

CHAPTER 1

PURPOSE, VARIANCES, DEFINITIONS, DEMONSTRATION OF KNOWLEDGE, AND HEALTH STATUS

Section 1. Authority. Pursuant to the authority vested in the director of the Wyoming department of agriculture by virtue of W.S. 35-7-120, 35-7-123 (a) (iii), and 35-7-127, together with the department of health and the governor's food safety council established pursuant to W.S. 35-7-127, the following rules are hereby promulgated.

Section 2. Wyoming Food Safety Rule.

(a) These provisions shall be known as the Wyoming Food Safety Rule, hereinafter referred to as this Rule.

Section 3. Statement of Purpose.

(a) The purpose of this Rule is to safeguard public health and assure consumers that food is safe, unadulterated, and honestly presented.

(b) This Rule establishes definitions; sets standards for management and personnel, food operations, equipment and facilities; and provides for establishment or processing plant plan review, license issuance, inspection, employee restriction, and license suspension.

Section 4. Public Health Protection.

(a) The regulatory authority shall apply this Rule to promote its underlying purpose of safeguarding the public health and assuring that food is safe, unadulterated, and honestly presented when offered to the consumer.

(b) In enforcing the provisions of this Rule, the regulatory authority shall assess existing facilities or equipment that were in use before the effective date of this Rule based on the following considerations:

(i) Whether the facilities or equipment are in good repair and capable of being maintained in a sanitary condition;

(ii) Whether food-contact surfaces comply with Chapter 6, Section 13;

(iii) Whether the capacities of cooling, heating, and holding equipment

CHAPTER 14

FEDERAL REGULATIONS

Section 1. Adoption of Federal Regulations.

(a) For the purpose of all Chapters, the citations herein are referenced throughout this Rule.

(i) The Code of Federal Regulations (CFR): 7 CFR 56 Regulations Governing the Voluntary Grading of Shell Eggs; 7 CFR 57 Inspection of Eggs (Egg Products Inspection Act); 7 CFR 65 Country of Origin Labeling of Beef, Pork, Lamb, Chicken, Goat Meat, Perishable Agricultural Commodities, Macadamia Nuts, and Peanuts; 9 CFR 301 Definitions; 9 CFR 302 Application of Inspection and Other Requirements; 9 CFR 303 Exemptions; 9 CFR 304 Application for Inspection; Grant of Inspection; 9 CFR 305 Official Numbers; Inauguration of Inspection; Withdrawal of Inspection; Reports of Violation; 9 CFR 306 Assignment and Authorities of Program Employees; 9 CFR 307 Facilities for Inspection; 9 CFR 309 Antemortem Inspection; 9 CFR 310 Postmortem Inspection; 9 CFR 311 Disposal of Diseased or Otherwise Adulterated Carcasses and Parts; 9 CFR 312 Official Marks, Devices and Certificates; 9 CFR 313 Humane Slaughter of Livestock; 9 CFR 314 Handling and Disposal of Condemned or other Inedible Products at Official Establishments; 9 CFR 315 Rendering or other Disposal of Carcasses and Parts Passed for Cooking; 9 CFR 316 Marking Products and Their Containers; 9 CFR 317 Labeling, Marking Devices, and Containers; 9 CFR 318 Entry into Official Establishments; Reinspection and Preparation of Products; 9 CFR 319 Definitions and Standards of Identity or Composition; 9 CFR 320 Records, Registration, and Reports; 9 CFR 321 Cooperation with States and Territories; 9 CFR 325 Transportation; 9 CFR 329 Detention; Seizure and Condemnation; Criminal Offenses; 9 CFR 352 Exotic Animals; Voluntary Inspection; 9 CFR 354 Voluntary Inspection of Rabbits and Edible Products Thereof; 9 CFR 362 Voluntary Poultry Inspection Regulations; 9 CFR 381 Poultry Products Inspection Regulations; 9 CFR 416 Sanitation; 9 CFR 417 Hazard Analysis and Critical Control Point (HACCP) Systems; 9 CFR 424 Preparation and Processing Operations; 9 CFR 430 Requirements for Specific Classes of Product (*Listeria monocytogenes*); 9 CFR 441.10 Retained Water; 9 CFR 500 Rules of Practice; 9 CFR 590 Inspection of Eggs and Egg Products (Egg Products Inspection Act); 21 CFR 70 Color Additives; 21 CFR 101 Food Labeling; 21 CFR 110 Current Good Manufacturing Practice in Manufacturing, Packing, or Holding Human Food; 21 CFR 113 Thermally Processed Low-Acid Foods Packaged in Hermetically Sealed Containers; 21 CFR 114 Acidified foods; 21 CFR 115 Eggs, Refrigeration; 21 CFR 120 Hazard Analysis and Critical Control Point (HACCP) Systems; 21 CFR 123 Fish and Fishery Products; 21 CFR 129 Processing and Bottling of Bottled Drinking Water; 21 CFR 130 Food Standards: General; 21 CFR 131 Milk and Cream; 21 CFR 133 Cheeses and Related Cheese Products; 21 CFR 135 Frozen Desserts; 21 CFR 136 Bakery Products; 21 CFR 137 Cereal Flours and Related Products; 21 CFR 139 Macaroni and Noodle Products; 21 CFR 145 Canned Fruits; 21 CFR 146 Canned Fruit Juices; 21 CFR

150 Fruit Butters, Jellies, Preserves, and Related Products; 21 CFR 152 Fruit Pies; 21 CFR 155 Canned Vegetables; 21 CFR 156 Vegetable Juices; 21 CFR 158 Frozen Vegetables; 21 CFR 160 Eggs and Egg Products; 21 CFR 161 Fish and Shellfish; 21 CFR 163 Cacao Products; 21 CFR 164 Tree Nut and Peanut Products; 21 CFR 165 Beverages; 21 CFR 166 Margarine; 21 CFR 168 Sweeteners and Table Syrups; 21 CFR 169 Food Dressings and Flavorings; 21 CFR 170 Food Additives; 21 CFR 171 Food Additive Petitions; 21 CFR 172 Food Additives Permitted for Direct Addition to Food for Human Consumption; 21 CFR 173 Secondary Direct Food Additives Permitted in food for Human Consumption; 21 CFR 174 Indirect Food Additives: General; 21 CFR 175 Indirect Food Additives: Adhesives and Components of Coatings; 21 CFR 176 Indirect Food Additives: Paper and Paperboard Components; 21 CFR 177 Indirect Food Additives: Polymers; 21 CFR 178 Indirect Food Additives: Adjuvants, Production Aids, and Sanitizers; 21 CFR 179 Irradiation in the Production, Processing and Handling of Food; 21 CFR 180 Food Additives Permitted in Food or in Contact with Food on an Interim Basis Pending Additional Study; 21 CFR 181 Prior-Sanctioned Food Ingredients; 21 CFR 182 Substances Generally Recognized as Safe; 21 CFR 184 Direct Food Substances Affirmed as Generally Recognized as Safe; 21 CFR 186 Indirect Substances Affirmed as Generally Recognized as Safe; 21 CFR 219.80 Processes and Controls; 21 CFR 1030.10 Microwave Ovens; 21 CFR Subpart D – Specific Administrative Decisions Regarding Interstate Shipments, Section 1240.60 (d); 40 CFR 141 National Primary Drinking Water Regulations; 40 CFR 152 Subpart I – Classification of Pesticides; 40 CFR 152.175 Pesticides Classified for Restricted Use; 40 CFR 180.940 Sanitizing Solutions; 40 CFR 185 Tolerances for Pesticides in Food; 50 CFR 17 Endangered and Threatened Wildlife and Plants.

(ii) 7 USC 136(e) Certified Applicator, etc; Federal Food, Drug, and Cosmetic Act §201(s) & (t); Federal Food, Drug, and Cosmetic Act, 21 USC 343; Federal Food, Drug, and Cosmetic Act §402; Federal Food, Drug, and Cosmetic Act §403(Q)(3)-(5); Federal Food, Drug, and Cosmetic Act §409; Federal Food, Drug, and Cosmetic Act §706; National Shellfish Sanitation Program Guide for the Control of Molluscan Shellfish; U.S. Public Health Service/FDA "Grade A Pasteurized Milk Ordinance"; "Procedures Governing the Cooperative State-Public Health Service/Food and Drug Administration Program of the National Conference on Interstate Milk Shipments", "Methods of Making Sanitation Ratings of Milk Shippers", "The Evaluation of Milk Laboratories", and "Grade A Condensed and Dry Milk Ordinance", United States Department of Agriculture/Agriculture Marketing Service "Milk for Manufacturing Purposes and its Production and Processing"; the Uniform Plumbing Code; the USDA AMS 56 U.S. Standards, Grades, and Weight Classes for Shell Eggs; 50 FR 15861 United States Standards for Grades of Extracted Honey, 32 FR 7565 United States Standards for Grades of Comb Honey; Federal Meat Inspection Act (including the Wholesome Meat Act)/Poultry Products Inspection Act, Food Allergen Labeling and Consumer Protection Act of 2004 (Public Law 108-282) and the Humane Methods of Slaughter Act 1978.

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above which are in effect on the effective date of these rules are hereby adopted by the Wyoming department of agriculture. These rules do not include any later amendments or editions. These documents are available for public inspection and may be purchased at cost from the office of the Wyoming department of agriculture.

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(E) Milk for Manufacturing Purposes and its Production and Processing; http://www.ams.usda.gov/dairy/prop_manufmlk.pdf

(F) International Plumbing Code; www.iccsafe.org

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(J) Food Allergen Labeling and Consumer Protection Act of 2004 (Public Law 108-282); <http://www.cfsan.fda.gov/~dms/alrgact.html>

(K) Humane Methods of Slaughter Act 1978;
http://www.access.gpo.gov/uscode/title7/chapter48_.html

CHAPTER 11

BOTTLED WATER REQUIREMENTS

Section 1. Water Quality and Source.

(a) All bottled water except mineral water shall meet quality standards prescribed in 21 CFR 165.110 Bottled Water, as amended. Mineral water shall not contain any contaminant in quantities injurious to health taking into account the natural constituents and the rate of consumption of mineral water, as compared to drinking water.

Section 2. Good Manufacturing Practices and Operational Requirements.

(a) All bottled water, including mineral water, shall be processed and packaged in accordance with 21 CFR 110 Current Good Manufacturing Practice in Manufacturing, Packing, or Holding Human Food, as amended, and 21 CFR 129 Processing and Bottling of Bottled Drinking Water, as amended.

(b) Bottled water shall not be processed or bottled through a line or other equipment that is used for any other food.

(c) Artesian water may be collected with the assistance of external force to enhance the natural underground pressure so long as such measures do not alter the composition and quality of the water.

(d) Natural water may be treated to reduce the concentration of any substance which exceeds standards set under 21 CFR. 165.110 Bottled Water. It may be collected and transported by pipes, tunnels, trucks and similar devices.

(e) Spring water shall be collected only at the natural orifice of the spring or through a bore hole that is adjacent to the natural orifice. Spring water collected with the assistance of external force to protect the water source shall retain all the physical properties of and be of the same composition and quality as the water that flows naturally to the surface of the earth.

Section 3. Source Water Sampling.

(a) Water samples shall be:

(i) Taken from approved sources by the plant as often as necessary but at least annually to assure compliance with 21 CFR 165.110 Bottled Water;

(ii) Analysis for microbiological contaminants shall be weekly if the

source is other than a public water system;

(iii) The sampling and analyses shall be by qualified personnel and shall be in addition to any sampling performed by government agencies or laboratory;

(iv) Records of the sampling and analyses shall be maintained on file at the plant for two years; and

(v) Analysis of the samples shall be performed by an accredited laboratory.

Section 4. Finished Product Sampling.

(a) To assure the plant's production of bottled water is in compliance with 21 CFR 165.110 Bottled Water, the following product analyses shall be performed by an accredited laboratory:

(i) For microbiological purposes, analyze at least weekly a representative sample from a batch or segment of a continuous production for each type of bottled water produced by the plant;

(ii) For chemical, physical, and radiological purposes, analyze at least annually a representative sample from a batch or segment of continuous product run for each type of bottled drinking water produced by the plant.

(b) The representative sample shall be derived from the bottled product.

(c) All records pertaining to sampling and analysis shall be maintained at the plant for two years. All required documents shall be available for official review upon request.

Section 5. Exemptions.

(a) A bottled water plant operator may request an exemption from sampling source water and finished product if bottling is conducted less than on a weekly basis.

(i) An operator exempted under this section shall sample source water and finished products each production day.

(b) Bottled soda or seltzer or other food complying with 21 CFR 165.110 Bottled Water, as amended, is exempt from the requirements of this Rule.

(i) ~~Water that is in compliance with 21 CFR 165.110, as amended, but not in compliance with this Rule may not be labeled as A bottled water, A natural water, A~~

~~A spring water, @ A artesian water, @ A well water, @ A mineral water, @ A drinking water, @
A purified water, @ A distilled water, @ or A fluoridated water. @~~

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CHAPTER 10

HAZARD ANALYSIS AND CRITICAL CONTROL POINTS (HACCP)

Section 1. When a HACCP Plan is Required.

- (a) Before engaging in an activity that requires a HACCP plan, a license applicant or license holder shall submit to the regulatory authority for approval a properly prepared HACCP plan as specified under Chapter 10, Section 2, and the relevant provisions of this Rule if:
- (i) Submission of a HACCP plan is required according to law;
 - (ii) A variance is required as specified under Chapter 3, Sections 41(d)(iii), 62, or Chapter 6, Section 18 (b); or
 - (iii) The regulatory authority determines that a food preparation or processing method requires a variance based on a plan submittal specified under Chapter 2, Section 7, an inspection finding, or a variance request.
- (b) A license applicant or license holder shall have a properly prepared HACCP plan as specified under Chapter 3, Section 62.

Section 2. Contents of a HACCP Plan.

- (a) For an establishment or processing plant that is required under Chapter 10, Section 1, to have a HACCP plan, the plan and specification shall indicate:
- (i) A categorization of the types of potentially hazardous foods that are specified in the menu such as soups and sauces, salads, and bulk, solid foods such as meat roasts, or other foods that are specified by the regulatory authority;
 - (ii) A flow diagram by specific food or category type identifying critical control points and providing information on the following:
 - (A) Ingredients, materials, and equipment used in the preparation of that food; and
 - (B) Formulations, or recipes that delineate methods and procedural control measures that address the food safety concerns involved;
 - (iii) Food employee and supervisory training plan that addresses the food safety issues of concern;
 - (iv) A statement of standard operating procedures for the plan under

consideration including clearly identifying:

- (A) Each critical control point;
 - (B) The critical limits for critical control point;
 - (C) The method and frequency for monitoring and controlling each critical control point by the food employee designated by the person in charge;
 - (D) 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;
 - (E) Action to be taken by the person in charge if the critical limits for each critical control point are not met;
 - (F) Records to be maintained by the person in charge to demonstrate that the HACCP plan is properly operated and managed; and
- (v) Additional scientific data or other information, as required by the regulatory authority, supporting the determination that food safety is not compromised by the proposal.

Section 3. Trade Secrets.

- (a) The regulatory authority shall treat as confidential in accordance with law information that meets criteria specified in law for a trade secret and is contained on inspection report forms and in the plans and specifications submitted as specified under Chapter 2, Section 7, and Chapter 10, Section 2.

Section 4. HACCP Plans Required in Official Meat and Poultry Establishments.

- (a) Every official establishment shall have a written HACCP plan as specified in 9 CFR 417 Hazard Analysis and Critical Control Point (HACCP) Systems, as amended.

CHAPTER 5

PERSONAL HYGIENE

Section 1. Employee Health.

(a) Food employees experiencing persistent sneezing, coughing, or a runny nose that causes discharges from the eyes, nose, or mouth may not work with exposed food; clean equipment, utensils, and linens; or unwrapped single-service or single-use articles.

Section 2. Clean Condition.

(a) Food employees shall keep their hands and exposed portions of their arms clean.

Section 3. Cleaning Procedure.

(a) Except as specified in Chapter 5, Section 3 (d), food employees shall clean their hands and exposed portions of their arms (or surrogate prosthetic devices for hands or arms) for at least 20 seconds, using a cleaning compound in a lavatory that is equipped as specified under Chapter 8, Section 55(a)

(b) Food employees shall use the following cleaning procedure:

(i) Administering vigorous friction on the surfaces of the lathered fingers, finger tips, areas between the fingers, hands and arms (or by vigorously rubbing the surrogate prosthetic devices for hands or arms) for at least 10 to 15 seconds, followed by;

(ii) Thorough rinsing under clean, running warm water; and

(iii) Immediately follow the cleaning procedure with thorough drying of cleaned hands and arms (or surrogate prosthetic devices) using a method as specified in Chapter 8, Section 58.

(c) Food employees shall pay particular attention to the areas underneath the fingernails during the cleaning procedure.

(d) An automatic handwashing facility, capable of removing the types of soils encountered in the food operations involved and approved by the Department, may be used by food employees to clean their hands or surrogate prosthetic devices.

Section 4. When To Wash.

- (a) Food employees shall clean their hands and exposed portions of their arms as specified under Chapter 5, Section 3, immediately before engaging in food preparation including working with exposed food, clean equipment and utensils, and unwrapped single-service and single-use articles and:
- (i) After touching bare human body parts other than clean hands and clean, exposed portions of arms;
 - (ii) After using the toilet room;
 - (iii) After caring for or handling service animals or aquatic animals as specified in Chapter 5, Section 9(e);
 - (iv) Except as specified in Chapter 5, Section 9 (b) (i), after coughing, sneezing, using a handkerchief or disposable tissue, using tobacco, eating, or drinking;
 - (v) After handling soiled equipment or utensils;
 - (vi) During food preparation, as often as necessary to remove soil and contamination and to prevent cross contamination when changing tasks;
 - (vii) When switching between working with raw food and working with ready-to-eat food;
 - (viii) Before donning gloves for working with food;
 - (ix) After dressing or handling diseased carcasses, inedibles, viscera, or paunches; and
 - (x) After engaging in other activities that contaminate the hands.

Section 5. Where To Wash.

- (a) Food employees shall clean their hands in a handwashing sink or approved automatic handwashing facility and may not clean their hands in a sink used for food preparation or warewashing, or in a service sink or a curbed cleaning facility used for the disposal of mop water and similar liquid waste.

Section 6. Hand Antiseptics.

- (a) A hand antiseptic used as a topical application, a hand antiseptic solution used as a hand dip, or a hand antiseptic soap shall:

(i) Comply with one of the following:

(A) Be an approved drug that is listed in the FDA publication Approved Drug Products with Therapeutic Equivalence Evaluations, as amended, as an approved drug based on safety and effectiveness; or

(B) Have active antimicrobial ingredients that are listed in:

(I) The FDA monograph for OTC Health-Care Antiseptic Drug Products as an antiseptic handwash; and

(ii) Comply with one of the following:

(A) Have components that are exempted from the requirement of being listed in federal Food Additive regulations as specified in 21 CFR 170.39 - Threshold of regulation for substances used in food-contact articles; or

(B) Comply with and be listed in:

(I) 21 CFR 178- Indirect Food Additives: Adjuvants, Production Aids, and Sanitizers as regulated for use as an additive with conditions of safe use; or

(II) 21 CFR 182 - Substances Generally Recognized as Safe, 21 CFR 184 - Direct Food Substances Affirmed as Generally Recognized as Safe, or 21 CFR 186 - Indirect Food Substances Affirmed as Generally Recognized as Safe for use in contact with food; and

(iii) Be applied only to hands that are cleaned as specified under Chapter 5, Section 3.

(b) If a hand antiseptic or a hand antiseptic solution used as a hand dip does not meet the criteria specified under Chapter 5, Section 6(a), use shall be:

(i) Followed by thorough hand rinsing in clean water before hand contact with food or by the use of gloves; or

(ii) Limited to situations that involve no direct contact with food by the bare hands.

(c) A hand antiseptic solution used as a hand dip shall be maintained clean and at a strength equivalent to at least one hundred (100) mg/l chlorine.

Section 7. Gloves, Use Limitation.

(a) If used, single-use gloves shall be used for only 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.

(b) Except as specified in Chapter 5, Section 7(c), slash-resistant gloves that are used to protect the hands during operations requiring cutting shall be used in direct contact only with food that is subsequently cooked as specified under Chapter 3, Section 41, such as frozen food or a primal cut of meat.

(c) Slash-resistant gloves may be used with ready-to-eat food that will not be subsequently cooked if the slash-resistant gloves have a smooth, durable, and nonabsorbent outer surface; or if the slash-resistant gloves are covered with a smooth, durable, nonabsorbent glove, or a single-use glove.

(d) Cloth gloves may not be used in direct contact with food unless the food is subsequently cooked as required under Chapter 3, Section 41, such as frozen food or a primal cut of meat.

Section 8. Clothing.

(a) Food employees shall wear clean outer clothing to prevent contamination of food, equipment, utensils, linens, and single-service and single-use articles.

(b) Except as provided in Chapter 5, Section 8(c), food employees shall wear hair restraints such as hats, hair coverings or nets, beard restraints, and clothing that covers body hair that are designed and worn to effectively keep their hair from contacting exposed food; clean equipment, utensils, and linens; and unwrapped single-service and single-use articles.

(c) This Section does not apply to food employees such as counter staff who only serve beverages and wrapped or packaged foods, hostesses, and wait staff if they present a minimal risk of contaminating exposed food; clean equipment, utensils, and linens; and unwrapped single-service and single-use articles.

Section 9. Employee Practices.

(a) Except as specified in Chapter 5, Section 9(b), an employee shall eat, drink, or use any form of tobacco only in designated areas where the contamination of exposed food; clean equipment, utensils, and linens; unwrapped single-service and single-use articles; or other items needing protection cannot result.

(b) A food employee may drink from a closed beverage container if the container is handled to prevent contamination of:

- (i) The employee's hands;
 - (ii) The container; and
 - (iii) Exposed food; clean equipment, utensils, and linens; and unwrapped single-service and single-use articles.
- (c) While preparing food, food employees may not wear jewelry on their arms or hands, and. This Section does not apply to a plain ring such as a wedding band.
- (d) Except as specified in Chapter 5, Section 9(e), food employees may not care for or handle animals that may be present such as patrol dogs, service animals, or pets that are allowed as specified in Chapter 9, Section 52(b)(ii)-(iv).
- (e) Food employees with service animals may handle or care for their service animals and food employees may handle or care for fish in aquariums or molluscan shellfish or crustacea in display tanks if they wash their hands as specified under Chapter 5, Sections 3 and 4 (a)(iii).
- (f) Food employees shall keep their fingernails trimmed, filed, and maintained so the edges and surfaces are cleanable and not rough.
- (g) Unless wearing intact gloves in good repair, a food employee may not wear fingernail polish or artificial fingernails when working with exposed food.

