A) Foods such as Caesar salad, hollandaise or Béarnaise sauce, mayonnaise, meringue, eggnog, ice cream, and egg-fortified beverages;

(B) Except as specified in Chapter 3, Section 69 (v), recipes in which more than one egg is broken and the eggs are combined;

(v) The following foods may not be served or offered for sale in a ready-to-eat form:

(A) Raw animal foods such as raw fish, raw-marinated fish, raw molluscan shellfish, and steak tartare;

(B) A partially cooked animal food such as lightly cooked fish, rare meat, soft-cooked eggs that are made from raw eggs, and meringue; and

(C) Raw seed sprouts.

(iv) Time only, as the public health control as specified in Chapter 3, Section 62 (d), may not be used for raw eggs.

(vi) Chapter 3, Section 69 (a) (ii)(B), does not apply if:

(A) The raw eggs are combined immediately before cooking for one consumer's serving at a single meal, cooked as specified in Chapter 3, Section 41(a)(i), and served immediately, such as an omelet, soufflé, or scrambled eggs;

(B) The raw eggs are combined as an ingredient immediately before baking and the eggs are thoroughly cooked to a ready-to-eat form, such as a cake, muffin, or bread; or

(C) The preparation of the food is conducted under a HACCP plan that:

(I) Identifies the food to be prepared;

(II) Prohibits contacting ready-to-eat food with bare

hands;

(III) Includes specifications and practices that ensure:

(1.) *Salmonella enteritidis* growth is controlled before and after cooking; and

(2.) *Salmonella enteritidis* is destroyed by cooking the eggs according to the temperature and time specified in Chapter 3, Section 41(a)(ii);

(IV) Contains the information specified in Chapter 10, Section 2(a)(iv), including procedures that:

(1.) Control cross contamination of ready-to-eat food with raw eggs; and

(2.) Delineate cleaning and sanitization procedures for food-contact surfaces; and

(V) Describes the training program that ensures that the food employee responsible for the preparation of the food understands the procedures to be used.

Section 70. Extraction of Honey.

(a) Honey should be extracted only from combs free from blood of the bees or the larvae of the wax moth, and combs that are properly capped.

(i) Combs from colonies containing dead adults or larvae, pesticides, antibiotics or any other adulterants shall not be extracted.

Section 71. Pumping Honey.

(a) Before pumping honey, it shall first be strained through a screen of at least eight mesh to the inch, or pumped from a baffled sump tank which provides a constant supply of honey for the pump.

Section 72. Honey Grading.

(a) All honey or honey product sold or offered for sale or grade shall conform to the grading requirements of 50 FR 15861 United States Standards for Grades of

Extracted Honey or 32 FR 7565 United States Standards for Grades of Comb Honey for the specific grade to which reference is made.

Section 73. Meat and Poultry Establishment Processing Requirements.

(a) Meat and poultry products processed in an official establishment shall meet the requirements of 9 CFR 318 Products and Other Articles Entering Official Establishments, 319 Definitions and Standards of Identity or Composition, and 381 Poultry Products Inspection Regulations, Subpart O- Entry of Articles Into Official Establishments; Processing Inspection and Other Reinspections; Processing Requirements, and Subpart P- Definitions and Standards of Identity or Composition.

Section 74. Tagging Food Products, “Wyoming Retained.”

(a) Any food product suspected of being adulterated or in any way unfit for human food may be tagged with a “Wyoming Retain” tag by the regulatory authority.

(i) The regulatory authority shall:

(A) Record the tag number; and

(B) The kind and amount of the food product retained.

(ii) The retain tag shall:

(A) Accompany the food product to the room in which it is retained for final inspection; and

(B) Not be removed except under the following condition:

(I) When the final inspection is made, if the food product is an inspected meat product the disposition shall be determined by the regulatory authority.

(iii) The regulatory authority shall make a complete record of the transaction.

(iv) If, upon final inspection, the food product is passed for food, the regulatory authority shall remove the retain tag and record the transaction.

(b) No meat food product which does not meet the requirements of the Federal Meat Inspection Act, the Poultry Products Inspection Act, or 9 CFR 300 to End, may be prepared or sold.

(i) Any meat food product found to violate subsection (b) may be tagged with a “Wyoming Retain” tag by the regulatory authority;

(ii) The retained product shall not be sold or disposed of until an investigation is performed by the regulatory authority; and

(iii) The “Wyoming Retain” tag shall only be removed by the regulatory authority.

Section 75. Juice Treated.

(a) Pre-packaged juice shall:

(i) Be obtained from a processor with a HACCP system as specified in 21 CFR 120;

(ii) Be obtained pasteurized or otherwise treated to attain a 5-log reduction of the most resistant microorganism of public health significance as specified in 21 CFR Part 120.24; or

(iii) Bear a warning label as specified in 21 CFR Section 101.17(g).

Section 76. Treating Juice.

(a) Juice packaged in an establishment or processing plant shall be:

(i) Treated under a HACCP plan as specified in Chapter 10, Section 2(a)(ii)-(v) to attain a 5-log reduction, which is equal to a 99.999% reduction, of the most resistant microorganism of public health significance; or

(ii) Labeled, if not treated to yield a 5-log reduction of the most resistant microorganism of public health significance:

(A) As specified under Chapter 4, and

(B) As specified in 21 CFR 101.17(g) with the phrase, “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.”