CHAPTER 5

PERSONAL HYGIENE

Section 1. Employee Health.

(a) Food employees experiencing persistent sneezing, coughing, or a runny nose that causes discharges from the eyes, nose, or mouth may not work with exposed food; clean equipment, utensils, and linens; or unwrapped single-service or single-use articles.

Section 2. Clean Condition.

(a) Food employees shall keep their hands and exposed portions of their arms clean.

Section 3. Cleaning Procedure.

(a) Except as specified in Chapter 5, Section 3 (d), food employees shall clean their hands and exposed portions of their arms (or surrogate prosthetic devices for hands or arms) for at least 20 seconds, using a cleaning compound in a lavatory that is equipped as specified under Chapter 8, Section 55(a)

(b) Food employees shall use the following cleaning procedure:

(i) Administering vigorous friction on the surfaces of the lathered fingers, finger tips, areas between the fingers, hands and arms (or by vigorously rubbing the surrogate prosthetic devices for hands or arms) for at least 10 to 15 seconds, followed by;

(ii) Thorough rinsing under clean, running warm water; and

(iii) Immediately follow the cleaning procedure with thorough drying of cleaned hands and arms (or surrogate prosthetic devices) using a method as specified in Chapter 8, Section 58.

(c) Food employees shall pay particular attention to the areas underneath the fingernails during the cleaning procedure.

(d) An automatic handwashing facility, capable of removing the types of soils encountered in the food operations involved and approved by the Department, may be used by food employees to clean their hands or surrogate prosthetic devices.

Section 4. When To Wash.

- (a) Food employees shall clean their hands and exposed portions of their arms as specified under Chapter 5, Section 3, immediately before engaging in food preparation including working with exposed food, clean equipment and utensils, and unwrapped single-service and single-use articles and:
- (i) After touching bare human body parts other than clean hands and clean, exposed portions of arms;
 - (ii) After using the toilet room;
 - (iii) After caring for or handling service animals or aquatic animals as specified in Chapter 5, Section 9(e);
 - (iv) Except as specified in Chapter 5, Section 9 (b) (i), after coughing, sneezing, using a handkerchief or disposable tissue, using tobacco, eating, or drinking;
 - (v) After handling soiled equipment or utensils;
 - (vi) During food preparation, as often as necessary to remove soil and contamination and to prevent cross contamination when changing tasks;
 - (vii) When switching between working with raw food and working with ready-to-eat food;
 - (viii) Before donning gloves for working with food;
 - (ix) After dressing or handling diseased carcasses, inedibles, viscera, or paunches; and
 - (x) After engaging in other activities that contaminate the hands.

Section 5. Where To Wash.

- (a) Food employees shall clean their hands in a handwashing sink or approved automatic handwashing facility and may not clean their hands in a sink used for food preparation or warewashing, or in a service sink or a curbed cleaning facility used for the disposal of mop water and similar liquid waste.

Section 6. Hand Antiseptics.

- (a) A hand antiseptic used as a topical application, a hand antiseptic solution used as a hand dip, or a hand antiseptic soap shall:

(i) Comply with one of the following:

(A) Be an approved drug that is listed in the FDA publication Approved Drug Products with Therapeutic Equivalence Evaluations, as amended, as an approved drug based on safety and effectiveness; or

(B) Have active antimicrobial ingredients that are listed in:

(I) The FDA monograph for OTC Health-Care Antiseptic Drug Products as an antiseptic handwash; and

(ii) Comply with one of the following:

(A) Have components that are exempted from the requirement of being listed in federal Food Additive regulations as specified in 21 CFR 170.39 - Threshold of regulation for substances used in food-contact articles; or

(B) Comply with and be listed in:

(I) 21 CFR 178- Indirect Food Additives: Adjuvants, Production Aids, and Sanitizers as regulated for use as an additive with conditions of safe use; or

(II) 21 CFR 182 - Substances Generally Recognized as Safe, 21 CFR 184 - Direct Food Substances Affirmed as Generally Recognized as Safe, or 21 CFR 186 - Indirect Food Substances Affirmed as Generally Recognized as Safe for use in contact with food; and

(iii) Be applied only to hands that are cleaned as specified under Chapter 5, Section 3.

(b) If a hand antiseptic or a hand antiseptic solution used as a hand dip does not meet the criteria specified under Chapter 5, Section 6(a), use shall be:

(i) Followed by thorough hand rinsing in clean water before hand contact with food or by the use of gloves; or

(ii) Limited to situations that involve no direct contact with food by the bare hands.

(c) A hand antiseptic solution used as a hand dip shall be maintained clean and at a strength equivalent to at least one hundred (100) mg/l chlorine.

Section 7. Gloves, Use Limitation.

(a) If used, single-use gloves shall be used for only 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.

(b) Except as specified in Chapter 5, Section 7(c), slash-resistant gloves that are used to protect the hands during operations requiring cutting shall be used in direct contact only with food that is subsequently cooked as specified under Chapter 3, Section 41, such as frozen food or a primal cut of meat.

(c) Slash-resistant gloves may be used with ready-to-eat food that will not be subsequently cooked if the slash-resistant gloves have a smooth, durable, and nonabsorbent outer surface; or if the slash-resistant gloves are covered with a smooth, durable, nonabsorbent glove, or a single-use glove.

(d) Cloth gloves may not be used in direct contact with food unless the food is subsequently cooked as required under Chapter 3, Section 41, such as frozen food or a primal cut of meat.

Section 8. Clothing.

(a) Food employees shall wear clean outer clothing to prevent contamination of food, equipment, utensils, linens, and single-service and single-use articles.

(b) Except as provided in Chapter 5, Section 8(c), food employees shall wear hair restraints such as hats, hair coverings or nets, beard restraints, and clothing that covers body hair that are designed and worn to effectively keep their hair from contacting exposed food; clean equipment, utensils, and linens; and unwrapped single-service and single-use articles.

(c) This Section does not apply to food employees such as counter staff who only serve beverages and wrapped or packaged foods, hostesses, and wait staff if they present a minimal risk of contaminating exposed food; clean equipment, utensils, and linens; and unwrapped single-service and single-use articles.

Section 9. Employee Practices.

(a) Except as specified in Chapter 5, Section 9(b), an employee shall eat, drink, or use any form of tobacco only in designated areas where the contamination of exposed food; clean equipment, utensils, and linens; unwrapped single-service and single-use articles; or other items needing protection cannot result.

(b) A food employee may drink from a closed beverage container if the container is handled to prevent contamination of:

- (i) The employee's hands;
 - (ii) The container; and
 - (iii) Exposed food; clean equipment, utensils, and linens; and unwrapped single-service and single-use articles.
- (c) While preparing food, food employees may not wear jewelry on their arms or hands. This Section does not apply to a plain ring such as a wedding band.
- (d) Except as specified in Chapter 5, Section 9(e), food employees may not care for or handle animals that may be present such as patrol dogs, service animals, or pets that are allowed as specified in Chapter 9, Section 52(b)(ii)-(iv).
- (e) Food employees with service animals may handle or care for their service animals and food employees may handle or care for fish in aquariums or molluscan shellfish or crustacea in display tanks if they wash their hands as specified under Chapter 5, Sections 3 and 4 (a)(iii).
- (f) Food employees shall keep their fingernails trimmed, filed, and maintained so the edges and surfaces are cleanable and not rough.
- (g) Unless wearing intact gloves in good repair, a food employee may not wear fingernail polish or artificial fingernails when working with exposed food.

CHAPTER 4

LABELING

Section 1. Labels.

(a) Food packaged in an establishment or processing plant shall be labeled as specified in law, including 21 CFR 101 Food Labeling, as amended, and 9 CFR 317 Labeling, Marking Devices, and Containers, as amended.

(b) Label information shall include:

(i) The common name of the food, or absent a common name, an adequately descriptive identity statement;

(ii) If made from two (2) or more ingredients, a list of ingredients in descending order of predominance by weight, including a declaration of artificial color or flavor and chemical preservatives, if contained in the food;

(iii) An accurate declaration of the quantity of contents;

(iv) The name and place of business of the manufacturer, packer, or distributor;

(v) Except as exempted in the Federal Food, Drug, and Cosmetic Act 403(Q)(3)-(5), as amended, nutrition labeling as specified in 21 CFR 101 Food Labeling, as amended, and 9 CFR 317 Subpart B Nutrition Labeling, as amended;

(vi) For any salmonid fish containing canthaxanthin as a color additive, the labeling of the bulk fish container, including a list of ingredients, displayed on the retail container or by other written means, such as a counter card, that discloses the use of canthaxanthin; and

(vii) The name of the food source for each major food allergen contained in the food unless the food source is already part of the common or usual name of the respective ingredient.

(c) Bulk food that is available for consumer self-dispensing shall be prominently labeled with the following information in plain view of the consumer:

(i) The manufacturer's or processor's label that was provided with the food; or

(ii) A card, sign, or other method of notification that includes the

information specified under Chapter 4, Section 1(b) (i), (ii), and (v).

(d) Bulk, unpackaged foods such as bakery products and unpackaged foods that are portioned to consumer specification need not be labeled if:

- (i) A health, nutrient content, or other claim is not made;
- (ii) There are no state or local laws requiring labeling; and
- (iii) The food is manufactured or prepared on the premises of the establishment or processing plant or at another establishment or a processing plant that is owned by the same person and is regulated by the regulatory authority.

Section 2. Imported Meat Labeling; Requirements and Inspections.

(a) Pursuant to W.S. 35-7-119(e)(i),(ii) and (iii), every retailer and every wholesaler who sells or offers for sale in this state through an establishment or processing plant or otherwise any meat, which is the product of any country foreign to the United States, shall clearly label the meat as "Imported," naming the country of its origin. As used in this subsection:

(i) "Meat" means the edible part of the muscle of animals, which is skeletal or which is found in the tongue, in the diaphragm, in the heart or in the esophagus, with or without the accompanying or overlying fat, and the portions of bone, skin, sinew, nerve and blood vessels which normally accompany the muscle tissue and which are not separated from it in the process of dressing, but shall not include the muscle found in the lips, snout or ears, nor any edible part of the muscle which has been manufactured, cured, smoked, cooked or processed;

(ii) "Retailer" means a person regularly engaged in the business of selling meat at retail to the public, and selling only to the user or consumer and not for resale; and

(iii) "Wholesaler" means a person regularly engaged in the business of selling meat at wholesale to retailers for subsequent sale at retail to the public.

(b) The following labeling requirements shall be required:

(i) Meat from a foreign country received from a wholesaler or distributor will be clearly and distinctly marked to identify the meat or the meat package as being imported and specify country of origin.

(A) This label can be of any size or configuration as long as it is clearly visible and readable when viewing the primary product label; and

(B) If this meat is intended for retail sale in its original package, it shall meet the requirements of Chapter 4, Section 2(b) (ii).

(ii) Meat that is offered for retail sale shall have a label attached indicating "Imported" and stating the country of origin.

(A) This label will be placed on the sale package or product in close proximity to the product label or incorporated into the product label so as to be readily visible when the product package is properly displayed for sale.

(I) The letter size of the words "Imported" and country of origin shall be the same size or larger than the letters in the product name on the product label;

(II) The coloring of this import label shall be contrasting to the color of the product or package it is adhered to or embossed on so as to be distinctly visible; and

(III) If raw product is displayed in an unpackaged form and displayed in a retail case, a visible placard stating the foreign country of said product may be used in lieu of a label.

(c) Inspectors of the Wyoming department of agriculture shall, as part of their routine evaluations of wholesale and retail establishments or processing plants, inspect the meat and containers of raw meat received by the establishment or processing plant to verify that meat received which is the product of any country foreign to the United States is clearly labeled to identify the product as "Imported" and the country of origin is properly named.

(i) Meat received from a wholesaler or distributor and identified as originating from a country foreign to the United States, and not falling under any of the exemptions as specified in Chapter 4, Section 3, will be evaluated as to proper labeling as specified in Chapter 4, Section 2.

(ii) Meat defined in Chapter 4, Section 2(c) (i), that is to be repackaged and sold to the public shall be labeled as prescribed in Chapter 4, Section 2(b)(ii).

Section 3. Exemptions Pertaining to Imported Meat Labeling.

(a) ~~Ground meat products such as ground beef, ground pork, ground poultry or any comminuted meat product shall be exempt from imported meat labeling requirements. Exemptions pertaining to the imported meat labeling requirements are found in 7 CFR 65. 140 Food Service Establishment and 7 CFR 65.220 Processed Food Item.~~

Section 4. Official Marks, Devices, Marking Products and Their Containers.

(a) The official inspection legend, marks, devices and certificates required by 9 CFR 312 Official Marks, Devices and Certificates, as amended, and 9 CFR 316 Marking Products and Their Containers, as amended, shall be applied and used on inspected and passed carcasses and parts of carcasses of cattle, sheep, swine and goats, meat food products in animal casings, and other products as approved by the director and shall be in the appropriate form.

(i) Meat inspection stamps which contain the words "Wyoming Inspected and Passed" and "Wyoming Inspected and Condemned" shall be provided by the Wyoming Department of Agriculture to all establishments which have been approved and granted state meat or poultry inspection service by the department.

(b) The use of the inspection legend is prohibited except under supervision of the director.

(i) No person shall affix or place or cause to be affixed or place the inspection legend, or any abbreviation, copy or representation thereof, to or on any product or container thereof except under the supervision of the director; and

(ii) No person shall fill or cause to be filled in whole or in part with any product, any container bearing or intended to bear the inspection legend or any abbreviation, copy or representation thereof, except under the supervision of the director.

(c) Brands and marking devices shall be approved by the director, and strict control of brands shall be maintained.

(i) The department shall furnish or have approved such ink brands, burning brands and ~~the~~ like devices for marking products as the director may require.

(A) The mark of inspection on such a device shall be in the following form as a facsimile of one of the official brands using the size best suited for the purpose intended:



(ii) In advance of manufacture, brands and marking devices shall:

(A) Have complete and accurate descriptions and designs as specified in Chapter 4, Section 4(c) (i) (A), submitted to and approved by the director;

(B) Every such brand and device which bears the inspection legend shall be delivered into the custody of the Wyoming Department of Agriculture; and

(C) Be used only under the supervision of the Wyoming Department of Agriculture;

(iii) When not in use for marking inspected and passed product, all such brands and devices bearing the inspection legend shall be kept locked in properly equipped lockers or compartments, the keys of which shall not leave the possession of the regulatory authority.

(d) No person shall remove or cause to be removed from an official establishment any article which this Rule requires to be marked.

(e) Branding ink shall be:

(i) Furnished by the official establishment for marking product;

(ii) Made with harmless ingredients that are approved by the Wyoming Department of Agriculture; and

(iii) Of proper color.

(f) Brands or marking devices shall be of such style and type as will make a clear and legible impression as determined by the Wyoming Department of Agriculture.

(g) Each carcass which has been inspected and passed in an official establishment shall be marked at the time of inspection with the inspection legend in accordance with 9 CFR 316 Marking Products and Their Containers, as amended, and 9 CFR 381, Subpart M-Official Marks, Devices and Certificates; Export Certificates; Certification Procedures, as amended.

(h) The official inspection legend, marks, devices and certificates required by 9 CFR 352 Exotic Animals; Voluntary Inspection, as amended, or 9 CFR 354 Voluntary Inspection of Rabbits and Edible Products Thereof, as amended, shall be applied and used on inspected and passed carcasses and parts of carcasses of exotic animals or rabbits as approved by the director and shall be in the appropriate form.

(i) The specific requirements for use of an official mark of inspection

shall be the same as Section 4 (a)-(g) above and Section 5 below.

Section 5. Specific Labeling Requirements for Inspected and Passed Meat and Poultry Products, Label Contents and Approval.

(a) Any inspected and passed meat or poultry product placed or packed in any can, pot, tin, canvas or other receptacle or covering constituting an immediate or true container shall be labeled as specified in this Rule, or in law, including 9 CFR 317 Labeling, Marking Devices and Containers, as amended, and 9 CFR 381, Subpart N- Labeling and Containers, as amended.

(b) Labels shall be approved by the director.

(i) No label shall be used on any product until it has been approved in its final form by the director.

(A) The label shall be submitted in triplicate to the director for approval; and

(B) The label shall be submitted as it appears in its final form.

(ii) Inserts, tags, liners, posters and like devices containing printed or graphic matter and for use on, or to be placed within, containers and coverings of product shall be:

(A) Submitted for approval in the same manner as provided for labels in Chapter 4, Section 5(b) (i), except that:

(I) Inspectors may permit use of such devices which contain no reference to product and bear no misleading feature.

(iii) The inspector may permit the use of approved labels or other marking modifications provided the labeling or marking as modified is so used as not to be false or deceptive.

(iv) Approved labels shall only be used on:

(A) Products to which they are applicable; and

(B) Products for which they are approved.

Section 6. Wyoming Ungraded Eggs.

(a) ~~Before being sold in Wyoming, all eggs must be graded into grades as established by 7 CFR 56 Regulations Governing the Voluntary Grading of Shell Eggs, as amended, and USDA AMS 56 U.S. Standards, Grades and Weight Classes for Shell Eggs, as amended, with the exception of a retailer who buys eggs from A person selling ungraded eggs in Wyoming shall follow the requirements for an exempt producer as defined in 7 CFR 57, Inspection of Eggs (Egg Products Inspection Act), as amended.~~

(b) ~~The egg label or carton: Any person selling ungraded, uninspected eggs in Wyoming shall:~~

(i) ~~Shall be labeled Wyoming Ungraded Eggs; and Label the carton:~~

(A) Ungraded eggs;

(B) Include the name and address of the exempt producer; and

(C) Include a packing date and the statement "Keep Refrigerated."

(i) ~~Shall include the name and address of the exempt producer.~~

(c) Reuse of cartons:

(i) Only cartons that are clean and in good condition may be reused;

(ii) Cartons with a USDA Grade shield shall not be reused; and

(iii) All wording and dates on reused cartons shall be completely marked out.

Section 7. Bottled Water Labeling Requirements.

(a) All bottled water shall conform to 21 CFR 101 Food Labeling, as amended, and be labeled in compliance with the following standards:

(i) Mineral water may be labeled "mineral water," or "natural mineral water."

(ii) Spring water may be labeled "spring water" or "natural spring water."

(iii) Water containing carbon dioxide that emerges from the source and is bottled directly with its entrapped gas or from which the gas is naturally occurring in

the water may bear on its label the words "naturally carbonated" or "naturally sparkling."

(iv) Bottled water which contains carbon dioxide other than that which is naturally occurring in the source of the product shall be labeled with the words "carbonated" or "sparkling" when the carbonation is obtained from a natural or manufactured source.

(v) Well water may be labeled "well water" or "natural well water."

(vi) Artesian water may be labeled "artesian water," "natural artesian water," "well water" or "natural well water."

(vii) Purified water shall be labeled "purified water" and the method of preparation shall be stated on the label. However, nothing contained herein shall preclude labeling purified water produced by distillation as "distilled water."

(viii) Drinking water may be labeled "drinking water."

(ix) Any bottler, distributor or vendor of bottled water whose corporate name, brand name or trademark contains the words "spring," "springs," "well," "artesian well," "mineral" or "natural" or any derivative of those words shall label each bottle with the source of the water in type face at least equal to the size of the type face of the corporate name or trademark, if the source of the bottled water is different from the source stated in the corporate name, brand name or trademark.

(x) The use of words "spring," "spring fresh," "spring brand," "spring type," or other language containing the word "spring" to describe water that is not spring water as defined herein shall be prohibited.

(xi) A product meeting more than one definition may be identified by any of the applicable product names, except where otherwise specifically prohibited.

(xii) Supplemental printed information and graphics concerning recognized uses of the water may appear on the label but shall not imply properties of the product or preparation methods which are not factual.

CHAPTER 4

LABELING

Section 1. Labels.

- (a) Food packaged in an establishment or processing plant shall be labeled as specified in law, including 21 CFR 101 Food Labeling, as amended, and 9 CFR 317 Labeling, Marking Devices, and Containers, as amended.
- (b) Label information shall include:
 - (i) The common name of the food, or absent a common name, an adequately descriptive identity statement;
 - (ii) If made from two (2) or more ingredients, a list of ingredients in descending order of predominance by weight, including a declaration of artificial color or flavor and chemical preservatives, if contained in the food;
 - (iii) An accurate declaration of the quantity of contents;
 - (iv) The name and place of business of the manufacturer, packer, or distributor;
 - (v) Except as exempted in the Federal Food, Drug, and Cosmetic Act 403(Q)(3)-(5), as amended, nutrition labeling as specified in 21 CFR 101 Food Labeling, as amended, and 9 CFR 317 Subpart B Nutrition Labeling, as amended;
 - (vi) For any salmonid fish containing canthaxanthin as a color additive, the labeling of the bulk fish container, including a list of ingredients, displayed on the retail container or by other written means, such as a counter card, that discloses the use of canthaxanthin; and
 - (vii) The name of the food source for each major food allergen contained in the food unless the food source is already part of the common or usual name of the respective ingredient.
- (c) Bulk food that is available for consumer self-dispensing shall be prominently labeled with the following information in plain view of the consumer:
 - (i) The manufacturer's or processor's label that was provided with the food; or
 - (ii) A card, sign, or other method of notification that includes the information specified under Chapter 4, Section 1(b) (i), (ii), and (v).

(d) Bulk, unpackaged foods such as bakery products and unpackaged foods that are portioned to consumer specification need not be labeled if:

- (i) A health, nutrient content, or other claim is not made;
- (ii) There are no state or local laws requiring labeling; and
- (iii) The food is manufactured or prepared on the premises of the establishment or processing plant or at another establishment or a processing plant that is owned by the same person and is regulated by the regulatory authority.

Section 2. Imported Meat Labeling; Requirements and Inspections.

(a) Pursuant to W.S. 35-7-119(e)(i),(ii) and (iii), every retailer and every wholesaler who sells or offers for sale in this state through an establishment or processing plant or otherwise any meat, which is the product of any country foreign to the United States, shall clearly label the meat as "Imported," naming the country of its origin. As used in this subsection:

(i) "Meat" means the edible part of the muscle of animals, which is skeletal or which is found in the tongue, in the diaphragm, in the heart or in the esophagus, with or without the accompanying or overlying fat, and the portions of bone, skin, sinew, nerve and blood vessels which normally accompany the muscle tissue and which are not separated from it in the process of dressing, but shall not include the muscle found in the lips, snout or ears, nor any edible part of the muscle which has been manufactured, cured, smoked, cooked or processed;

(ii) "Retailer" means a person regularly engaged in the business of selling meat at retail to the public, and selling only to the user or consumer and not for resale; and

(iii) "Wholesaler" means a person regularly engaged in the business of selling meat at wholesale to retailers for subsequent sale at retail to the public.

(b) The following labeling requirements shall be required:

(i) Meat from a foreign country received from a wholesaler or distributor will be clearly and distinctly marked to identify the meat or the meat package as being imported and specify country of origin.

(A) This label can be of any size or configuration as long as it is clearly visible and readable when viewing the primary product label; and

(B) If this meat is intended for retail sale in its original package, it shall meet the requirements of Chapter 4, Section 2(b) (ii).

(ii) Meat that is offered for retail sale shall have a label attached indicating "Imported" and stating the country of origin.

(A) This label will be placed on the sale package or product in close proximity to the product label or incorporated into the product label so as to be readily visible when the product package is properly displayed for sale.

(I) The letter size of the words "Imported" and country of origin shall be the same size or larger than the letters in the product name on the product label;

(II) The coloring of this import label shall be contrasting to the color of the product or package it is adhered to or embossed on so as to be distinctly visible; and

(III) If raw product is displayed in an unpackaged form and displayed in a retail case, a visible placard stating the foreign country of said product may be used in lieu of a label.

(c) Inspectors of the Wyoming department of agriculture shall, as part of their routine evaluations of wholesale and retail establishments or processing plants, inspect the meat and containers of raw meat received by the establishment or processing plant to verify that meat received which is the product of any country foreign to the United States is clearly labeled to identify the product as "Imported" and the country of origin is properly named.

(i) Meat received from a wholesaler or distributor and identified as originating from a country foreign to the United States, and not falling under any of the exemptions as specified in Chapter 4, Section 3, will be evaluated as to proper labeling as specified in Chapter 4, Section 2.

(ii) Meat defined in Chapter 4, Section 2(c) (i), that is to be repackaged and sold to the public shall be labeled as prescribed in Chapter 4, Section 2(b) (ii).

Section 3. Exemptions Pertaining to Imported Meat Labeling.

(a) Exemptions pertaining to the imported meat labeling requirements are found in 7 CFR 65.140 Food Service Establishment and 7 CFR 65.220 Processed Food Item.

Section 4. Official Marks, Devices, Marking Products and Their Containers.

(a) The official inspection legend, marks, devices and certificates required by 9 CFR 312 Official Marks, Devices and Certificates, as amended, and 9 CFR 316

Marking Products and Their Containers, as amended, shall be applied and used on inspected and passed carcasses and parts of carcasses of cattle, sheep, swine and goats, meat food products in animal casings, and other products as approved by the director and shall be in the appropriate form.

(i) Meat inspection stamps which contain the words "Wyoming Inspected and Passed" and "Wyoming Inspected and Condemned" shall be provided by the Wyoming Department of Agriculture to all establishments which have been approved and granted state meat or poultry inspection service by the department.

(b) The use of the inspection legend is prohibited except under supervision of the director.

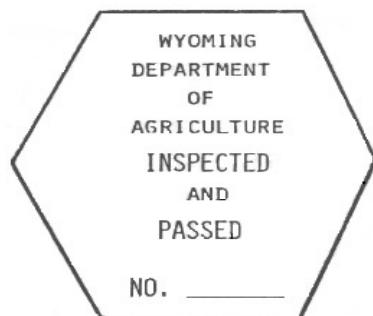
(i) No person shall affix or place or cause to be affixed or place the inspection legend, or any abbreviation, copy or representation thereof, to or on any product or container thereof except under the supervision of the director; and

(ii) No person shall fill or cause to be filled in whole or in part with any product, any container bearing or intended to bear the inspection legend or any abbreviation, copy or representation thereof, except under the supervision of the director.

(c) Brands and marking devices shall be approved by the director, and strict control of brands shall be maintained.

(i) The department shall furnish or have approved such ink brands, burning brands and like devices for marking products as the director may require.

(A) The mark of inspection on such a device shall be in the following form as a facsimile of one of the official brands using the size best suited for the purpose intended:



(ii) In advance of manufacture, brands and marking devices shall:

(A) Have complete and accurate descriptions and designs as specified in Chapter 4, Section 4(c) (i) (A), submitted to and approved by the director;

(B) Every such brand and device which bears the inspection legend shall be delivered into the custody of the Wyoming Department of Agriculture; and

(C) Be used only under the supervision of the Wyoming Department of Agriculture;

(iii) When not in use for marking inspected and passed product, all such brands and devices bearing the inspection legend shall be kept locked in properly equipped lockers or compartments, the keys of which shall not leave the possession of the regulatory authority.

(d) No person shall remove or cause to be removed from an official establishment any article which this Rule requires to be marked.

(e) Branding ink shall be:

(i) Furnished by the official establishment for marking product;

(ii) Made with harmless ingredients that are approved by the Wyoming Department of Agriculture; and

(iii) Of proper color.

(f) Brands or marking devices shall be of such style and type as will make a clear and legible impression as determined by the Wyoming Department of Agriculture.

(g) Each carcass which has been inspected and passed in an official establishment shall be marked at the time of inspection with the inspection legend in accordance with 9 CFR 316 Marking Products and Their Containers, as amended, and 9 CFR 381, Subpart M-Official Marks, Devices and Certificates; Export Certificates; Certification Procedures, as amended.

(h) The official inspection legend, marks, devices and certificates required by 9 CFR 352 Exotic Animals; Voluntary Inspection, as amended, or 9 CFR 354 Voluntary Inspection of Rabbits and Edible Products Thereof, as amended, shall be applied and used on inspected and passed carcasses and parts of carcasses of exotic animals or rabbits as approved by the director and shall be in the appropriate form.

(i) The specific requirements for use of an official mark of inspection shall be the same as Section 4 (a)-(g) above and Section 5 below.

Section 5. Specific Labeling Requirements for Inspected and Passed Meat and Poultry Products, Label Contents and Approval.

(a) Any inspected and passed meat or poultry product placed or packed in any can, pot, tin, canvas or other receptacle or covering constituting an immediate or true container shall be labeled as specified in this Rule, or in law, including 9 CFR 317 Labeling, Marking Devices and Containers, as amended, and 9 CFR 381, Subpart N- Labeling and Containers, as amended.

(b) Labels shall be approved by the director.

(i) No label shall be used on any product until it has been approved in its final form by the director.

(A) The label shall be submitted in triplicate to the director for approval; and

(B) The label shall be submitted as it appears in its final form.

(ii) Inserts, tags, liners, posters and like devices containing printed or graphic matter and for use on, or to be placed within, containers and coverings of product shall be:

(A) Submitted for approval in the same manner as provided for labels in Chapter 4, Section 5(b) (i), except that:

(I) Inspectors may permit use of such devices which contain no reference to product and bear no misleading feature.

(iii) The inspector may permit the use of approved labels or other marking modifications provided the labeling or marking as modified is so used as not to be false or deceptive.

(iv) Approved labels shall only be used on:

(A) Products to which they are applicable; and

(B) Products for which they are approved.

Section 6. Ungraded Eggs.

(a) A person selling ungraded eggs in Wyoming shall follow the requirements for an exempt producer as defined in 7 CFR 57, Inspection of Eggs (Egg Products Inspection Act), as amended.

(b) Any person selling ungraded, uninspected eggs in Wyoming shall:

(i) Label the carton:

- (A) Ungraded eggs;
 - (B) Include the name and address of the exempt producer; and
 - (C) Include a packing date and the statement "Keep Refrigerated."
- (c) Reuse of cartons:
- (i) Only cartons that are clean and in good condition may be reused;
 - (ii) Cartons with a USDA Grade shield shall not be reused; and
 - (iii) All wording and dates on reused cartons shall be completely marked out.

Section 7. Bottled Water Labeling Requirements.

- (a) All bottled water shall conform to 21 CFR 101 Food Labeling, as amended, and be labeled in compliance with the following standards:
- (i) Mineral water may be labeled "mineral water," or "natural mineral water."
 - (ii) Spring water may be labeled "spring water" or "natural spring water."
 - (iii) Water containing carbon dioxide that emerges from the source and is bottled directly with its entrapped gas or from which the gas is naturally occurring in the water may bear on its label the words "naturally carbonated" or "naturally sparkling."
 - (iv) Bottled water which contains carbon dioxide other than that which is naturally occurring in the source of the product shall be labeled with the words "carbonated" or "sparkling" when the carbonation is obtained from a natural or manufactured source.
 - (v) Well water may be labeled "well water" or "natural well water."
 - (vi) Artesian water may be labeled "artesian water," "natural artesian water," "well water" or "natural well water."
 - (vii) Purified water shall be labeled "purified water" and the method of preparation shall be stated on the label. However, nothing contained herein shall preclude labeling purified water produced by distillation as "distilled water."

(viii) Drinking water may be labeled "drinking water."

(ix) Any bottler, distributor or vendor of bottled water whose corporate name, brand name or trademark contains the words "spring," "springs," "well," "artesian well," "mineral" or "natural" or any derivative of those words shall label each bottle with the source of the water in type face at least equal to the size of the type face of the corporate name or trademark, if the source of the bottled water is different from the source stated in the corporate name, brand name or trademark.

(x) The use of words "spring," "spring fresh," "spring brand," "spring type," or other language containing the word "spring" to describe water that is not spring water as defined herein shall be prohibited.

(xi) A product meeting more than one definition may be identified by any of the applicable product names, except where otherwise specifically prohibited.

(xii) Supplemental printed information and graphics concerning recognized uses of the water may appear on the label but shall not imply properties of the product or preparation methods which are not factual.

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. 35-7-109 through 35-7-127, 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 form and allowed as specified in Chapter 3, Section 41(d)(i), 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 food 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 a food 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).

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. 35-7-109 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, as amended.

(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, as amended, 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, as amended, and Grade A Condensed and Dry Milk Ordinance, as amended.

(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, as amended, except that:

(i) The standard plate count shall not exceed two hundred thousand

(200,000);

(ii) The direct microscopic somatic cell count shall not exceed seven hundred and fifty thousand (750,000); and

(iii) The milk shall be free of antibiotic.

(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.

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, as amended.

(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), as amended, Before being sold in Wyoming, all shell eggs must be graded into grades as established by 7 CFR Part 56 Regulations Governing the Voluntary Grading of Shell Eggs, as amended, and USDA AMS 56 U.S. Standards, Grades, and Weight Classes for Shell Eggs, as amended, and shall conform to the requirements of 7 CFR 57 Inspection of Eggs (Egg Products Inspection Act), as amended.~~

(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) 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;

(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 54.

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 its 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, 45, and 50.

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, or to 45°F (7°C) or less as specified under Chapter 3, Section 50(a)(ii)(B).

(b) Potentially hazardous food shall be cooled within four (4) hours to 41°F (5°C) or less, or to 45°F (7°C) or less, as specified under Chapter 3, Section 50(a)(ii)(B), 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, or 45°F (7°C) or less as specified under Chapter 3, Section 50(a)(ii)(B).

(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, or 45°F (7°C) or less as specified under Chapter 3, Section 50(a)(ii)(B).

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.

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.

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; injected meats; comminuted meat, such as 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 Humidity ¹	250°F (121°C) or more	250°F (121°C) or more

¹Relative 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

and

(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		

1Holding 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; and

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

(iii) 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. 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 45. Reheating for Hot Holding.

- (a) Except as specified under Chapter 3, Section 45(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 45(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 50(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 46. 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 47. 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 48. Thawing Potentially Hazardous Foods.

(a) Except as specified in Chapter 3, Section 48(a)(iv), potentially hazardous food shall be thawed:

(i) Under refrigeration that maintains the food temperature at 41°F (5°C) or less, or at 45°F (7°C) or less as specified under Chapter 3, Section 50(a)(ii)(B); 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 45°F (7°C), as specified under Chapter 3, Section 50(a)(ii)(B); 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), or 45°F (7°C), as specified under Chapter 3, Section 50(a)(ii)(B), 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), or 45°F (7°C), as specified under Chapter 3, Section 50(a)(ii)(B);

(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 49. 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 5°C (41°F) or less, or at 7°C (45°F) or less, as specified under Chapter 3, Section 50(a)(ii)(B); or

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

Section 50. 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 61, 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 a temperature specified in the following:

(A) 41°F (5°C) or less; or

(B) 45°F (7°C) or between 41°F (7°C) and 45°F (5°C) in existing refrigeration equipment that is not capable of maintaining the food at 41°F (5°C) or less if:

(I) The equipment is in place and in use in the establishment; and

(II) ~~Within ten (10) years of the regulatory authority's adoption of this Rule, By July 1, 2010,~~ the equipment is upgraded or replaced to maintain food at a temperature of 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 45°F (7°C) or less.

Section 51. 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 52. 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 53. 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 53(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 54. 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 54(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 55. 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 55(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 56. Returned Food, Re-Service or Sale.

(a) Except as specified Chapter 3, Section 56(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 68, 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 57. 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 58. 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 59. 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 63, and except as specified in Chapter 3, Section 59(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 50(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; or

(ii) A maximum of four (4) days at 45°F (7°C) or between 41°F (5°C) and 45°F (7°C) in existing refrigeration equipment that is not capable of maintaining the food at 41°F (5°C) or less if:

(A) The equipment is in place and in use in the food establishment, and

(B) Within ten (10) years of the regulatory authority's adoption of this Rule, the equipment is upgraded or replaced to maintain food at a temperature of 41°F (5°C) or less.

(b) Except as specified in Chapter 3, Section 59(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 59(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 us-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 59 (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 or 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 59(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 59 (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 60. Ready-to-Eat, Potentially Hazardous Food, Disposition.

- (a) A food specified under Chapter 3, Section 59(a) or (b), shall be discarded if it:
 - (i) Exceeds either of the temperature and time combinations specified in Chapter 3, Section 50(a)(ii)(B), except time that the product is frozen;
 - (ii) Is in a container or package that does not bear a date or day; or
 - (iii) Is appropriately marked with a date or day that exceeds a temperature and time combination as specified in Chapter 3, Section 50(a)(ii)(B).
- (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 50(a)(ii)(B).

Section 61. Time as a Public Health Control.

- (a) Except as specified in Chapter 3, Section 61(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 21°C (70°F) 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 61 (a)-(c) as the public health control for raw eggs.

Section 62. 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; brewing alcoholic beverages;
- (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 as specified under Chapter 3, Section 63, where a barrier to *Clostridium botulinum* in addition to refrigeration exists;
- (v) Operating a molluscan shellfish life-support system display tank used to store and 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 63. Reduced Oxygen Packaging, Criteria.

(a) Except for an establishment or processing plant that obtains a variance as specified under Chapter 3, Section 62, and except as specified in (c) and (e) and as specified in (d) of this Section, an establishment or processing plant that packages potentially hazardous food using a reduced oxygen packaging method shall ensure that there are at least two barriers in place to control the growth and toxin formation of *Clostridium botulinum* and the growth of *Listeria monocytogenes*.

(b) 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 or raw poultry;

(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 food with bare hands;

(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 63(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, a food establishment may package food using a cook-chill or sous vide process without obtaining a variance if:

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

(ii) The food is:

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

(B) Cooked to heat all parts of the food to a temperature and

for a time as specified in Chapter 3, Section 41,

- (C) Protected from contamination after cooking,
- (D) Placed in a package or bag with an oxygen barrier before cooking, or placed in a package or bag immediately after cooking and before reaching a temperature below 135°F (57°C),
- (E) Except for frozen food that is not shelf life restricted, cooled to 41°F (5°C) in the package or bag as specified in Chapter 3, Section 31 and then cooled to 34°F (1°C) or below within 48 hours of reaching 41°F (5°C); and
 - (I) Held at 34°F (1°C) and consumed or discarded within 30 days after the date of preparation, or
 - (II) If removed from a storage unit that maintains a 34°F (1°C) food temperature, held at 41°F (5°C) or below for no more than 72 hours before consumption.
- (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) Made available to the regulatory authority upon request, and
 - (B) Held for 6 months; and
 - (iv) Written operational procedures as specified in (b) (v) of this Section and a training program as specified in (b) (vi) of this Section are implemented.
- (e) A food establishment may package cheese using a reduced oxygen packaging method without obtaining a variance if it:

- (i) Limits the cheeses packaged to those that are commercially manufactured in a food processing plant with no ingredients added in the food 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) Has a HACCP plan that contains the information specified in Chapter 10, Section 2 (a) (iv);
- (iii) Except as specified in (b)(ii), (b)(iii)(B), and (b)(iv), complies with (b) of this Section;
- (iv) Labels the package on the principal display panel with a “use by” date that does not exceed 30 days or the original manufacturer’s “sell by” or “use by” date, whichever occurs first; and
- (v) 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 64. Standards of Identity.

- (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. 35-7-109 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.

Section 65. 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. 35-7-109 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. 35-7-109 through 35-7-127.

Section 66. Consumer Warnings, Date Information.

- (a) 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. 35-7-109 through 35-7-127.

Section 67. 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 68. 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 75 (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 68(v), recipes in which more than one egg is broken and the eggs are combined;

(iii) 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 61 (d), may not be used for raw eggs.

(v) Chapter 3, Section 68(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;

hands;

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

(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 69. 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 70. 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 71. 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, as amended, or 32 FR 7565 United States Standards for Grades of Comb Honey, as amended, for the specific grade to which reference is made.

Section 72. 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 73. Tagging Food Products, "Wyoming Retained."

(a) Any food product suspected of being ~~unsound, unhealthful~~, 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 conditions:

(I) When the final inspection is made, if the food product is an inspected meat product, ~~the original mark, stamp or label thereon shall be removed or defaced and the regulatory authority shall stamp "Inspected and condemned"; and the disposition shall be determined by the regulatory authority.~~

(II) ~~The retain tag shall accompany the meat product into the tank.~~

(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 retained tag and record the transaction.

(c) 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 74. 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 75. 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."

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. 35-7-109 through 35-7-127, 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 form and allowed as specified in Chapter 3, Section 41(d)(i), 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 food 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 a food 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).

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. 35-7-109 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, as amended.

(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, as amended, 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, as amended, and Grade A Condensed and Dry Milk Ordinance, as amended.

(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, as amended, except that:

(i) The standard plate count shall not exceed two hundred thousand

(200,000);

(ii) The direct microscopic somatic cell count shall not exceed seven hundred and fifty thousand (750,000); and

(iii) The milk shall be free of antibiotic.

(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.

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, as amended.

(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), as amended, 7 CFR Part 56 Regulations Governing the Voluntary Grading of Shell Eggs, as amended, and USDA AMS 56 U.S. Standards, Grades, and Weight Classes for Shell Eggs, as amended.

(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) 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;

(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 54.

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, 45, and 50.

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, or to 45°F (7°C) or less as specified under Chapter 3, Section 50(a)(ii)(B).

(b) Potentially hazardous food shall be cooled within four (4) hours to 41°F (5°C) or less, or to 45°F (7°C) or less, as specified under Chapter 3, Section 50(a)(ii)(B), 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, or 45°F (7°C) or less as specified under Chapter 3, Section 50(a)(ii)(B).

(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, or 45°F (7°C) or less as specified under Chapter 3, Section 50(a)(ii)(B).

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.

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.

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; injected meats; comminuted meat, such as 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		

and

(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		
<i>¹Holding time may include postoven heat rise.</i>			

(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; and
 - (ii) The food is prepared in response to a consumer's order and for immediate service; or
 - (iii) 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. 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 45. Reheating for Hot Holding.

(a) Except as specified under Chapter 3, Section 45(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 45(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 50(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 46. 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 47. 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 48. Thawing Potentially Hazardous Foods.

(a) Except as specified in Chapter 3, Section 48(a)(iv), potentially hazardous food shall be thawed:

(i) Under refrigeration that maintains the food temperature at 41°F (5°C) or less, or at 45°F (7°C) or less as specified under Chapter 3, Section 50(a)(ii)(B); 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 45°F (7°C), as specified under Chapter 3, Section 50(a)(ii)(B); 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), or 45°F (7°C), as specified under Chapter 3, Section 50(a)(ii)(B), 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), or 45°F (7°C), as specified under Chapter 3, Section 50(a)(ii)(B);

(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 49. 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 5°C (41°F) or less, or at 7°C (45°F) or less, as specified under Chapter 3, Section 50(a)(ii)(B); or

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

Section 50. 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 61, 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 a temperature specified in the following:

(A) 41°F (5°C) or less; or

(B) 45°F (7°C) or between 41°F (5°C) and 45°F (5°C) in existing refrigeration equipment that is not capable of maintaining the food at 41°F (5°C) or less if:

(I) The equipment is in place and in use in the establishment; and

(II) By July 1, 2010, the equipment is upgraded or replaced to maintain food at a temperature of 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 45°F (7°C) or less.

Section 51. 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 52. 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 53. 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 53(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 54. 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 54(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 55. 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 55(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 56. Returned Food, Re-Service or Sale.

(a) Except as specified Chapter 3, Section 56(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 68, 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 57. 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 58. 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 59. 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 63, and except as specified in Chapter 3, Section 59(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 50(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; or

(ii) A maximum of four (4) days at 45°F (7°C) or between 41°F (5°C) and 45°F (7°C) in existing refrigeration equipment that is not capable of maintaining the food at 41°F (5°C) or less if:

(A) The equipment is in place and in use in the food establishment, and

(B) Within ten (10) years of the regulatory authority's adoption of this Rule, the equipment is upgraded or replaced to maintain food at a temperature of 41°F (5°C) or less.

(b) Except as specified in Chapter 3, Section 59(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 59(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 us-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 59 (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 or 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 59(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 59 (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 60. Ready-to-Eat, Potentially Hazardous Food, Disposition.

(a) A food specified under Chapter 3, Section 59(a) or (b), shall be discarded if it:

(i) Exceeds either of the temperature and time combinations specified in Chapter 3, Section 50(a)(ii)(B), except time that the product is frozen;

(ii) Is in a container or package that does not bear a date or day; or

(iii) Is appropriately marked with a date or day that exceeds a temperature and time combination as specified in Chapter 3, Section 50(a)(ii)(B).

(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 50(a)(ii)(B).

Section 61. Time as a Public Health Control.

(a) Except as specified in Chapter 3, Section 61(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 21°C (70°F) 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 61 (a)-(c) as the public health control for raw eggs.

Section 62. 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; brewing alcoholic beverages;

(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 as specified under Chapter 3, Section 63, where a barrier to *Clostridium botulinum* in addition to refrigeration exists;

(v) Operating a molluscan shellfish life-support system display tank used to store and 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 63. Reduced Oxygen Packaging, Criteria.

(a) Except for an establishment or processing plant that obtains a variance as specified under Chapter 3, Section 62, and except as specified in (c) and (e) and as specified in (d) of this Section, an establishment or processing plant that packages potentially hazardous food using a reduced oxygen packaging method shall ensure that there are at least two barriers in place to control the growth and toxin formation of *Clostridium botulinum* and the growth of *Listeria monocytogenes*.

(b) 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 or raw poultry;

(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 food with bare hands;
 - (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 63(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, a food establishment may package food using a cook-chill or sous vide process without obtaining a variance if:
- (i) The food establishment implements a HACCP plan that contains the information as specified in Chapter 10, Section 2 (iv);
 - (ii) The food is:
 - (A) Prepared and consumed on the premises, or prepared and consumed off the premises but within the same business entity with no distribution or sale of the bagged product to another business entity or the consumer,
 - (B) Cooked to heat all parts of the food to a temperature and for a time as specified in Chapter 3, Section 41,
 - (C) Protected from contamination after cooking,
 - (D) Placed in a package or bag with an oxygen barrier before

cooking, or placed in a package or bag immediately after cooking and before reaching a temperature below 135°F (57°C),

(E) Except for frozen food that is not shelf life restricted, cooled to 41°F (5°C) in the package or bag as specified in Chapter 3, Section 31 and then cooled to 34°F (1°C) or below within 48 hours of reaching 41°F (5°C); and

(I) Held at 34°F (1°C) and consumed or discarded within 30 days after the date of preparation, or

(II) If removed from a storage unit that maintains a 34°F (1°C) food temperature, held at 41°F (5°C) or below for no more than 72 hours before consumption.

(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) Made available to the regulatory authority upon request, and

(B) Held for 6 months; and

(iv) Written operational procedures as specified in (b) (v) of this Section and a training program as specified in (b) (vi) of this Section are implemented.

(e) A food establishment may package cheese using a reduced oxygen packaging method without obtaining a variance if it:

(i) Limits the cheeses packaged to those that are commercially manufactured in a food processing plant with no ingredients added in the food 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) Has a HACCP plan that contains the information specified in Chapter 10, Section 2 (a) (iv);
 - (iii) Except as specified in (b)(ii), (b)(iii)(B), and (b)(iv), complies with (b) of this Section;
 - (iv) Labels the package on the principal display panel with a “use by” date that does not exceed 30 days or the original manufacturer’s “sell by” or “use by” date, whichever occurs first; and
 - (v) 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 64. Standards of Identity.

- (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. 35-7-109 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.

Section 65. 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. 35-7-109 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. 35-7-109 through 35-7-127.

Section 66. Consumer Warnings, Date Information.

- (a) 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. 35-7-109 through 35-7-127.

Section 67. 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 68. 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 75 (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 68(v), recipes in which more than one egg is broken and the eggs are combined;

- (iii) 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 61 (d), may not be used for raw eggs.
- (v) Chapter 3, Section 68(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 69. 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 70. 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 71. 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, as amended, or 32 FR 7565 United States Standards for Grades of Comb Honey, as amended, for the specific grade to which reference is made.

Section 72. 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 73. 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 conditions:

(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 retained 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 74. 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 75. 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."

CHAPTER 2

REQUIREMENTS FOR PLAN SUBMISSION; LICENSE APPLICATION AND ISSUANCE; INSPECTION

Section 1. Prerequisite for Operation.

(a) A person shall not operate an establishment or processing plant without a valid license issued by the regulatory authority.

(i) When a person operates two (2) or more establishments or two (2) or more processing plants not on the same premises in this state, a separate license shall be required for each.

(ii) A person conducting two (2) or more operations on the same premises in this state may operate under one (1) license.

Section 2. Submission and Contents of the License Application.

(a) Pursuant to W.S. 35-7-124(a), any person processing, distributing, storing or preparing food for wholesale or retail use shall obtain a license from the department of agriculture or a local health department. The license is not transferable, shall be renewed on an annual basis and shall be prominently displayed in the establishment or processing plant. No establishment or processing plant shall serve, hold for sale or sell food to the public without a valid license. An agriculture producer shall be exempt from the licensure requirement in this Section for processing, distributing, storing or sale of any raw agriculture commodity he produces.

(i) Milk haulers, graders, and testers shall be licensed according to Chapter 2, Section 2, and standardized by the department of agriculture using criteria specified in the United States Public Health Service/FDA Pasteurized Milk Ordinance, Appendix B -Milk Production; Hauling; Industry Inspection, as amended.

(ii) Any person candling eggs in the state of Wyoming shall be licensed according to Chapter 2, Section 2, and standardized by the department of agriculture using criteria specified in USDA AMS 56- U.S. Standards, Grades, and Weight Classes for Shell Eggs, as amended, and 7 CFR Part 56 Regulations Governing the Voluntary Grading of Shell Eggs, as amended.

(b) Pursuant to W.S. 35-7-124(b), written application for a new license shall be made on a form approved by the department of agriculture and provided by the department of agriculture or the local health department and shall be signed by the applicant.

(i) The application shall include:

(A) The name, mailing address, telephone number, and signature of the person applying for the license; the name, mailing address, and telephone number of the registered agent; and the name, mailing address, and location of the establishment or processing plant;

(B) Information specifying whether the establishment or processing plant is owned by an association, corporation, individual, partnership, or other legal entity;

(C) A statement specifying whether the establishment or processing plant:

(I) Is mobile or stationary and temporary or permanent; and

(II) Is an operation that includes one or more of the following:

(1.) Prepares, offers for sale, or serves potentially hazardous food:

a. Only to order upon a consumer's request;

b. In advance in quantities based on projected consumer demand and discards food that is not sold or served at an approved frequency; or

c. Using time as the public health control as specified under Chapter 3, Section 61;

(III) Prepares potentially hazardous food in advance using a food preparation method that involves two or more steps which may include combining potentially hazardous ingredients; cooking; cooling; reheating; hot or cold holding; freezing; or thawing;

(IV) Prepares food as specified under Chapter 2, Section 2 (b)(i)(C)(III), for delivery to and consumption at a location off the premises of the establishment where it is prepared;

(V) Prepares food as specified under Chapter 2, Section 2(b) (i)(C)(III), for service to a highly susceptible population;

(VI) Prepares only food that is not potentially hazardous; or

(VII) Does not prepare, but offers for sale only prepackaged food that is not potentially hazardous;

(D) A statement signed by the applicant that:

(I) Certifies to the accuracy of the information provided in the application; and

(II) Affirms that the applicant will:

(1.) Comply with this Rule; and

(2.) Allow the regulatory authority access to the establishment as specified under Chapter 2, Section 24, and to the records specified under Chapter 3, Section 15, Chapter 8, Section 21, and Chapter 10, Section 2(a) (iv) (F).

Section 3. Qualifications and Responsibilities of Applicants.

(a) To qualify for a license, an applicant shall:

(i) Be an owner of the establishment or the person legally in charge of the business entity;

(ii) Comply with the requirements of this Rule;

(iii) As specified under Chapter 2, Section 24, agree to allow access to the establishment or processing plant and to provide required information; and

(iv) Pay the applicable license fees at the time the application is submitted.

Section 4. Issuance of a License.

(a) For establishments or processing plants that are required to submit plans as specified under Chapter 2, Section 6, the regulatory authority shall issue a license to the applicant after:

(i) A properly completed application is submitted;

(ii) The required fee is submitted;

(iii) The required plans, specifications, and information are reviewed and approved; and

(iv) A pre-operational inspection shows that the establishment or processing plant is built or remodeled in accordance with the approved plans and specifications and that the establishment is in compliance with this Rule.

(b) The regulatory authority may renew a license for an existing establishment or processing plant or may issue a license to a new owner of an existing establishment or processing plant after:

(i) A properly completed application is submitted, reviewed, and approved;

(ii) The required fees are submitted; and

(iii) An inspection shows that the establishment or processing plant is in compliance with this Rule.

Section 5. License Fees.

(a) For establishments or processing plants that are required to have a license, as specified under Chapter 2, Section 1 (a), the regulatory authority shall issue a license to the applicant after the appropriate license fee is submitted.

(b) The license fee schedule is as follows:

(i) All establishments that are new, have a new owner or have changed location shall pay an initial license fee of \$100.00 with an annual license renewal fee of \$50.00;

(ii) Temporary establishment license fees shall be \$25.00; and

(iii) Temporary sampling establishment license fees shall be \$25.00.

Section 6. When Plans and Specifications Are Required.

(a) A license applicant or license holder shall submit to the regulatory authority properly prepared plans and specifications for review and approval before:

(i) The construction of an establishment or processing plant;

(ii) The conversion of an existing structure for use as an establishment

or processing plant; or

(iii) The remodeling of an establishment or processing plant or a change of type of the establishment or processing plant as specified under Chapter 2, Section 6 7, if the regulatory authority determines that plans and specifications are necessary to ensure compliance with this Rule.

Section 7. Contents of the Plans and Specifications.

(a) The plans and specifications for an establishment or processing plant, including an establishment or processing plant specified under Chapter 10, Section 1, shall include, as required by the regulatory authority based on the type of operation, type of food preparation, and foods prepared, the following information to demonstrate conformance with Rule provisions:

- (i) Intended menu;
- (ii) Anticipated volume of food to be stored, prepared, and sold or served;
- (iii) Proposed layout, mechanical schematics, construction materials, and finish schedules;
- (iv) Proposed equipment types, manufacturers, model numbers, locations, dimensions, performance capacities, and installation specifications;
- (v) Evidence that standard procedures that ensure compliance with the requirements of this Rule are developed or are being developed; and
- (vi) Other information that may be required by the regulatory authority for the proper review of the proposed construction, conversion or modification, and procedures for operating an establishment or processing plant.

Section 8. Approval of Plans and Specifications.

(a) The regulatory authority shall review all plans and specifications to determine if they are in compliance with this Rule. After reviewing the plans and specifications, the regulatory authority shall:

- (i) Complete a plan review sheet.
- (b) If the plans and specifications are approved, the regulatory authority shall submit a copy of the plan review sheet denoting approval to the license applicant or

license holder.

(c) If the plans and specifications are disapproved, a copy of the plan review sheet stating the reason for disapproval shall be sent to the license applicant or license holder.

Section 9. Pre-operational Inspections.

(a) The regulatory authority shall conduct one or more pre-operational inspections to verify that the establishment or processing plant is constructed and equipped in accordance with the approved plans and approved modifications of those plans and is in compliance with law and this Rule.

(b) The regulatory authority shall conduct a pre-opening inspection prior to issuance of a license.

Section 10. Application for Official Inspection, Granting Inspection, Official Numbers, Withdrawal of Inspection.

(a) Inspection at official establishments shall be performed by the director, as authorized by 9 CFR 321 Cooperation With States and Territories, as amended.

(b) To qualify for official inspection, as specified in 9 CFR 304 Application F\for Inspection; Grant of Inspection, as amended, an applicant shall:

(i) Submit a completed application furnished by the director;

(ii) Comply with the requirements of this Rule in addition to 9 CFR 304 Application for Inspection; Grant of Inspection, as amended;

(iii) Comply with the requirements of 9 CFR 304.3 Conditions for Receiving Inspection, as amended, including:

(A) Developing written Sanitation Standard Operating Procedures, as specified in 9 CFR 416 Sanitation, as amended;

(B) Conduct a hazard analysis and have developed and validated a HACCP plan, as required in 9 CFR 417 Hazard Analysis and Critical Control Point (HACCP) Systems, as amended.

(iv) Comply with the requirements of 9 CFR 305.3 Sanitation and adequate facilities, as amended.

- (c) To each official establishment granted inspection, the director shall:
- (i) Give notice in writing to each applicant.
- (ii) Assign an official number to each official establishment as specified in 9 CFR 305.1 Official numbers; subsidiaries and tenants, as amended.
- (A) Such number shall be used to identify all inspected and passed products prepared in the establishment;
- (B) More than one (1) number shall not be assigned to an establishment; and
- (C) Numbers designating all establishments shall be determined by the director, and appropriately placed on all of the inspection stamps designed for each establishment.
- (d) Each official establishment granted inspection shall be separate and distinct from any unofficial establishment as specified in 9 CFR 305.2 Separation of official establishments, as amended.
- (e) To each official establishment granted inspection, the director shall inaugurate and assign inspection, as specified in 9 CFR 305.4 Inauguration of inspection, as amended, and 9 CFR 306 Assignment and authorities of program employees, as amended.
- (f) As specified in 9 CFR 307.4 Schedule of operations, as amended, no operation requiring inspection shall be conducted except under the supervision of the director.
- (g) All slaughtering of animals and preparation of products produced under inspection shall be done within reasonable hours and with reasonable speed, considering the official establishment's facilities.
- (h) As specified in 9 CFR 305.5 Withdrawal of inspection; statement of policy, as amended, inspection may be withdrawn or temporarily suspended by the director.

Section 11. Denial of License Application, Notice.

- (a) The director may by order deny a license application if he finds:
- (i) The applicant has made false statements on the license application;

(ii) The applicant has violated or failed to comply with any provision of law;

(iii) The applicant is the subject of an order within the past two (2) years of any regulatory authority in this state or any other denying, suspending or revoking a food license;

(iv) The applicant has failed to submit the appropriate fees; or

(v) The applicant has failed to correctly and completely fill out the application.

(b) If a license application is denied, the regulatory authority shall provide the applicant with a notice that includes:

(i) The specific reasons and rule citations for the license application denial;

(ii) The actions, if any, that the applicant must take to qualify for a license application;

(iii) Advisement of the applicant's right to request a hearing before the director;

(iv) The time, place and nature of hearing;

(v) The legal authority under which the hearing is to be held; and

(vi) A short plain statement of the matters asserted.

(c) The applicant must request a hearing within twenty (20) days of the receipt of the director's notice.

(d) If a hearing is requested the director shall schedule a time and place for the hearing, to be held not later than thirty (30 days) from the date of the request unless a later date is agreed to by the parties.

(e) If the applicant supplies evidence of correction and all other license requirements have been met a license shall be issued.

(f) The applicant shall be notified of the time, date and place of the hearing at least seven (7) days before the date of the hearing.

Section 12. Responsibilities of the License Holder.

- (a) Upon acceptance of the license issued by the regulatory authority, the license holder in order to retain the license shall:
- (i) Post the license in a location in the establishment or processing plant that is conspicuous to consumers;
 - (ii) Comply with the provisions of this Rule including the conditions of a granted variance as specified under Chapter 1, Section 6, and approved plans as specified under Chapter 2, Section 8;
 - (iii) Comply with the plan as specified under Chapter 1, Section 6, if an establishment or processing plant is required under Chapter 10, Section 1, to operate under a HACCP Plan;
 - (iv) Immediately contact the regulatory authority to report an illness of a food employee applicant or food employee as specified under Chapter 1, Section 15;
 - (v) Immediately discontinue operations and notify the regulatory authority if an imminent health hazard may exist as specified under Chapter 2, Section 13;
 - (vi) Allow representatives of the regulatory authority access to the establishment as specified under Chapter 2, Section 24;
 - (vii) Except as specified under Chapter 2, Section 12 (a)(viii), replace existing facilities and equipment specified in Chapter 1, Section 4(b), with facilities and equipment that comply with this Rule if:
 - (A) The regulatory authority directs the replacement because the facilities and equipment constitute a public health hazard or nuisance or no longer comply with the criteria upon which the facilities and equipment were accepted;
 - (B) The regulatory authority directs the replacement of the facilities and equipment because of a change of ownership; or
 - (C) The facilities and equipment are replaced in the normal course of operation;
 - (viii) Upgrade or replace refrigeration equipment as specified under Chapter 3, Section 50(a)(ii)(B) by July 1, 2010, if the circumstances specified under Chapter 2, Section 12 (a)(vii)(A)-(C), do not occur first;
 - (ix) Comply with directives of the regulatory authority including time frames for corrective actions specified in inspection reports, notices, orders, warnings, and other directives issued by the regulatory authority in regard to the license holder's

establishment or processing plant or in response to community emergencies;

(x) Accept notices issued and served by the regulatory authority according to law; and

(xi) Be subject to the administrative, civil, injunctive, and criminal remedies authorized in law for failure to comply with this Rule or a directive of the regulatory authority, including time frames for corrective actions specified in inspection reports, notices, orders, warnings, and other directives.

Section 13. Ceasing Operations and Reporting.

(a) Except as specified in Chapter 2, Section 13 (b), a license holder shall immediately discontinue operations and notify the regulatory authority if an imminent health hazard may exist because of an emergency such as, but not limited to, a fire, flood, extended interruption of electrical or water service, sewage backup, misuse of poisonous or toxic materials, onset of an apparent foodborne illness outbreak, or gross insanitary occurrence or condition.

(b) A license holder need not discontinue operations in an area of an establishment or processing plant that is unaffected by the imminent health hazard.

Section 14. Resumption of Operations.

(a) If operations are discontinued as specified under Chapter 2, Section 13, or otherwise according to law, the license holder shall obtain approval from the regulatory authority before resuming operations.

Section 15. Conditions Warranting Remedy.

(a) The regulatory authority may seek an administrative or judicial remedy including an administrative meeting to achieve compliance with the provisions of this Rule if a person operating an establishment or processing plant or an employee:

(i) Fails to have a valid license to operate an establishment or processing plant as specified under Chapter 2, Section 1;

(ii) Violates any term or condition of a license as specified under Chapter 2, Section 12;

(iii) Allows serious or repeated rule violations to remain uncorrected beyond time frames for correction approved, directed, or ordered by the regulatory authority under Chapter 2, Sections 26 and 28;

- (iv) Fails to comply with a regulatory authority order issued concerning an employee suspected of having a disease transmissible through food by infected persons;
- (v) Fails to comply with an order issued as a result of a hearing for an administrative remedy;
- (vi) Fails to comply with a summary suspension order issued by the regulatory authority as specified in Chapter 2, Sections 17; or
- (vii) Fails to comply with any other rule or regulation.

Section 16. Administrative Meetings.

- (a) The Wyoming Department of Agriculture may initiate an administrative meeting for the licensee's failure to:
 - (i) Correct critical violations from a routine inspection if there is a history of non-compliance with this Rule;
 - (ii) For refusal to grant access by the regulatory authority; or
 - (iii) If an inspection reveals deviations in the HACCP plan.
- (b) Notice of administrative meeting shall state:
 - (i) The reasons for the notice of administrative meeting with reference to the provisions of the rules that are in violation;
 - (ii) The location and time the administrative meeting will be held; and
 - (iii) The licensee may appear in person or by or with counsel licensed to practice in the State of Wyoming.
- (c) The Wyoming Department of Agriculture will administer the administrative meeting and hear opposing opinions regarding the issue in question.
- (d) The purpose of the administrative meeting is to facilitate a mutually agreed upon plan of compliance for the license holder.
- (e) The plan of compliance shall be:
 - (i) Presented, in writing to the license holder after the meeting;

(ii) Effective immediately upon presentation with a correction completion date ten (10) business days from the presentation date at which time a re-inspection will be performed; and

(iii) Signed by both the license holder and the regulatory authority.

(f) The administrative meeting may have three (3) possible outcomes:

(i) A mutually agreed upon plan of compliance with a re-inspection date;

(ii) No agreement of cooperation by the license holder resulting in a revocation notice being issued; or

(iii) Dismissal of the meeting by the Wyoming Department of Agriculture.

(g) If no agreement is reached between the Wyoming Department of Agriculture and the license holder or the re-inspection finds the plan of compliance has been ignored, a revocation notice shall be issued within ten (10) business days of the no agreement date or the re-inspection date.

Section 17. Summary Suspension.

(a) The regulatory authority may summarily suspend a license to operate an establishment or processing plant if it determines through inspection, or examination of food employees, food, records, or other means as specified in this Rule, that an imminent health hazard exists including, but not limited to, fire, flood, extended interruption of electrical or water service, sewage backup, or after consultation with the Health Officer.

(i) The regulatory authority may summarily suspend a license by providing written notice of the summary suspension to the license holder or the person in charge without prior warning, notice of a hearing, or a hearing.

(ii) A summary suspension notice shall state:

(A) That the license is immediately suspended and that all operations shall immediately cease;

(B) The reasons for summary suspension with reference to the provisions of this Rule that are in violation;

(C) The type of imminent threat to the public health that may be caused by the violation;

(D) The name and address of the regulatory authority representative to whom notice for re-inspection may be made and who may certify that reasons for the suspension are eliminated;

(E) The license holder may request a contested case hearing within five (5) business days of the summary suspension. The regulatory authority shall hold a hearing, if requested, within ten (10) business days of the summary suspension; and

(F) The name and address of the regulatory authority representative to whom a request for a contested case hearing may be made.

(iii) The regulatory authority shall conduct a re-inspection of the establishment or processing plant for which the license was summarily suspended within 48 hours after receiving notice from the license holder stating that the conditions cited in the summary suspension order no longer exist.

(iv) A summary suspension shall remain in effect until the conditions cited in the notice of suspension no longer exist and their elimination has been confirmed by the regulatory authority through re-inspection and other means as appropriate or until a court of competent jurisdiction otherwise orders.

(v) The suspended license shall be reinstated immediately if the regulatory authority determines that the imminent health hazard no longer exists. A notice of reinstatement shall be provided to the license holder or person in charge.

Section 18. Revocation.

(a) The Wyoming Department of Agriculture may initiate revocation proceedings for a license:

- (i) If the condition for the summary suspension is not corrected;
- (ii) For failure to correct critical violations from a routine inspection;
- (iii) If there is a history of non-compliance with this Rule; or
- (iv) For refusal to grant access by the regulatory authority.

(b) The revocation notice shall state:

(i) That the license shall be revoked fifteen (15) calendar days after receipt of the revocation notice and that all operations shall cease at that time unless a contested case hearing is requested;

(A) The revocation notice shall be sent by certified mail, return receipt requested;

(ii) The reasons for revocation with reference to the provisions of this Rule that are in violation;

(iii) That the license holder may request a hearing by submitting a request within fifteen (15) days of the receipt of the notice of revocation;

(iv) The name and address of the Wyoming Department of Agriculture representative to whom a request for a hearing may be made;

(v) If a hearing is requested, the hearing shall be conducted by a hearing officer in accordance with the Wyoming Administrative Procedure Act, W.S. 16-3-107 through 115 and the Rules of Practice and Procedures of the Wyoming Department of Agriculture; and

(vi) The licensee may appear in person or by or with counsel licensed to practice in the State in Wyoming.

(c) The final decision, accompanied by written findings of fact and conclusions of law and order, shall be issued by the director of the Wyoming Department of Agriculture.

(c) The final decision shall be delivered to the license holder by certified mail, return receipt requested.

Section 19. Hearings.

(a) All hearings provided for in this Rule shall be conducted in accordance with the Rules of Practice and Procedures adopted by the Wyoming Department of Agriculture. Appeal from any final order of the Wyoming Department of Agriculture shall be taken as provided by the Wyoming Administrative Procedure Act.

Section 20. Service of Notices.

(a) A notice issued in accordance with this Rule, except for a notice of summary suspension which shall be considered properly served pursuant to Chapter 2, Section 17, shall be considered to be properly served if it is served by one of the following methods:

(i) The notice is personally served by the regulatory authority, a law enforcement officer, or a person authorized to serve a civil process to the license holder,

the person in charge, or person operating an establishment or processing plant without a license;

(ii) The notice is sent by the regulatory authority to the last known address of the license holder or the person operating an establishment or processing plant without a license, by registered or certified mail return receipt requested or by other public means so that a written acknowledgment of receipt may be acquired;

(iii) If the notice is unable to be delivered after reasonable attempts to serve, then the notice shall be clearly posted by the regulatory authority at a public entrance to the establishment or processing plant; or

(iv) The notice is provided by the regulatory authority in accordance with another manner of service authorized in law.

Section 21. When Service is Effective.

(a) Service is effective at the time of the receipt of the notice or at the time of the posting of the notice.

Section 22. Establishing Inspection Interval.

(a) Except as specified under Chapter 2, Section 22 (b) and (c), and Section 10 (f), the regulatory authority may inspect an establishment or processing plant at least once every six (6) months.

(b) The regulatory authority may increase the interval between inspections beyond six (6) months but in no event less than once a year if:

(i) The establishment or processing plant is fully operating under an approved and validated HACCP plan as specified under Chapter 1, Section 7(a)(i) and (ii), and Chapter 10, Section 1;

(ii) The establishment or processing plant is assigned a less frequent inspection frequency based on a written risk-based inspection schedule that is being uniformly applied throughout the jurisdiction and at least once every six (6) months the establishment or processing plant is contacted by telephone or other means by the regulatory authority to ensure that the establishment or processing plant manager and the nature of operation are not changed; or

(iii) The establishment's operation involves only coffee service and other unpackaged or prepackaged food that is not potentially hazardous such as carbonated beverages and snack food such as chips, nuts, popcorn, and pretzels.

(c) The regulatory authority shall periodically inspect throughout the license period a temporary establishment that:

(i) Prepares, sells, or serves unpackaged potentially hazardous food;

(ii) Has improvised rather than permanent facilities or equipment for accomplishing functions such as handwashing, food preparation and protection, food temperature control, warewashing, providing drinking water, waste retention and disposal, and insect and rodent control; or

(iii) Has inexperienced food employees.

Section 23. Performance and Risk-Based Inspections.

(a) Within the parameters specified under Chapter 2, Section 22, the regulatory authority shall prioritize and conduct more frequent inspections based upon its assessment of an establishment's or processing plant's history of compliance with this Rule and the establishment's or processing plant's potential as a vector of foodborne illness by evaluating:

(i) Past performance, for nonconformance with this Rule or HACCP plan requirements that are critical;

(ii) Past performance, for numerous or repeat violations of this Rule or HACCP plan requirements that are noncritical;

(iii) Past performance, for complaints investigated and found to be valid;

(iv) The hazards associated with the particular foods that are prepared, stored, or served;

(v) The type of operation including the methods and extent of food storage, preparation, and service;

(vi) The number of people served; and

(vii) Whether the population served is a highly susceptible population.

Section 24. Access for Inspection.

(a) After the regulatory authority presents official credentials and states the purpose of, and an intent to conduct an inspection, the person in charge shall allow the

regulatory authority to determine if the establishment or processing plant is in compliance with this Rule by:

- (i) Allowing access to the establishment or processing plant;
 - (ii) Allowing inspection; and
 - (iii) Providing information and records specified in this Rule and to which the regulatory authority is entitled according to law, during the establishment's or processing plant's hours of operation and other reasonable times.
- (b) Denial of access to inspect shall be grounds for revocation of a license.
 - (c) The details of the denial of access shall be recorded on the inspection report form.

Section 25. Documenting Information and Observations.

- (a) The regulatory authority shall document on an inspection report form:
 - (i) Administrative information about the establishment's or processing plant's legal identity, street and mailing addresses, type of establishment or processing plant and operation as specified under Chapter 2, Section 2(b), inspection date, and other information such as type of water supply and sewage disposal, status of the license, and personnel certificates that may be required; and
 - (ii) Specific factual observations of violative conditions or other deviations from this Rule that require correction by the license holder including but not limited to:
 - (A) Failure of the person in charge to demonstrate the knowledge of foodborne illness prevention and the requirements of this Rule specified under Chapter 1, Section 10;
 - (B) Failure of food employees and the person in charge to demonstrate their knowledge of their responsibility to report a disease or medical condition as specified under Chapter 1, Sections 15 and 16;
 - (C) Nonconformance with critical items of this Rule;
 - (D) Failure of the appropriate food employees to demonstrate their knowledge of, and ability to perform in accordance with, the procedural, monitoring, verification, and corrective action practices required by the regulatory authority as specified under Chapter 1, Section 7;

- (E) Failure of the person in charge to provide records required by the regulatory authority for determining conformance with a HACCP plan as specified under Chapter 10, Section 2(a)(iv)(F);
- (F) Nonconformance with critical limits of a HACCP plan; and
- (G) Nonconformance with any other rule or regulation.

Section 26. Timely Correction for Critical Item Violation.

- (a) Except as specified in Chapter 2, Section 26 (b), a license holder shall at the time of inspection correct a critical violation of this Rule or implement corrective actions for a HACCP plan provision that is not in compliance with its critical limit.
- (b) Considering the nature of the potential hazard involved and the complexity of the corrective action needed, the regulatory authority may agree to or specify a longer time frame, not to exceed ten (10) calendar days after the inspection, for the license holder to correct critical violations of this Rule or HACCP plan deviations.
 - (i) If a determination by the inspector that the corrective action cannot be completed within 10 (ten) days, the inspector may request an extension be granted which must be approved in writing by a supervisor.

Section 27. Verification and Documentation of Correction for Critical Item Violation.

- (a) After observing at the time of inspection a correction of a critical item violation or HACCP plan deviation, the regulatory authority shall enter the violation and information about the corrective action on the inspection report.
- (b) After receiving notification that the license holder has corrected a critical item violation or HACCP plan deviation, or at the end of the specified period of time, the regulatory authority shall verify correction of the violation, document the information on an inspection report, and enter the report in the regulatory authority's records.

Section 28. Time Frame for Correction for Noncritical Violation.

- (a) Except as specified in Chapter 2, Section 28 (b), the license holder shall correct noncritical violations by a date and time agreed to or specified by the regulatory authority but no later than ninety (90) calendar days after the inspection.
- (b) The regulatory authority may approve a compliance schedule that extends

beyond the time limits specified under Chapter 2, Section 26 (b), if a written schedule of compliance is submitted by the license holder and no health hazard exists or will result from allowing an extended schedule for compliance.

Section 29. Issuing Report and Obtaining Acknowledgment of Receipt.

(a) At the conclusion of the inspection, the regulatory authority shall provide a copy of the completed inspection report to the license holder or to the person in charge, and request a signed acknowledgment of receipt.

Section 30. Refusal to Sign Acknowledgment.

(a) The regulatory authority shall:

(i) Inform a person who declines to sign an acknowledgment of receipt of inspection findings that:

(A) An acknowledgment of receipt is not an agreement with findings;

(B) Refusal to sign an acknowledgment of receipt will not affect the license holder's obligation to correct the violations noted in the inspection report within the time frames specified; and

(C) A refusal to sign an acknowledgment of receipt is noted in the inspection report and conveyed to the regulatory authority's historical record for the establishment or processing plant.

Section 31. Public Information.

(a) Except as specified in Chapter 10, Section 3, the completed inspection report form is a public document that shall be made available for public disclosure to any person who requests it according to law.

Section 32. Examining, Sampling, and Testing Food.

(a) The regulatory authority may examine, sample, and test food in order to determine its compliance with this Rule.

CHAPTER 1

PURPOSE, VARIANCES, DEFINITIONS, DEMONSTRATION OF KNOWLEDGE, AND HEALTH STATUS

Section 1. Authority. Pursuant to the authority vested in the director of the Wyoming department of agriculture by virtue of W.S. 35-7-120, 35-7-123 (a)(iii), and 35-7-127, together with the department of health and the governor's food safety council established pursuant to W.S. 35-7-127, the following rules are hereby promulgated.

Section 2. Wyoming Food Safety Rule.

(a) These provisions shall be known as the Wyoming Food Safety Rule, hereinafter referred to as this Rule.

Section 3. Statement of Purpose.

(a) The purpose of this Rule is to safeguard public health and assure consumers that food is safe, unadulterated, and honestly presented.

(b) This Rule establishes definitions; sets standards for management and personnel, food operations, equipment and facilities; and provides for establishment or processing plant plan review, license issuance, inspection, employee restriction, and license suspension.

Section 4. Public Health Protection.

(a) The regulatory authority shall apply this Rule to promote its underlying purpose of safeguarding the public health and assuring that food is safe, unadulterated, and honestly presented when offered to the consumer.

(b) In enforcing the provisions of this Rule, the regulatory authority shall assess existing facilities or equipment that were in use before the effective date of this Rule based on the following considerations:

(i) Whether the facilities or equipment are in good repair and capable of being maintained in a sanitary condition;

(ii) Whether food-contact surfaces comply with Chapter 6, Section 13;

(iii) Whether the capacities of cooling, heating, and holding equipment

are sufficient to comply with Chapter 3, Section 30; and

(iv) The existence of a documented agreement with the license holder that the facilities or equipment will be replaced as specified under Chapter 2, Section ~~11~~ 12 (a)(vii), or upgraded or replaced as specified under Chapter 2, Section ~~11~~ 12 (a)(vii)(A).

Section 5. Variances of Modifications and Waivers.

(a) The Wyoming department of agriculture may grant a variance by modifying or waiving the requirements of this Rule if in the opinion of the Wyoming department of agriculture a health hazard or nuisance will not result from the variance. If a variance is granted, the Wyoming department of agriculture shall retain the information specified under Chapter 1, Section 6, in its records for the establishment or processing plant.

Section 6. Documentation of Proposed Variance and Justification.

(a) Before a variance from a requirement of this Rule is approved, the information that shall be provided by the person requesting the variance and retained in the Wyoming department of agriculture's file on the establishment or processing plant must include:

(i) A statement of the proposed variance of the Rule requirement citing relevant Rule Section numbers;

(ii) An analysis of the rationale for how the potential public health hazards and nuisances addressed by the relevant Rule Sections will be alternatively addressed by the proposal; and

(iii) A HACCP Plan if required as specified under Chapter 10, Section 1(a) that includes the information specified under Chapter 10, Section 2, as it is relevant to the variance requested.

Section 7. Variance Requirements.

(a) If the Wyoming department of agriculture grants a variance as specified in Chapter 1, Section 6, or a HACCP plan is otherwise required as specified under Chapter 10, Section 1, the license holder shall:

(i) Comply with the HACCP Plan and procedures that are submitted as specified under Chapter 10, Section 2, and approved as a basis for the modification or

waiver; and

(ii) Maintain and provide to the Wyoming department of agriculture, upon request, records specified under Chapter 10, Section 2 (a) (iv) and (v), that demonstrate that the following are routinely employed:

- (A) Procedures for monitoring critical control points;
- (B) Monitoring of the critical control points;
- (C) Verification of the effectiveness of an operation or process; and
- (D) Necessary corrective actions if there is failure at a critical control point.

Section 8. Applicability and Terms Defined.

(a) The following terms are defined and apply in the interpretation and application of this Rule.

(i) "Accredited program."

(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.

(B) "Accredited program" 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; and test development and administration.

(C) "Accredited program" does not refer to training functions or educational programs.

(ii) "Additive."

(A) "Food additive" has the meaning stated in the Federal Food, Drug, and Cosmetic Act, §201(s) and 21 CFR 170 Food Additives.

(B) "Color additive" means a material, other than a material exempt under the federal act, which:

(I) Is a dye, pigment or other substance from a vegetable, animal, mineral or other source; or

(II) When added or applied to a food, drug or cosmetic, or to the human body or any part thereof is capable (alone or through reaction with other substances) of imparting color thereto.

(iii) "Administrative meeting" means an informal meeting conducted by the Wyoming department of agriculture for the purpose of facilitating a mutually agreed upon plan of compliance for the license holder.

(iv) "Adulterated" has the meaning stated in the Federal Food, Drug and Cosmetic Act, 21 USC, Section 342.

(v) "Animals" means but is not limited to livestock as defined in 9 CFR 301 Definitions, as amended, poultry as defined in 9 CFR 381.1 Definitions, as amended, or exotic animals as defined in 9 CFR 352.1 Definitions, as amended, and fish.

(vi) "Approved" means acceptable to the regulatory authority based on determination of conformity with principles, practices, and generally recognized standards that protect public health.

(vii) "Approved source" when used in reference to a bottled water plant's water product or water used in the plant's operations, means the source(s) of the water whether it be from a spring, artesian well, drilled well, municipal water supply, or any other source that has been inspected and the water sampled, analyzed, and found to be of a safe and sanitary quality in accordance with the applicable laws and regulations of the State of Wyoming. The presence in the plant of current certificates or modifications of approval from the State Engineer shall constitute approval of the source in the case of non-municipal water supplies.

(viii) "Approved water source" means any public water source or private well that has been routinely sampled and verified to not have contaminants in excess of the legal maximum contaminant levels as outlined in the primary Environmental Protection Agency (EPA) water quality standards, as amended.

(ix) "Artesian water" means bottled water from a well tapping an aquifer in which the water level will stand above the bottom of the confining bed of the aquifer and in which the hydraulic pressure of the water in the aquifer is greater than the force of gravity. "Artesian well water" shall meet the requirements of "natural water."

(x) "Asymptomatic."

(A) "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.

(B) "Asymptomatic" includes not showing symptoms because symptoms have resolved or subsided, or because symptoms never manifested.

(xi) " 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 .

(xii) "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.

(xiii) "Bed and breakfast facility" means a private home which is used to provide temporary accommodations for a charge to the public with not more than four (4) lodging units or not more than a daily average of eight (8) persons per night during any thirty (30) day period and in which no more than two (2) family style meals are provided per twenty four (24) hour period.

(xiv) "Beverage" means a liquid for drinking, including water.

(xv) "Bottled water" means water that is from an approved source and is placed in a sealed container or package and is offered for sale for human consumption or other consumer uses.

(xvi) "Bulk water" means water which is handled in containers of 25 gallon capacity or greater.

(xvii) "Carcass" means all or any part of a slaughtered animal, including viscera, which is capable of being used for human consumption.

(xviii) "Casing" means a tubular container for sausage products made of either natural or artificial (synthetic) material.

(xix) "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, as amended.

(xx) "CFR" means Code of Federal Regulations. Citations in this Regulation 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.

(xxi) "CIP."

(A) "CIP" means cleaned in place by circulation or flowing by mechanical means through a piping system of a detergent solution, water rinse, and sanitizing solution onto or over equipment surfaces that require cleaning, such as the method used, in part, to clean and sanitize a frozen dessert machine.

(B) "CIP" does not include the cleaning of equipment such as band saws, slicers, or mixers that are subjected to in-place manual cleaning without the use of a CIP system.

(xxii) "Code of Federal Regulations" means the compilation of the general and permanent regulations published in the Federal Register by the executive departments and agencies of the federal government which:

(A) Is published annually by the U.S. Government Printing Office; and

(B) Contains FDA regulations in 21 CFR, USDA regulations in 7 CFR and 9 CFR, EPA regulations in 40 CFR, and Wildlife and Fisheries regulations in 50 CFR.

(xxiii) "Comb honey" means honey contained in the cells of the comb in which it is produced.

(xxiv) "Commingle" means:

(A) To combine shellstock harvested on different days or from different growing areas as identified on the tag or label, or

(I) To combine shucked shellfish from containers with different container codes or different shucking dates.

(xxv) "Comminuted."

(I) "Comminuted" 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.

(xxvi) "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.

(xxvii) "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.

(xxviii) "Consumer" means a person who is a member of the public, who takes possession of food, who is not functioning in the capacity of an operator of an establishment or processing plant, or who does not offer the food for resale.

(xxix) "Contaminant" means any physical, chemical, biological or radiological substance or matter in water.

(xxx) "Contract veterinarian" means a graduate of a school of veterinary medicine accredited by the American Veterinary Medical Association who provides services for the department under contract, and who is licensed to practice veterinary medicine in the state of Wyoming."

(xxxi) "Cooked" means food to which heat has been applied for preservation and/or to change the color, aroma, texture, and/or flavor of the product. Internal temperatures typically range from 145°F to 180°F, whereas externally the product may reach temperatures over 200°F. Some products are considered cooked even though their internal temperatures may only reach 130°F-140°F. Roast prime rib of beef is an example.

(xxxii) "Corrosion-resistant material" means a material that maintains acceptable surface cleanability characteristics under prolonged influence of the food contacted, the normal use of cleaning compounds and sanitizing solutions, and other conditions of use environment.

(xxxiii) "Cottage food business" means a business which produces not potentially hazardous food for sale at farmers' markets, roadside stands, private homes, or functions utilizing the home style equipment in the kitchen of a private home.

(xxxiv) "Country" when used in the name of meat, meat food product or meat by-product means that such meat, meat food product or meat by-product was actually prepared on the farm.

(xxxv) "Critical control point" means a point or procedure in a specific food system where loss of control may result in an unacceptable health risk

(xxxvi) "Critical item."

(A) "Critical item or critical violation" means a provision of this Rule, that, if in noncompliance, is more likely than other violations to contribute to food contamination, illness, or environmental health hazard.

(xxxvii) "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.

(xxxviii) "Cured" means meat to which specific non-meat ingredients have been incorporated by dry addition or use of aqueous solutions to affect preservation, safety, flavor, and/or color. The non-meat ingredients must include salt (sodium chloride), and most often include sodium nitrite/nitrate. In addition, sugar (sucrose) or other sweetening agents are frequently used.

(xxxix) "Custom carcass or meat" means carcasses, meat, meat food products or meat by-products which were slaughtered, dressed or otherwise processed by license holders.

(xl) "Department" means the Wyoming department of agriculture.

(xli) "Director" means the director of the Wyoming department of agriculture or his duly authorized representative.

(xlii) "Disinfectant" means any oxidant, including but not limited to, chlorine, chlorine dioxide, chloramines and ozone added to water in any part of the treatment or distribution process that is intended to kill or inactivate pathogenic microorganisms.

(xlili) "Distilled water" means bottled water which has been produced by a process of distillation and meets the definition of purified water in the 21st Edition of the United States Pharmacopeia.

(xliv) "Distressed merchandise" means any food:

(A) Which has had the label lost;

(B) Which has been subjected to possible damage due to accident, fire, flood, adverse weather, or any other similar cause; or

(C) Which may have been rendered unsafe or unsuitable for human or animal consumption or use.

(xlv) "Drinking water."

(A) "Drinking water" means water that meets 40 CFR 141 National Primary Drinking Water Regulations.

(B) "Drinking water" is traditionally known as "potable water."

(C) "Drinking water" 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.

(xlvi) "Dry storage area" means a room or area designated for the storage of packaged or containerized bulk food that is not potentially hazardous and dry goods such as single-service items.

(xlvii) "Easily cleanable."

(A) "Easily cleanable" means a characteristic of a surface that:

(I) Allows effective removal of soil by normal cleaning methods;

(II) Is dependent on the material, design, construction, and installation of the surface; and

(III) Varies with the likelihood of the surface's role in introducing pathogenic or toxigenic agents or other contaminants into food based on the surface's approved placement, purpose, and use.

(B) "Easily cleanable" includes a tiered application of the criteria that qualify the surface as easily cleanable as specified under Subparagraph (A) of this definition, to different situations in which varying degrees of cleanability are required such as:

(I) 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

(II) 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.

(xlviii) "Easily movable" means:

(A) Portable; mounted on casters, gliders, or rollers; or provided with a mechanical means to safely tilt a unit of equipment for cleaning; and

(B) 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.

(xlix) "Edible" means intended for use as human food.

(I) "Egg"

(A) "Egg" means the shell egg of avian species such as chicken, turkey, duck, goose, guinea, quail or ratite.

(B) "Egg" does not include:

(I) A balut;

(II) The egg of reptile species such as alligator; or

(III) An egg product.

(ii) "Egg Product."

(A) "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.

(B) "Egg Product" does not include food which contains eggs only in a relatively small proportion such as cake mixes.

(iii) "Employee" means the license 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 an establishment or processing plant.

(iv) "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. EHEC is a subset of STEC, whose members produce additional virulence factors. Infections with EHEC may be asymptomatic but are classically associated with bloody diarrhea (hemorrhagic colitis) and hemolytic uremic syndrome (HUS) or thrombotic thrombocytopenic purpura (TTP). Examples of serotypes of EHEC include: *E. coli* O157:H7; *E. coli* O157:NM; *E. coli* O26:H11; *E. coli* O145:NM; *E. coli* O103:H2; or *E. coli* O111:NM. Also see shiga toxin-producing *e. coli*.

(iv) "EPA" means the U.S. Environmental Protection Agency.

(iv) "Equipment."

(A) "Equipment" means an article that is used in the operation of a food 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, vending machine, or warewashing machine.

(B) "Equipment" does not include items 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.

(lvi) "Establishment."

(A) "Establishment" means and includes any place or any area of any establishment in which food, drugs, devices and cosmetics are displayed for sale, manufactured, processed, packed, held or stored:

(I) Including but not limited to, a restaurant; retail store; meat slaughter or processing plant, dairy production and processing; bed and breakfast; bulk water hauler; satellite, group day care center or catered feeding location; catering operation if the operation provides food directly to a consumer or to a conveyance used to transport people; market; vending location; conveyance used to transport people; institution; or food bank; and

(II) That relinquishes possession of food to a consumer directly, or indirectly through a delivery service such as home delivery of grocery orders or restaurant takeout orders, or delivery service that is provided by common carriers.

(B) "Establishment" includes:

(I) An element of the operation such as a transportation vehicle or a central preparation facility that supplies a vending location or satellite feeding location unless the vending or feeding location is permitted by the regulatory authority; and

(II) An operation that is conducted in a mobile, stationary, temporary, or permanent facility or location; where consumption is on or off the premises; and regardless of whether there is a charge for the food.

(C) "Establishment" does not include:

(I) A kitchen in a private home if only food that is not potentially hazardous is prepared for sale or ~~service use at a function such as a religious or charitable organization's bake sale if allowed by law farmers' markets, roadside stands, private homes or functions.~~

(II) An area where food that is prepared as specified in Subparagraph (C) (I) of this definition, is sold or offered for human consumption;

(III) A kitchen in a private home, such as a small family day-care provider; or

(IV) A private home that receives catered or home-delivered food.

(lvii) "Establishment number" means an official number assigned by the director to each establishment and included on the inspection legend and label to identify all inspected and passed carcasses, meat, meat food products and meat by-products handled in that establishment.

(lviii) "Exclude" means to prevent a person from working as a food employee or entering an establishment or processing plant as a food employee.

(lix) "Exotic animal" means any reindeer, elk, deer, antelope, water buffalo or bison.

(lx) "Extracted honey" means honey that has been separated from the comb by centrifugal force, gravity, straining, or by other means.

(lxi) "Farmers market" means a common facility or area where several vendors may gather on a regular, recurring basis to sell a variety of fresh fruits and vegetables, locally grown farm products and other items directly to consumers.

(lxii) "FDA" means the U.S. Food and Drug Administration.

(lxiii) "Family style meals" means a meal prepared in a bed and breakfast facility or ranch recreation facility and served in the same facility around a common table(s). At no time would a menu or a preselected list of foods be available, and all foods not consumed, which were of a potentially hazardous nature, would be discarded following the meal.

(lxiv) "Federal inspection" means meat and poultry inspection services conducted or approved by the meat inspection division and the poultry inspection division of the United States Department of Agriculture.

(lxv) "Federal Meat Inspection Act" means the act of congress approved March 4, 1907, as amended and extended and the imported meat provisions of subsections 306 (b) and (c) of the Tariff Act of 1930 and 9 U.S.C. 1306 (b) and (c), as amended.

(lxvi) "Federal Poultry Products Inspection Act" means the act of congress approved August 28, 1957, as amended by the Wholesome Poultry Products Act, 82 Stat. 791; 21 U.S.C. 451.

(lxvii) "Fish."

(A) "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.

(B) "Fish" includes an edible human food product derived in whole or in part from fish, including fish that have been processed in any manner.

(lxviii) "Fluoridated water" means bottled water containing naturally occurring or added fluoride. The label shall specify whether the fluoride is naturally occurring or added. Any water which meets the definition of this paragraph shall contain not less than 0.7 and not more than 1.4 mg/l fluoride ions and otherwise comply with the Food and Drug Administration quality standards set forth in 21 CFR 165.110 Bottled Water.

(lxix) "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.

(A) ~~Articles used for food or drink for humans including meat and ice intended for human consumption;~~

(B) ~~Chewing gum;~~

(C) ~~Beverages subject to the Federal Alcohol Administration Act, as amended, (Title 27 U.S.C. 201 et seq.);~~

(D) ~~Articles used for components of any article under subparagraphs (A), (B), and (C) of this paragraph.~~

(lxx) "Foodborne disease outbreak" means the occurrence of two (2) or more cases of a similar illness resulting from the ingestion of a common food.

(lxi) "Food-contact surface" means:

(A) A surface of equipment or a utensil with which food normally comes into contact; or

(B) A surface of equipment or a utensil from which food may drain, drip, or splash:

(I) Into a food; or

(II) Onto a surface normally in contact with food.

(lxxii) "Food employee" means an individual working with unpackaged food, food equipment or utensils, or food-contact surfaces.

(lxxiii) "Function" means any official ceremony or organized social occasion.

(lxxiv) "Game animals" means any big game animal, elk, deer, mountain sheep, wild goat, antelope, moose or bear.

(lxxv) "General use pesticide" means a pesticide that is not classified by EPA for restricted use as specified in 40 CFR 152.175.

(lxxvi) "Grade A standards" means the requirements of the United States Public Health Service/FDA Grade A Pasteurized Milk Ordinance, as amended, and Grade A Condensed and Dry Milk Ordinance, as amended, with which certain fluid and dry milk and milk products must comply.

(lxxvii) "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, as amended.

(lxxviii) "Handwashing Sink."

(A) "Handwashing sink" means a lavatory, a basin or vessel for washing, a wash basin, or a plumbing fixture especially placed for use in personal hygiene and designed for the washing of the hands.

(B) "Handwashing sink" includes an automatic handwashing facility.

(lxxix) "Hazard" means a biological, chemical, or physical property that may cause an unacceptable consumer health risk.

(lxxx) "Health officer" means the person appointed by the director of the department of health pursuant to W.S. 9-2-101(f) and 9-2-103.

(lxxxi) "Health practitioner" means a physician licensed to practice medicine, or if allowed by law, a nurse practitioner, physician assistant, or similar medical professional.

(lxxxii) "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.

(lxxxiii) "Highly susceptible population" means a group that is composed of persons who are more likely than other groups of persons in the general population to experience foodborne disease because they are:

(A) Immunocompromised; or older adults who live in a facility that provides health care or assisted living services, such as a hospital or nursing home; or preschool age children in a facility that provides custodial care, such as a day care center.

(B) 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.

(lxxxiv) "Honey" means a food product which is the nectar and saccharin exudation of plants gathered, modified, and stored in the comb by honey bees; is levorotatory; and contains not more than twenty-five percent (25%) of water, not more than twenty-five hundredths percent (.25%) of ash, nor more than eight percent (8%) sucrose.

(lxxxv) "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:

(A) The number of potential injuries; and

(B) The nature, severity, and duration of the anticipated injury.

(lxxxvi) "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 with juices which may be referred to as "injecting," "pinning," or "stitch pumping."

(lxxxvii) "Juice."

(A) "Juice," when used in the context of food safety, 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.

(B) "Juice" does not include, for purposes of HACCP, liquids, purées, or concentrates that are not used as beverages or ingredients of beverages.

(lxxxviii) "Kitchenware" means food preparation and storage utensils.

(lxxxix) "Law" means applicable local, state, and federal statutes, rules, regulations, and ordinances.

(xc) "License" means the document issued by the regulatory authority that authorizes a person to operate an establishment or a processing plant.

(xci) "License holder" means the entity that:

(A) Is legally responsible for the operation of the establishment or processing plant such as the owner, the owner's agent, or other person; and

(B) Possesses a valid license to operate an establishment or processing plant.

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

(xciii) "Lodging unit" means a room with one (1) or more beds, bunks or other facilities for sleeping purposes for an unspecified number of persons.

(xciv) "Major Food Allergen."

(A) "Major food allergen" means:

(I) Milk, egg, fish (such as bass, flounder, cod, and including crustacean shellfish such as crab, lobster, or shrimp), tree nuts (such as almonds, pecans, or walnuts), wheat, peanuts, and soybeans; or

(II) A food ingredient that contains protein derived from a food, as specified in Subparagraph (A)(I) of this definition.

(B) "Major food allergen" does not include:

(I) Any highly refined oil derived from a food specified in Subparagraph (A)(I) of this definition and any ingredient derived from such highly refined oil; or

(II) 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).

(xcv) "Manufactured" means meat which has been processed by curing, smoking, canning, cooking, freezing, dehydration, production of intermediate moisture products, and/or the use of certain additives, chemicals, and enzymes into a product different from the starting raw material. This definition shall not include simple grinding,

cutting, or mixing.

(xcvi) "Manufacturing Milk" means milk for manufacturing purposes produced for processing and manufacturing into products for human consumption but not subject to Grade A or comparable requirements.

(xcvii) "Meat" means the edible part of the muscle of animals, which is skeletal or which is found in the tongue, in the diaphragm, in the heart or in the esophagus, with or without the accompanying or overlying fat, and the portions of bone, skin, sinew, nerve and blood vessels which normally accompany the muscle tissue and which are not separated from it in the process of dressing; it does not include the muscle found in the lips, snout or ears.

(A) This definition shall be limited to livestock as defined in 9 CFR 301.2 Definitions.

(xcviii)"Meat by-product" means any edible part of an animal other than meat or meat food products.

(xcix) "Meat food product" means any article of food for human consumption or any article which enters into the composition of food for human consumption, which is derived or prepared in whole or in part from any portion of any animal, except organotherapeutic substances, meat juices, meat extract and the like which are only for medicinal purposes and are advertised only to the medical profession; any edible part of the carcass which has been manufactured, cured, smoked, processed or otherwise treated shall be considered a meat food product.

(c) "mg/l" means milligrams per liter, which is the metric equivalent of parts per million (ppm).

(ci) "Milk grader or milk hauler" means any person who samples, approves or rejects raw milk for utilization in milk products.

(cii) "Milk tester" means any person who tests samples of milk taken by a milk grader for the purpose of determining compliance with this Rule, the United States Public Health Service/FDA Grade A Pasteurized Milk Ordinance, as amended or for payment purposes.

(ciii) "Mineral water" means bottled water that contains not less than 500 parts per million mineral solids. "Mineral water" shall meet the requirements of "Natural water."

(civ) "Misbranding ed" has the meaning stated in the Federal Food, Drug and Cosmetic Act, 21 USC 343.

(cv) "Mobile establishment" means an establishment designed to be readily movable such as a vehicle-mounted unit or a pushcart.

(cvi) "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.

(cvii) "Natural water" means bottled spring, artesian well, or well water which is not derived from a public system and which is unmodified by blending with water from another source or by mineral addition or deletion, except as it relates to ozonation or equivalent disinfection and filtration.

(cviii) "Non-salvageable merchandise" means "distressed merchandise," which cannot be safely or practically reconditioned.

(cix) "Not potentially hazardous food" means any food which does not require time or temperature control for safety to limit pathogenic microorganism growth or toxin formation. The natural pH or the final pH of acidified food must be 4.6 or less.

(cx) "Official establishment" means any slaughtering, cutting, boning, meat canning, curing, smoking, salting, packing, rendering, or similar establishment at which inspection is maintained under the regulatory authority and this Rule.

(cxi) "Official inspection legend" means any symbol prescribed by the director showing that an article was inspected and passed in accordance with this Rule.

(cxii) "Official inspection mark" means any symbol prescribed by the director for the purpose of identifying the inspection status of any article so inspected.

(cxiii) "Packaged."

(A) "Packaged" means bottled, canned, cartoned, securely bagged, or securely wrapped, whether packaged in an establishment or processing plant.

(B) "Packaged" does not include a wrapper, carry-out box, or other nondurable container used to contain food with the purpose of facilitating food protection during service and receipt of the food by the consumer.

(cxiv) "Perishable" means there exists a significant risk of spoilage or deterioration when a product has not been properly refrigerated or handled.

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

(cxvi) "Person in charge" means the individual present at an

establishment or processing plant who is responsible for the operation at the time of inspection.

(cxvii) "Personal care items."

(A) "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.

(B) "Personal care items" include items such as medicines; first aid supplies; and other items such as cosmetics, and toiletries such as toothpaste and mouthwash.

(cxviii) "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.

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

(cxx) "Plumbing fixture" means a receptacle or device that:

(A) Is permanently or temporarily connected to the water distribution system of the premises and demands a supply of water from the system; or

(B) Discharges used water, waste materials, or sewage directly or indirectly to the drainage system of the premises.

(cxxi) "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.

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

(A) Cleaners and sanitizers, which include cleaning and sanitizing agents and agents such as caustics, acids, drying agents, polishes, and other chemicals;

(B) Pesticides except sanitizers, which include substances such as insecticides and rodenticides;

(C) Substances necessary for the operation and maintenance of the establishment such as nonfood grade lubricants and personal care items that may be deleterious to health; and

(D) Substances that are not necessary for the operation and maintenance of the establishment and are on the premises for retail sale, such as petroleum products and paints.

(cxxiii) "Potentially Hazardous Food (Time/Temperature Control for Safety Food)."

(A) "Potentially hazardous food (time/temperature control for safety food)" means a food that requires time/temperature control for safety (TCS) to limit pathogenic microorganism growth or toxin formation.

(B) "Potentially hazardous food (time/temperature control for safety food)" includes:

(I) 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 mixtures of cut tomatoes, or garlic-in-oil mixtures that are not modified in a way that results in mixtures that do not support pathogenic microorganism growth or toxin formation; and

(II) Except as specified in Subparagraph (C)(IV) of this definition, a food that because of the interaction of its AW and PH values is designated as Product Assessment Required (PA) in Table A or B of this definition:

Table A. Interaction of pH and aw for control of spores in food heat treated to destroy vegetative cells and subsequently packaged

AW values	pH		
	4.6 or less	> 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 AW for control of vegetative cells and spores in food not heat-treated or heat-treated but not packaged

AW values	pH			
	< 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

(C) "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 pasteurized 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 aw value, or interaction of aw and pH values, is designated as a non-PHF/non-TCS food in Table A or B of this definition;

(IV) A food that is designated as Product Assessment Required (PA) 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:

(1.) Intrinsic factors including added or natural characteristics of the food such as preservatives, antimicrobials, humectants, acidulants, or nutrients,

(2.) 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

(3.) A combination of intrinsic and extrinsic factors; or

(V) A food that does not support the growth or toxin formation of pathogenic microorganisms in accordance with one of the Subparagraphs (C)(I) - (C)(IV) of this definition even though the food may contain a pathogenic microorganism or chemical or physical contaminant at a level sufficient to cause illness or injury.

(cxxiv) "Poultry."

(A) "Poultry" means:

(I) Any domesticated bird (chickens, turkeys, ducks, geese, guineas or ratites), whether live or dead, as defined in 9 CFR 381 Poultry Products Inspection Regulations, as amended; and

(II) Any migratory waterfowl, game bird, such as pheasant, partridge, quail, grouse, guinea, pigeon, or squab, whether live or dead, as defined in 9 CFR 362 Voluntary Poultry Inspection Regulations, as amended.

(cxxv) "Premises" means:

(A) The physical facility, its contents, and the contiguous land or property under the control of the license holder; or

(B) The physical facility, its contents, and the land or property not described under Subparagraph (A) of this definition, if its facilities and contents are under the control of the license holder and may impact the establishment or processing plant personnel, facilities, or operations, if an establishment or processing plant is only one component of a larger operation such as a health care facility, hotel, motel, school, recreational camp, or prison.

(cxxvi) "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.

(cxxvii) "Processed" as applied to meat products means fresh meat

which has been altered to affect preservation and/or manufacture of meat products, except for simple grinding, cutting, or mixing. This includes curing, smoking, canning, cooking, freezing, dehydration, production of intermediate moisture products, and the use of certain additives, chemicals, and enzymes. Processed does not include otherwise unprocessed meats that are sold in a frozen state.

(cxxviii) "Processing plant."

(A) "Processing plant" means a commercial operation that manufactures, packages, labels, or stores food for human consumption and may provide food directly to a consumer.

(B) "Processing plant" does not include an establishment as defined under Chapter 1, Section 8 (lvi).

(cxxix) "Public water system" has the meaning stated in 40 CFR 141 National Primary Drinking Water Regulations, as amended.

(cxxxi) "Purified water" means bottled water produced by distillation, deionization, reverse osmosis, or other suitable process and meets the requirements of purified water in the 21st Edition of the United States Pharmacopeia. Water which meets the definition of this paragraph, and is vaporized, then condensed, may be labeled "distilled water."

(cxxxi) "Ranch recreation facility" means a ranch/farm facility containing or having under use agreement one hundred sixty (160) acres or more which may for a charge to the public provide activities for not more than a daily average of eight (8) persons in any given thirty (30) day period or may include sleeping facilities in not more than four (4) sleeping units along with accompanying family style meals. Meals and lodging shall be considered an adjunct to the activities which take place on the ranch and are not available to non-registered guests. This definition does not apply to a dude ranch.

(cxxxi) "Ratite" means a group of flightless birds including ostriches, cassowaries, kiwis, emus, etc., having undeveloped wings and a breastbone without a keel.

(cxxxi) "Ready-to-eat food."

(A) "Ready-to-eat food" means food that:

(I) Is in a form that is edible without additional preparation to achieve food safety, as specified under Chapter 3, Section 41(a)-(c), Section 42, or Section 34; or

(II) Is a raw or partially cooked animal food and the

consumer is advised as specified under Chapter 3, Section 41(d)(i) and (ii); or

(III) Is prepared in accordance with a variance that is granted as specified under Chapter 3, Section 41(d)(i) and (iii); and

(IV) May receive additional preparation for palatability or aesthetic, epicurean, gastronomic, or culinary purposes.

(B) "Ready-to-eat food" includes:

(I) Raw animal food that is cooked as specified under Chapter 3, Sections 41 and 42, or frozen as specified under Chapter 3, Section 34;

(II) Raw fruits and vegetables that are washed as specified under Chapter 3, Section 40;

(III) Fruits and vegetables that are cooked for hot holding, as specified under Chapter 3, Section 43;

(IV) All potentially hazardous food that is cooked to the temperature and time required for the specific food under Chapter 3, Section 41, 42, 43, and cooled as specified in Chapter 3, Section 31;

(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 according to 21 CFR Part 113, Thermally Processed Low-Acid Foods Packaged in Hermetically Sealed Containers.

(cxxxiv) "Reconditioning" means any appropriate process or procedure by which distressed merchandise can be brought into compliance with the standards of the regulatory authority for consumption or use by the public.

(cxxxv) "Reconstituted" means dehydrated food products recombined with water or other liquids.

(cxxxvi) "Reduced oxygen packaging."

(A) "Reduced oxygen packaging" means:

(I) 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 surrounding 21% oxygen atmosphere; and

(II) A process as specified in Subparagraph (A)(I) of this definition that involves a food for which the hazards *Clostridium botulinum* or *Listeria monocytogenes* require control in the final packaged form.

(B) "Reduced oxygen packaging" includes:

(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 which 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 psychotrophic 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 psychotrophic pathogens.

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

(cxxviii) "Regulatory authority" means the local, state, or federal enforcement body or authorized representative having jurisdiction over the establishment or processing plant.

(cxxix) "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; and unwrapped single-service or single-use articles.

(cxl) "Restricted egg" means any check, dirty egg, incubator reject, inedible, leaker, or loss as defined in 9 CFR 590 Inspection of Eggs and Egg Products (Egg Products Inspection Act).

(cxli) "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.

(cxlii) "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.

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

(cxliv) "Safe materials" means:

(A) 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;

(B) An article that is used as specified in Section 409 or 706 of the Federal Food, Drug, and Cosmetic Act, as amended; or

(C) Articles that are used in conformity with applicable regulations.

(cxlv) "Salvage distributor" means a person who engages in the business of selling, distribution or otherwise trafficking in any distressed or salvaged merchandise.

(cxlvi) "Salvage handler" means a person who engages in the business of handling distressed merchandise at the scene of an accident, fire, flood or other disaster,

with or without taking ownership of the distressed merchandise.

(cxlvi) "Salvage processing plant" means an establishment primarily engaged in the business of reconditioning or by other means salvaging distressed merchandise and which sells or distributes salvaged merchandise for human or animal consumption or use.

(cxlviii) "Salvageable merchandise" means any distressed merchandise which can be reconditioned to the satisfaction of the regulatory authority.

(cxlix) "Salvaged merchandise" means distressed merchandise which has been reconditioned.

(cl) "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 five (5) logs, which is equal to a ninety nine and nine hundred ninety nine thousandths percent (99.999%) reduction, of representative disease microorganisms of public health importance.

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

(clii) "Service animal" means an animal such as a guide dog, signal dog, or other animal individually trained to provide assistance to an individual with a disability.

(cliii) "Servicing area" means an operating base location to which a mobile establishment or transportation vehicle returns regularly for such things as vehicle and equipment cleaning, discharging liquid or solid wastes, refilling water tanks and ice bins, and boarding food.

(cliv) "Sewage" means liquid waste containing animal or vegetable matter in suspension or solution and may include liquids containing chemicals in solution.

(clv) "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.

(clvi) "Shellstock" means raw, in-shell molluscan shellfish.

(clvii) "Shiga toxin-producing *Escherichia coli*" 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.*

(clviii) "Shipping container or outside container" means the box, bag, barrel, crate, or other receptacle or covering enclosing any product packed in one (1) or more immediate or true containers.

(clix) "Shucked shellfish" means molluscan shellfish that have one or both shells removed.

(clx) "Single-service article" means tableware, carry-out utensils, and other items such as 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.

(clxi) "Single-use articles."

(A) "Single-use articles" means utensils and bulk food containers designed and constructed to be used once and discarded.

(B) "Single-use articles" include 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 do not meet the materials, durability, strength, and cleanability specifications under Chapter 6, Sections 1, 13 and 16, for multi-use utensils.

(clxii) "Slacking" means the process of moderating the temperature of a food such as allowing a food to gradually increase from a temperature of -10°F (-23°C) to 25°F (-4°C) in preparation for deep-fat frying or to facilitate even heat penetration during the cooking of previously block-frozen food such as spinach.

(clxiii) "Slaughterhouse" shall include all buildings, structures, and facilities used in the slaughtering or dressing of animals for human consumption.

(clxiv) "Smoked" means meat to which smoke or smoke flavorings have been applied/added for the purpose of preservation, color, flavor, and/or aroma.

(clxv) "Smooth" means:

(A) A food-contact surface having a surface free of pits and inclusions with a cleanability equal to or exceeding that of one hundred (100) grit number three (3) stainless steel;

(B) A nonfood-contact surface of equipment having a surface equal to that of commercial grade hot-rolled steel free of visible scale; and

(C) A floor, wall, or ceiling having an even or level surface with no roughness or projections that renders it difficult to clean.

(clxvi) "Spring water" means water derived from an underground formation from which water flows naturally to the surface of the earth. "Spring water" shall meet the requirements of "natural water."

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

(clxviii) "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.

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

(clxx) "Temporary establishment" means an establishment that operates for a period of no more than fourteen (14) consecutive days in conjunction with a single event or celebration.

(clxxi) "Temporary Sampling Establishment" means an establishment that operates for a period of no more than fourteen (14) individual days within three (3) consecutive months in conjunction with a farmers' markets or other events held at a single location where:

(A) Specific requirements for this type of establishment include:

(A) (I) Only free samples of products sold by vendors who hold a food (distributors/processors) license or by agricultural producers may be provided to the public;

(B) (II) Free samples and associated products sold under the food (distributors/processors) license shall meet all requirements of the Wyoming Food Safety Rule during processing;

(C) (III) Temporary establishment licensing requirements and fees apply; and

(D) (IV) Whole intact product is exempt from the temporary sampling establishment license.

(clxxii) "Unwholesome" means any animal, carcass, meat, meat food product or meat by product which:

(A) Is unsound, injurious to health, contains any biological

residue not permitted under these rules, or is otherwise unfit for human consumption;

(B) Consists in whole or in part of any filthy, putrid or decomposed substance;

(C) Was processed, prepared, packed or held under insanitary conditions so that the same may have become contaminated or may have become injurious to health;

(D) Was produced in whole or in part from animals which died other than by slaughter.

(clxxiii) "USDA" means the U.S. Department of Agriculture.

(clxxiv) "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 multi-use, 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.

(clxxv) "Variance" means a written document issued by the Wyoming Department of Agriculture that authorizes a modification or waiver of one or more requirements of this Rule if, in the opinion of the regulatory authority, a health hazard or nuisance will not result from the modification or waiver.

(clxxvi) "Vehicles" means any truck, car, bus, or other means by which distressed, salvageable or salvaged merchandise is transported from one location to another.

(clxxvii) "Vending machine" means a self-service device that, upon insertion of a coin, paper currency, token, card, 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.

(clxxviii) "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.

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

(clxxx) "Water hauler" means any person engaged in the distribution of bulk quantities of water by truck or other type of vehicle or conveyance, for sale for human consumption.

(clxxxi) "Well water" means bottled water from a hole bored, drilled, or otherwise constructed in the ground, which taps the water of an aquifer. "Well water" shall meet the requirements of "natural water."

(clxxxii) "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.

(clxxxiii) "Wholesome" means sound, healthful, clean and otherwise fit for human consumption.

(clxxxiv) "Wyoming condemned," or abbreviation thereof, means the animal so marked has been inspected and found to be in a dying condition, or to be affected with any other condition or disease that would require condemnation of its carcass.

(clxxxv) "Wyoming inspected and condemned," or abbreviation thereof, means that the carcass, meat, meat food product or meat by-product, so marked or so identified, is unwholesome or adulterated and shall be disposed of in the manner prescribed by the director.

(clxxxvi) "Wyoming inspected and passed," or abbreviation thereof, means that the carcass, meat, meat food product, or meat by-product, so marked or so identified, was at the time it was so marked or so identified found to be wholesome.

(clxxxvii) "Wyoming retained" means that the carcass, meat, meat food product so identified is held for further examination by the director or contract veterinarian to determine its disposal.

(clxxxviii) "Wyoming suspect" means that an animal so marked and identified is suspected of being affected with a disease or condition which may require its condemnation, in whole or in part, when slaughtered, and is subject to further examination by the director or a contract veterinarian to determine its disposal.

Section 9. Person in Charge Requirement.

(a) The license holder shall be the person in charge or shall designate a person in charge and shall ensure that a person in charge is present at the establishment or processing plant during all hours of operation.

Section 10. Demonstration of Food Safety Knowledge.

(a) Based on the risks of foodborne illness inherent to the establishment or

processing plant, during inspections and upon request, the person in charge shall demonstrate to the regulatory authority knowledge of foodborne disease prevention, application of the HACCP principles, if applicable, and the requirements of this Rule. The person in charge shall demonstrate this knowledge by compliance with this Rule, by responding correctly to the inspectors' questions as they relate to the specific establishment or processing plant, or by voluntarily being a certified food protection manager who has shown proficiency of required information through passing a test that is part of an accredited program. The areas of knowledge may include:

- (i) Describing the relationship between the prevention of foodborne disease and the personal hygiene of a food employee;
- (ii) 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;
- (iii) Describing the symptoms associated with the diseases that are transmissible through food;
- (iv) Explaining the significance of the relationship between maintaining the time and temperature of potentially hazardous food and the prevention of foodborne illness;
- (v) Explaining the hazards involved in the consumption of raw or undercooked meat, poultry, eggs, and fish;
- (vi) Stating the required food temperatures and times for safe cooking of potentially hazardous food including meat, poultry, eggs, and fish;
- (vii) Stating the required temperatures and times for the safe refrigerated storage, hot holding, cooling, and reheating of potentially hazardous food;
- (viii) Describing the relationship between the prevention of foodborne illness and the management and control of the following:
 - (A) Cross contamination;
 - (B) Hand contact with ready-to-eat foods;
 - (C) Handwashing; and
 - (D) Maintaining the establishment or processing plant in a clean condition and in good repair;
- (ix) Describing foods identified as major food allergens and the

symptoms that a major food allergen could cause in a sensitive individual who has an allergic reaction.

- (x) Explaining the relationship between food safety and providing equipment that is:
 - (A) Sufficient in number and capacity; and
 - (B) Properly designed, constructed, located, installed, operated, maintained, and cleaned;
- (xi) Explaining correct procedures for cleaning and sanitizing utensils and food-contact surfaces of equipment;
- (xii) 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;
- (xiii) Identifying poisonous or toxic materials in the establishment or processing plant and the procedures necessary to ensure that they are safely stored, dispensed, used, and disposed of according to law;
- (xiv) 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 this Rule;
- (xv) Explaining the details of how the person in charge and food employees comply with the HACCP plan if a plan is required by the law, this Rule, or an agreement between the regulatory authority and the establishment or processing plant; and
- (xvi) Explaining how the person in charge, food employees, and conditional employees comply with reporting responsibilities and exclusion or restriction of food employees.

Section 11. Person in Charge, Duties.

- (a) The person in charge shall ensure that:
 - (i) Establishment or processing plant operations are not conducted in a private home or in a room used as living or sleeping quarters as specified under Chapter 9, Section 42;

(ii) Persons unnecessary to the establishment or processing plant operation are not allowed in the food preparation, food storage, or warewashing areas, except that brief visits and tours may be authorized by the person in charge if steps are taken to ensure that exposed food; clean equipment, utensils, and linens; and unwrapped single-service and single-use articles are protected from contamination;

(iii) Employees and other persons such as delivery and maintenance persons and pesticide applicators entering the food preparation, food storage, and warewashing areas comply with this Rule;

(iv) Employees are effectively cleaning their hands, by routinely monitoring the employees' handwashing;

(v) Employees are visibly observing foods as they are received to determine that they are from approved sources, delivered at the required temperatures, protected from contamination, unadulterated, and accurately presented, by routinely monitoring the employees' observations and periodically evaluating foods upon their receipt;

(vi) Employees are properly cooking potentially hazardous food, being particularly careful in cooking those foods known to cause severe foodborne illness and death, such as eggs and comminuted meats, through daily oversight of the employees' routine monitoring of the cooking temperatures using appropriate temperature measuring devices properly scaled and calibrated as specified under Chapter 6, Section 38(b), and Section 48;

(vii) Employees are using proper methods to rapidly cool potentially hazardous foods that are not held hot or are not for consumption within four (4) hours, through daily oversight of the employees' routine monitoring of food temperatures during cooling;

(viii) Employees are cooking food sufficiently to ensure its safety;

(ix) Employees are properly sanitizing cleaned multi-use equipment and utensils before they are reused, through routine monitoring of solution temperature and exposure time for hot water sanitizing, and chemical concentration, pH, temperature, and exposure time for chemical sanitizing;

(x) Consumers are notified that clean tableware is to be used when they return to self-service areas such as salad bars and buffets as specified under Chapter 3, Section 53;

(xi) Except when otherwise approved as specified in Chapter 3, Section 39(b), employees are preventing cross-contamination of ready-to-eat food with bare hands by properly using suitable utensils such as deli tissue, spatulas, tongs, single-use

gloves, or dispensing equipment;

(xii) Employees are properly trained in food safety as it relates to their assigned duties; and

(xiii) Food employees and conditional employees are informed of their responsibility to report in accordance with law, to the person in charge, information about their health and activities as they relate to diseases that are transmissible through food, as specified under Chapter 1, Section 12 (a).

Section 12. Health Status of Food Employees and Applicants.

(a) The license holder shall require food employees and conditional employees to report to the person in charge information about their health and activities as they relate to diseases that are transmissible through food. A food employee or conditional employee shall report the information in a manner that allows the person in charge to reduce the risk of foodborne disease transmission, including providing necessary additional information, such as the date of onset of symptoms and an illness, or of a diagnosis without symptoms, if the food employee or conditional employee:

(i) Has any of the following symptoms:

(A) Diarrhea;

(B) Vomiting;

(C) Jaundice; or

(D) Sore throat with fever, or;

(E) A lesion containing pus such as a boil or infected wound that is open or draining and is:

(I) On the hands or wrists, unless an impermeable cover such as a finger cot or stall protects the lesion and a single-use glove is worn over the impermeable cover;

(II) On exposed portions of the arms, unless the lesion is protected by an impermeable cover; or

(III) On other parts of the body, unless the lesion is covered by a dry, durable, tight-fitting bandage;

(ii) Has an illness diagnosed by a health practitioner due to:

- (A) *Salmonella spp.*;
 - (B) *Shigella spp.*;
 - (C) Enterohemorrhagic or Shiga toxin-producing *Escherichia coli*;
 - (D) Hepatitis A virus; or
 - (E) Viral Gastroenteritis including Norovirus
- (iii) Had a previous illness, diagnosed by a health practitioner:
- (A) *Salmonella spp.* within the past three months,
 - (B) *Shigella spp.* within the past month,
 - (C) Shiga toxin-producing *Escherichia coli*, within the past month; or
 - (D) Hepatitis A virus.
- (iv) Has been exposed to, or is the suspected source of, a confirmed disease outbreak, because the food employee or conditional employee consumed or prepared food implicated in the outbreak, or consumed food at an event prepared by a person who is infected or ill with:
- (A) Viral Gastroenteritis including Norovirus within the past 48 hours of the last exposure,
 - (B) Enterohemorrhagic or Shiga toxin-producing *Escherichia coli*, or *Shigella spp.* within the past 3 days of the last exposure,
 - (C) *Salmonella spp.* within the past 14 days of the last exposure,
 - (D) Hepatitis A virus within the past 30 days of the last exposure; or
- (v) Has been exposed by attending or working in a setting where there is a confirmed disease outbreak, or living in the same household as, and has knowledge about, an individual who attends or works in a setting where there is a confirmed disease outbreak, or living in the same household as, and has knowledge about, an individual diagnosed with an illness caused by:

- (A) Viral Gastroenteritis including Norovirus within the past 48 hours of the last exposure,
- (B) Enterohemorrhagic or Shiga toxin-producing Escherichia coli, or *Shigella* spp. within the past 3 days of the last exposure,
- (C) *Salmonella* spp. within the past 14 days of the last exposure,
- (D) Hepatitis A virus within the past 30 days of the last exposure.

(b) The person in charge shall notify the regulatory authority when a food employee is:

(i) Jaundiced, or

(A) Diagnosed with a current or previous illness due to a pathogen as specified in Chapter 1, Section 12 (a) (ii) (A)-(E) or (iii) (A)-(D).

(c) The person in charge shall ensure that a conditional employee:

(i) Who exhibits or reports a symptom, or who reports a diagnosed illness as specified in Chapter 1, Section 12 (a) (i)-(iii), is prohibited from becoming a food employee until the conditional employee meets the criteria for the specific symptoms or diagnosed illness as specified in Chapter 1, Section 14; and

(ii) Who will work as a food employee in a food establishment that serves a highly susceptible population and reports a history of exposure as specified in Chapter 1, Section 12 (a) (iv)-(v), is prohibited from becoming a food employee until the conditional employee meets the criteria as specified in Chapter 1, Section 14 (a) (ix).

(d) The person in charge shall ensure that a food employee who exhibits or reports a symptom, or who reports a diagnosed illness or a history of exposure as specified in Chapter 1, Section 12 (a) (i)-(v) is:

(i) Excluded as specified in Chapter 1, Section 13 (a) (i)-(iii), and Section 13 (a) (iv) (A), (v) (A), (vi) (A), or (vii) (A) and in compliance with the provisions specified in Chapter 1, Section 14 (a) (i)-(vii); or

(ii) Restricted as specified in Chapter 1, Section 13 (a) (iv) (B), (v) (B), (vi) (B), (vii) (B), or Section 13 (a) (viii) or (ix) and in compliance with the provisions specified in Chapter 1, Section 14 (a) (iv)-(ix).

(e) A food employee or conditional employee shall report to the person in charge the information as specified in Chapter 1, Section 12 (a).

(f) A food employee shall:

(i) Comply with an exclusion as specified in Chapter 1, Section 13 (a) (i)-(iii) and Section 13 (a) (iv) (A), (v) (A), (vi) (A), or (vii) (A) and with the provisions specified in Chapter 1, Section 14 (a) (i)-(vii); or

(ii) Comply with a restriction as specified in Chapter 1, Section 13 (a) (iv) (B), (v) (B), (vi) (B), (vii) (B), or Section 13 (a) (viii) or (ix) and comply with the provisions specified in Chapter 1, Section 14 (a) (iv)-(ix).

Section 13. Exclusions and Restrictions of Food Employees.

(a) The person in charge shall exclude or restrict a food employee from an establishment or processing plant in accordance with the following:

(i) Except when the symptom is from a noninfectious condition, exclude a food employee from working with exposed food; clean equipment, utensils, and linens; and unwrapped single-service and single-use articles, in an establishment or processing plant if the food employee is:

(A) Symptomatic with vomiting or diarrhea; or

(B) Symptomatic with vomiting or diarrhea and diagnosed with an infection from viral gastroenteritis including Norovirus, *Shigella spp.*, or Enterohemorrhagic or Shiga toxin-producing *Escherichia coli*.

(ii) Exclude a food employee who is:

(A) Jaundiced and the onset of jaundice occurred within the last 7 calendar days, unless the food employee provides to the person in charge written medical documentation from a health practitioner specifying that the jaundice is not caused by hepatitis A virus or other fecal-orally transmitted infection;

(B) Diagnosed with an infection from hepatitis A virus within 14 calendar days from the onset of any illness symptoms, or within 7 calendar days of the onset of jaundice; or

(C) Diagnosed with an infection from hepatitis A virus without developing symptoms.

(iii) Exclude a food employee who is diagnosed with an infection from

Salmonella spp, or reports a previous infection with *Salmonella* spp within the past 3 months as specified under Chapter 1, Section 12 (a) (iii).

(iv) If a food employee is diagnosed with an infection from Norovirus and is asymptomatic:

(A) Exclude the food employee who works in a food establishment serving a highly susceptible population; or

(B) Restrict the food employee who works in a food establishment not serving a highly susceptible population.

(v) If a food employee is diagnosed within the past month with an infection from *Shigella* spp. and is asymptomatic:

(A) Exclude the food employee who works in a food establishment serving a highly susceptible population; or

(B) Restrict the food employee who works in a food establishment not serving a highly susceptible population.

(vi) If a food employee is diagnosed within the past month with an infection from enterohemorrhagic or shiga toxin-producing *E. coli*, and is asymptomatic:

(A) Exclude the food employee who works in a food establishment serving a highly susceptible population; or

(B) Restrict the food employee who works in a food establishment not serving a highly susceptible population.

(vii) If a food employee is ill with symptoms of acute onset of sore throat with fever:

(A) Exclude the food employee who works in a food establishment serving a highly susceptible population; or

(B) Restrict the food employee who works in a food establishment not serving a highly susceptible population.

(viii) If a food employee is infected with a skin lesion containing pus such as a boil or infected wound that is open or draining and not properly covered as specified under Chapter 1, Section 12 (a) (i) (E), restrict the food employee.

(ix) If a food employee is exposed to a foodborne pathogen as specified under Chapter 1, Section 12 (a) (iv) or (v), restrict the food employee who works in a food establishment serving a highly susceptible population.

Section 14. Removal, Adjustment, or Retention of Exclusions and Restrictions of Food Employees.

(a) The person in charge may remove, adjust, or retain the exclusion or restriction of a food employee according to the following conditions:

(i) Except when a food employee is diagnosed with an infection from hepatitis A virus or *Salmonella* spp:

(A) Reinstate a food employee who was excluded as specified under Chapter 1, Section 13 (a) (i) (A) if the food employee:

(I) Is asymptomatic for at least 48 hours; or

(II) Provides to the person in charge written medical documentation from a health practitioner that states the symptom is from a noninfectious condition.

(B) If a food employee was diagnosed with an infection from viral gastroenteritis including Norovirus and excluded as specified in Chapter 1, Section 13 (a) (i) (B):

(I) Restrict the food employee, who is asymptomatic for at least 48 hours and works in a food establishment not serving a highly susceptible population, until the conditions for reinstatement as specified in Chapter 1, Section 14 (a) (iv) (A) or (B) are met; or

(II) Retain the exclusion for the food employee, who is asymptomatic for at least 48 hours and works in a food establishment that serves a highly susceptible population, until the conditions for reinstatement as specified in Chapter 1, Section 14 (a) (iv) (A) or (B) are met.

(C) If a food employee was diagnosed with an infection from *Shigella* spp. and excluded as specified in Chapter 1, Section 13 (a) (i) (B):

(I) Restrict the food employee, who is asymptomatic for at least 24 hours and works in a food establishment not serving a highly susceptible population, until the conditions for reinstatement as specified in Chapter 1, Section 14 (a) (v) (A) or (B) are met; or

(II) Retain the exclusion for the food employee, who is asymptomatic for at least 24 hours and works in a food establishment that serves a highly susceptible population, until the conditions for reinstatement as specified in Chapter 1, Section 14 (a) (v) (A) or (B) are met.

(D) If a food employee was diagnosed with an infection from Enterohemorrhagic or Shiga toxin-producing *Escherichia coli* and excluded as specified in Chapter 1, Section 13 (a) (i) (B):

(I) Restrict the food employee, who is asymptomatic for at least 24 hours and works in a food establishment not serving a highly susceptible population, until the conditions for reinstatement as specified in Chapter 1, Section 14 (a) (vi) (A) or (B) are met; or

(II) Retain the exclusion for the food employee, who is asymptomatic for at least 24 hours and works in a food establishment that serves a highly susceptible population, until the conditions for reinstatement as specified in Chapter 1, Section 14 (a) (vi) (A) or (B) are met.

(ii) Reinstate a food employee who was excluded as specified in Chapter 1, Section 13 (a) (ii) if the person in charge obtains approval from the regulatory authority and one of the following conditions is met:

(A) The food employee has been jaundiced for more than 7 calendar days;

(B) The anicteric food employee has been symptomatic with symptoms other than jaundice for more than 14 calendar days; or

(C) The food employee provides to the person in charge written medical documentation from a health practitioner stating that the food employee is free of a hepatitis A virus infection.

(iii) Reinstate a food employee who was excluded as specified in Chapter 1, Section 13 (a) (iii) if:

(A) The person in charge obtains approval from the regulatory authority; and

(B) The food employee provides to the person in charge written medical documentation from a health practitioner that states the food employee is free from *Salmonella*. spp infection as demonstrated by two (2) consecutive negative stool cultures collected at least 24 hours apart for non-typoidal *Salmonella*; or three (3) consecutive negative stool cultures collected at least 24 hours apart for *Salmonella* sero type Typhi. If any of these cultures are positive for Typhi, exclude the employee and repeat cultures at monthly intervals until three (3) consecutive negative cultures are obtained.

(iv) Reinstate a food employee who was excluded as specified in Chapter 1, Section 13 (a) (i) (B) or (a) (iv) (A) who was restricted in Chapter 1, Section

13 (a) (iv) (B) if the person in charge obtains approval from the regulatory authority and one of the following conditions is met:

(A) The excluded or restricted food employee provides to the person in charge written medical documentation from a health practitioner stating that the food employee is free of a Norovirus infection;

(B) The food employee was excluded or restricted after symptoms of vomiting or diarrhea resolved, and more than 48 hours have passed since the food employee became asymptomatic; or

(C) The food employee was excluded or restricted and did not develop symptoms and more than 48 hours have passed since the food employee was diagnosed.

(v) Reinstate a food employee who was excluded as specified in Chapter 1, Section 13 (a) (i) (B) or (a) (v) (A) or who was restricted in Chapter 1, Section 13 (a) (v) (B) if the person in charge obtains approval from the regulatory authority and one of the following conditions is met:

(A) The excluded or restricted food employee provides to the person in charge written medical documentation from a health practitioner stating that the food employee is free of a *Shigella* spp. infection based on test results showing 2 consecutive negative stool specimen cultures that are taken:

(I) Not earlier than 48 hours after discontinuance of antibiotics, and

(II) At least 24 hours apart;

(B) The food employee was excluded or restricted after symptoms of vomiting or diarrhea resolved, and more than 4 weeks have passed since the food employee became asymptomatic; or

(C) The food employee was excluded or restricted and did not develop symptoms and more than 4 weeks have passed since the food employee was diagnosed.

(vi) Reinstate a food employee who was excluded or restricted as specified in Chapter 1, Section 13 (a) (i) (B) or (a) (vi) (A) or who was restricted in Chapter 1, Section 13 (a) (vi) (B) if the person in charge obtains approval from the regulatory authority and one of the following conditions is met:

(A) The excluded or restricted food employee provides to the

person in charge written medical documentation from a health practitioner stating that the food employee is free of an infection from Enterohemorrhagic or Shiga toxin-producing *Escherichia coli* based on test results that show 2 consecutive negative stool specimen cultures that are taken:

(I) Not earlier than 48 hours after discontinuance of antibiotics; and

(II) At least 24 hours apart.

(B) The food employee was excluded or restricted after symptoms of vomiting or diarrhea resolved and more than 7 calendar days have passed since the food employee became asymptomatic; or

(C) The food employee was excluded or restricted and did not develop symptoms and more than 7 days have passed since the food employee was diagnosed.

(vii) Reinstate a food employee who was excluded or restricted as specified in Chapter 1, Section 13 (a) (vii) (A) or (B) if due to group A strep pharyngitis and the food employee provides to the person in charge written medical documentation from a health practitioner stating that the food employee meets one of the following conditions:

(A) Has received antibiotic therapy for *Streptococcus pyogenes* infection for more than 24 hours;

(B) Has at least one negative throat specimen culture for *Streptococcus pyogenes* infection; or

(C) Is otherwise determined by a health practitioner to be free of a *Streptococcus pyogenes* infection.

(viii) Reinstate a food employee who was restricted as specified in Chapter 1, Section 13 (a) (viii) if the skin, infected wound, cut, or pustular boil is properly covered with one of the following:

(A) An impermeable cover such as a finger cot or stall and a single-use glove over the impermeable cover if the infected wound or pustular boil is on the hand, finger, or wrist;

(B) An impermeable cover on the arm if the infected wound or pustular boil is on the arm; or

(C) A dry, durable, tight-fitting bandage if the infected wound or pustular boil is on another part of the body.

(ix) Reinstate a food employee who was restricted as specified in Chapter 1, Section 13 (a) (ix) and was exposed to one of the following pathogens as specified in Chapter 1, Section 12 (a) (iv) or (v):

(A) Viral Gastroenteritis including Norovirus and one of the following conditions is met:

(I) More than 48 hours have passed since the last day the food employee was potentially exposed; or

(II) More than 48 hours have passed since the food employee's household contact became asymptomatic.

(B) *Shigella* spp. or Enterohemorrhagic or Shiga toxin producing *Escherichia coli* and one of the following conditions is met:

(I) More than 3 calendar days have passed since the last day the food employee was potentially exposed; or

(II) More than 3 calendar days have passed since the food employee's household contact became asymptomatic.

(C) *Salmonella*. spp and one of the following conditions is met:

(I) More than 14 calendar days have passed since the last day the food employee was potentially exposed; if *Salmonella Typhi*, a food employee must have two (2) negative stool cultures twenty four (24) hours apart; or

(II) More than 14 calendar days have passed since the food employee's household contact became asymptomatic; if *Salmonella Typhi*, a food employee must have two (2) negative stool cultures twenty four (24) hours apart.

(D) Hepatitis A virus and one of the following conditions is met:

(I) The food employee is immune to hepatitis A virus infection because of a prior illness from hepatitis A;

(II) The food employee is immune to hepatitis A virus infection because of vaccination against hepatitis A;

(III) The food employee is immune to hepatitis A virus infection because of IgG administration;

(IV) More than 30 calendar days have passed since the last day the food employee was potentially exposed;

(V) More than 30 calendar days have passed since the food employee's household contact became jaundiced; or

(VI) The Food employee does not use an alternative procedure that allows bare hand contact with ready to-eat food until at least 30 days after the potential exposure, as specified in Chapter 1, Section 14 (a) (ix) (D) (IV) and (V), and the food employee receives additional training about:

(1.) Hepatitis A symptoms and preventing the transmission of infection,

(2.) Proper handwashing procedures, and

(3.) Protecting ready-to-eat food from contamination introduced by bare hand contact.

Section 15. Bed and Breakfast and Ranch Recreation Requirements.

(a) Food service provided at bed and breakfast and ranch recreation facilities shall be for the bona fide guests of said facilities and shall not be available for charge or otherwise to other members of the public that might be present.

(i) The kitchen in a bed and breakfast or ranch recreation facility in a home may be equipped the same as any normal home style kitchen provided food safety procedures can be achieved.

Section 16. State Meat and Poultry Inspection Program.

(a) As authorized by W.S. 35-7-123; 9 CFR, 321 Cooperation with States and Territories, as amended, and 9 CFR 381 Subpart R-Cooperation with States and Territories; Certification of State and Territorial Programs as at Least Equal to Federal Program, as amended, the Wyoming department of agriculture shall maintain a State Meat and Poultry Inspection Program.

(i) The director shall administer and enforce the provisions of this Rule and shall employ or contract with such persons as may be appropriate.

(b) As authorized by 9 CFR 307.5 Overtime and Holiday Inspection Service and 307.6 Basis of Billing for Overtime and Holiday Services, the Department has the authority to charge state inspected meat and poultry plants for overtime and holiday inspection services.

(i) The owner/operator of a state inspected meat or poultry plant shall

reimburse the Department for the cost of the inspection service furnished on any holiday as specified in Section 16 (b) (ii); or for more than 8 hours on any day, or more than 40 hours in any workweek Saturday through Friday.

(ii) Holidays for State employees shall be New Year's Day, January 1; Equality Day, the third Monday in January; President's Day, the third Monday in February; Memorial Day, the last Monday in May; Independence Day, July 4; Labor Day, the first Monday in September; Veterans' Day, November 11; Thanksgiving Day, the fourth Thursday in November; Christmas Day, December 25 or any other day declared to be a holiday by the Governor of Wyoming or the President of the United States. When any of the above listed holidays falls outside the basic workweek, the nearest workday within that week shall become a holiday.

(iii) Each recipient of overtime or holiday inspection service, or both, shall be billed at the rate of one and one half (1½) times the normal hourly rate of the Inspector-In-Charge for the plant making the request, in increments of quarter hours. For billing purposes, 8 or more minutes shall be considered a full quarter hour. Billing will be for each quarter hour of service rendered by each Department employee.

(iv) State inspected meat or poultry plants requesting and receiving the services of a Department employee after he or she has completed his or her day's assignment and left the premises, or called back to duty during any overtime or holiday period, shall be billed for a minimum of 2 hours overtime or holiday inspection service at the established rate.

(v) Bills are payable upon receipt and become delinquent 30 days from the date of the bill. Overtime or holiday inspection will not be performed for anyone having a delinquent account.

Section 17. Adoption of Federal Regulations.

(a) ~~For the purpose of all Chapters, the citations herein are referenced throughout this Rule.~~

(i) ~~The Code of Federal Regulations (CFR): 7 CFR 56 Regulations Governing the Voluntary Grading of Shell Eggs; 7 CFR 57 Inspection of Eggs (Egg Products Inspection Act); 9 CFR 301 Definitions; 9 CFR 302 Application of Inspection and Other Requirements; 9 CFR 303 Exemptions; 9 CFR 304 Application for Inspection; Grant of Inspection; 9 CFR 305 Official Numbers; Inauguration of Inspection; Withdrawal of Inspection; Reports of Violation; 9 CFR 306 Assignment and Authorities of Program Employees; 9 CFR 307 Facilities for Inspection; 9 CFR 309 Antemortem Inspection; 9 CFR 310 Postmortem Inspection; 9 CFR 311 Disposal of Diseased or Otherwise Adulterated Careasses and Parts; 9 CFR 312 Official Marks, Devices and Certificates; 9 CFR 313 Humane Slaughter of Livestock; 9 CFR 314 Handling and~~

~~Disposal of Condemned or other Inedible Products at Official Establishments; 9 CFR 315
Rendering or other Disposal of Carcasses and Parts Passed for Cooking; 9 CFR 316
Marking Products and Their Containers; 9 CFR 317 Labeling, Marking Devices, and
Containers; 9 CFR 318 Entry into Official Establishments; Reinspection and Preparation
of Products; 9 CFR 319 Definitions and Standards of Identity or Composition; 9 CFR 320
Records, Registration, and Reports; 9 CFR 321 Cooperation with States and Territories; 9
CFR 325 Transportation; 9 CFR 329 Detention; Seizure and Condemnation; Criminal
Offenses; 9 CFR 352 Exotic Animals; Voluntary Inspection; 9 CFR 354 Voluntary
Inspection of Rabbits and Edible Products Thereof; 9 CFR 362 Voluntary Poultry
Inspection Regulations; 9 CFR 381 Poultry Products Inspection Regulations; 9 CFR 416
Sanitation; 9 CFR 417 Hazard Analysis and Critical Control Point (HACCP) Systems; 9
CFR 424 Preparation and Processing Operations; 9 CFR 430 Requirements for Specific
Classes of Product (*Listeria monocytogenes*); 9 CFR 441.10 Retained Water; 9 CFR 500
Rules of Practice; 9 CFR 590 Inspection of Eggs and Egg Products (Egg Products
Inspection Act); 21 CFR 70 Color Additives; 21 CFR 101 Food Labeling; 21 CFR 110
Current Good Manufacturing Practice in Manufacturing, Packing, or Holding Human
Food; 21 CFR 113 Thermally Processed Low Acid Foods Packaged in Hermetically
Sealed Containers; 21 CFR 114 Acidified foods; 21 CFR 115 Eggs, Refrigeration; 21
CFR 129 Processing and Bottling of Bottled Drinking Water; 21 CFR 130 Food
Standards: General; 21 CFR 133 Cheeses and Related Cheese Products; 21 CFR 135
Frozen Desserts; 21 CFR 170 Food Additives; 21 CFR 171 Food Additive Petitions; 21
CFR 172 Food Additives Permitted for Direct Addition to Food for Human
Consumption; 21 CFR 173 Secondary Direct Food Additives Permitted in food for
Human Consumption; 21 CFR 174 Indirect Food Additives: General; 21 CFR 175
Indirect Food Additives: Adhesives and Components of Coatings; 21 CFR 176 Indirect
Food Additives: Paper and Paperboard Components; 21 CFR 177 Indirect Food
Additives: Polymers; 21 CFR 178 Indirect Food Additives: Adjuvants, Production Aids,
and Sanitizers; 21 CFR 179 Irradiation in the Production, Processing and Handling of
Food; 21 CFR 180 Food Additives Permitted in Food or in Contact with Food on an
Interim Basis Pending Additional Study; 21 CFR 181 Prior Sanctioned Food Ingredients;
21 CFR 182 Substances Generally Recognized as Safe; 21 CFR 186 Indirect Substances
Affirmed as Generally Recognized as Safe; 21 CFR 219.80 Processes and Controls; 21
CFR 1030.10 Microwave Ovens; 40 CFR 141 National Primary Drinking Water
Regulations; 40 CFR 152.175 Pesticides Classified for Restricted Use; 40 CFR 185
Tolerances for Pesticides in Food; 50 CFR 17 Endangered and Threatened Wildlife and
Plants.~~

~~(ii) 7 USC 136(e) Certified Applicator, etc; Federal Food, Drug,
and Cosmetic Act §201(s) & (t); Federal Food, Drug, and Cosmetic Act §343; Federal
Food, Drug, and Cosmetic Act §402; Federal Food, Drug, and Cosmetic Act §403(Q)(3)-
(5); Federal Food, Drug, and Cosmetic Act §409; Federal Food, Drug, and Cosmetic Act
§706; National Shellfish Sanitation Program Guide for the Control of Molluscan
Shellfish; U.S. Public Health Service/FDA "Grade A Pasteurized Milk Ordinance" all
except Section 9, "Procedures Governing the Cooperative State Public Health
Service/Food and Drug Administration Program of the National Conference on Interstate~~

~~Milk Shipments~~, "Methods of Making Sanitation Ratings of Milk Shippers", "The Evaluation of Milk Laboratories", and "Grade A Condensed and Dry Milk Ordinance", United States Department of Agriculture/Agriculture Marketing Service "Milk for Manufacturing Purposes and its Production and Processing"; the Uniform Plumbing Code; the USDA AMS 56 U.S. Standards, Grades, and Weight Classes for Shell Eggs; 50 FR 15861 United States Standards for Grades of Extracted Honey, 32 FR 7565 United States Standards for Grades of Comb Honey; Federal Meat Inspection Act (including the Wholesome Meat Act)/Poultry Products Inspection Act, Food Allergen Labeling and Consumer Protection Act of 2004 (Public Law 108-282) and the Humane Methods of Slaughter Act 1978.

(iii) Regulations, rules, and other authorities listed in (i) and (ii) above which are in effect on the effective date of these rules are hereby adopted by the Wyoming department of agriculture. These rules do not include any later amendments or editions. These documents are available for public inspection and may be purchased at cost from the office of the Wyoming department of agriculture.

(iv) Rules, regulations and other authorities adopted are readily available to the public and may be purchased from:

(A) The Code of Federal Regulations;
<http://bookstore.gpo.gov>

(B) Federal Food, Drug & Cosmetic Act; United States Code; Federal Meat Inspection Act/Poultry Products Inspection Act; <http://www.fda.gov/>

(C) National Shellfish Sanitation Program Guide for the Control of Molluscan Shellfish; http://www.cfsan.fda.gov/~ear/nss3_toc.html

(D) Grade A Pasteurized Milk Ordinance, Procedures Governing the Cooperative State Public Health Service/Food and Drug Administration Program of the National Conference on Interstate Milk Shipments, Methods of Making Sanitation Ratings of Milk Shippers, The Evaluation of Milk Laboratories, and Grade A Condensed and Dry Milk Ordinance; <http://www.fda.gov/>

(E) Milk for Manufacturing Purposes and its Production and Processing; http://www.ams.usda.gov/dairy/prop_manufmlk.pdf

(F) International Plumbing Code; www.icesafe.org

(G) USDA AMS 56 U.S. Standards, Grades, and Weight classes for Shell Eggs; <http://www.usda.gov>

(H) 50 FR 15861 United States Standards for Grades of Extracted Honey; <http://www.ams.usda.gov/standards/exhoney.pdf>

(I) 32 FR 7565 United States Standards for Grades of Comb Honey; <http://www.ams.usda.gov/standards/comhoney.pdf>

(J) Food Allergen Labeling and Consumer Protection Act of 2004 (Public Law 108-282); <http://www.cfsan.fda.gov/~dms/alrgact.html>

(K) Humane Methods of Slaughter Act 1978;
<http://www.access.gpo.gov/uscode/title7/chapter48.html>

Note: All of section 17 has been moved to chapter 14.

CHAPTER 1

PURPOSE, VARIANCES, DEFINITIONS, DEMONSTRATION OF KNOWLEDGE, AND HEALTH STATUS

Section 1. Authority. Pursuant to the authority vested in the director of the Wyoming department of agriculture by virtue of W.S. 35-7-120, 35-7-123 (a) (iii), and 35-7-127, together with the department of health and the governor's food safety council established pursuant to W.S. 35-7-127, the following rules are hereby promulgated.

Section 2. Wyoming Food Safety Rule.

(a) These provisions shall be known as the Wyoming Food Safety Rule, hereinafter referred to as this Rule.

Section 3. Statement of Purpose.

(a) The purpose of this Rule is to safeguard public health and assure consumers that food is safe, unadulterated, and honestly presented.

(b) This Rule establishes definitions; sets standards for management and personnel, food operations, equipment and facilities; and provides for establishment or processing plant plan review, license issuance, inspection, employee restriction, and license suspension.

Section 4. Public Health Protection.

(a) The regulatory authority shall apply this Rule to promote its underlying purpose of safeguarding the public health and assuring that food is safe, unadulterated, and honestly presented when offered to the consumer.

(b) In enforcing the provisions of this Rule, the regulatory authority shall assess existing facilities or equipment that were in use before the effective date of this Rule based on the following considerations:

(i) Whether the facilities or equipment are in good repair and capable of being maintained in a sanitary condition;

(ii) Whether food-contact surfaces comply with Chapter 6, Section 13;

(iii) Whether the capacities of cooling, heating, and holding equipment

are sufficient to comply with Chapter 3, Section 30; and

(iv) The existence of a documented agreement with the license holder that the facilities or equipment will be replaced as specified under Chapter 2, Section 12 (a)(vii), or upgraded or replaced as specified under Chapter 2, Section 12 (a)(vii)(A).

Section 5. Variances of Modifications and Waivers.

(a) The Wyoming department of agriculture may grant a variance by modifying or waiving the requirements of this Rule if in the opinion of the Wyoming department of agriculture a health hazard or nuisance will not result from the variance. If a variance is granted, the Wyoming department of agriculture shall retain the information specified under Chapter 1, Section 6, in its records for the establishment or processing plant.

Section 6. Documentation of Proposed Variance and Justification.

(a) Before a variance from a requirement of this Rule is approved, the information that shall be provided by the person requesting the variance and retained in the Wyoming department of agriculture's file on the establishment or processing plant must include:

(i) A statement of the proposed variance of the Rule requirement citing relevant Rule Section numbers;

(ii) An analysis of the rationale for how the potential public health hazards and nuisances addressed by the relevant Rule Sections will be alternatively addressed by the proposal; and

(iii) A HACCP Plan if required as specified under Chapter 10, Section 1(a) that includes the information specified under Chapter 10, Section 2, as it is relevant to the variance requested.

Section 7. Variance Requirements.

(a) If the Wyoming department of agriculture grants a variance as specified in Chapter 1, Section 6, or a HACCP plan is otherwise required as specified under Chapter 10, Section 1, the license holder shall:

(i) Comply with the HACCP Plan and procedures that are submitted as specified under Chapter 10, Section 2, and approved as a basis for the modification or waiver; and

(ii) Maintain and provide to the Wyoming department of agriculture, upon request, records specified under Chapter 10, Section 2 (a) (iv) and (v), that demonstrate that the following are routinely employed:

- (A) Procedures for monitoring critical control points;
- (B) Monitoring of the critical control points;
- (C) Verification of the effectiveness of an operation or process; and
- (D) Necessary corrective actions if there is failure at a critical control point.

Section 8. Applicability and Terms Defined.

(a) The following terms are defined and apply in the interpretation and application of this Rule.

- (i) "Accredited program."
 - (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.
 - (B) "Accredited program" 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; and test development and administration.
 - (C) "Accredited program" does not refer to training functions or educational programs.

(ii) "Additive."

(A) "Food additive" has the meaning stated in the Federal Food, Drug, and Cosmetic Act, §201(s) and 21 CFR 170 Food Additives.

(B) "Color additive" means a material, other than a material exempt under the federal act, which:

(I) Is a dye, pigment or other substance from a vegetable, animal, mineral or other source; or

(II) When added or applied to a food, drug or cosmetic, or to the human body or any part thereof is capable (alone or through reaction with other substances) of imparting color thereto.

(iii) "Administrative meeting" means an informal meeting conducted by the Wyoming department of agriculture for the purpose of facilitating a mutually agreed upon plan of compliance for the license holder.

(iv) "Adulterated" has the meaning stated in the Federal Food, Drug and Cosmetic Act, 21 USC, Section 342.

(v) "Animals" means but is not limited to livestock as defined in 9 CFR 301 Definitions, as amended, poultry as defined in 9 CFR 381.1 Definitions, as amended, or exotic animals as defined in 9 CFR 352.1 Definitions, as amended, and fish.

(vi) "Approved" means acceptable to the regulatory authority based on determination of conformity with principles, practices, and generally recognized standards that protect public health.

(vii) "Approved source" when used in reference to a bottled water plant's water product or water used in the plant's operations, means the source(s) of the water whether it be from a spring, artesian well, drilled well, municipal water supply, or any other source that has been inspected and the water sampled, analyzed, and found to be of a safe and sanitary quality in accordance with the applicable laws and regulations of the State of Wyoming. The presence in the plant of current certificates or modifications of approval from the State Engineer shall constitute approval of the source in the case of non-municipal water supplies.

(viii) "Approved water source" means any public water source or private well that has been routinely sampled and verified to not have contaminants in excess of the legal maximum contaminant levels as outlined in the primary Environmental Protection Agency (EPA) water quality standards, as amended.

(ix) "Artesian water" means bottled water from a well tapping an aquifer in which the water level will stand above the bottom of the confining bed of the aquifer and in which the hydraulic pressure of the water in the aquifer is greater than the force of gravity. "Artesian well water" shall meet the requirements of "natural water."

(x) "Asymptomatic."

(A) "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.

(B) "Asymptomatic" includes not showing symptoms because symptoms have resolved or subsided, or because symptoms never manifested.

(xi) " 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 .

(xii) "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.

(xiii) "Bed and breakfast facility" means a private home which is used to provide temporary accommodations for a charge to the public with not more than four (4) lodging units or not more than a daily average of eight (8) persons per night during any thirty (30) day period and in which no more than two (2) family style meals are provided per twenty four (24) hour period.

(xiv) "Beverage" means a liquid for drinking, including water.

(xv) "Bottled water" means water that is from an approved source and is placed in a sealed container or package and is offered for sale for human consumption or other consumer uses.

(xvi) "Bulk water" means water which is handled in containers of 25 gallon capacity or greater.

(xvii) "Carcass" means all or any part of a slaughtered animal, including viscera, which is capable of being used for human consumption.

(xviii) "Casing" means a tubular container for sausage products made of either natural or artificial (synthetic) material.

(xix) "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, as amended.

(xx) "CFR" means Code of Federal Regulations. Citations in this Regulation 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.

(xxi) "CIP."

(A) "CIP" means cleaned in place by circulation or flowing by mechanical means through a piping system of a detergent solution, water rinse, and sanitizing solution onto or over equipment surfaces that require cleaning, such as the

method used, in part, to clean and sanitize a frozen dessert machine.

(B) "CIP" does not include the cleaning of equipment such as band saws, slicers, or mixers that are subjected to in-place manual cleaning without the use of a CIP system.

(xxii) "Code of Federal Regulations" means the compilation of the general and permanent regulations published in the Federal Register by the executive departments and agencies of the federal government which:

(A) Is published annually by the U.S. Government Printing Office; and

(B) Contains FDA regulations in 21 CFR, USDA regulations in 7 CFR and 9 CFR, EPA regulations in 40 CFR, and Wildlife and Fisheries regulations in 50 CFR.

(xxiii) "Comb honey" means honey contained in the cells of the comb in which it is produced.

(xxiv) "Commingle" means:

(A) To combine shellstock harvested on different days or from different growing areas as identified on the tag or label, or

(I) To combine shucked shellfish from containers with different container codes or different shucking dates.

(xxv) "Comminuted."

(I) "Comminuted" 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.

(xxvi) "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.

(xxvii) "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.

(xxviii) "Consumer" means a person who is a member of the public, who takes possession of food, who is not functioning in the capacity of an operator of an establishment or processing plant, or who does not offer the food for resale.

(xxix) "Contaminant" means any physical, chemical, biological or radiological substance or matter in water.

(xxx) "Contract veterinarian" means a graduate of a school of veterinary medicine accredited by the American Veterinary Medical Association who provides services for the department under contract, and who is licensed to practice veterinary medicine in the state of Wyoming."

(xxxi) "Cooked" means food to which heat has been applied for preservation and/or to change the color, aroma, texture, and/or flavor of the product. Internal temperatures typically range from 145°F to 180°F, whereas externally the product may reach temperatures over 200°F. Some products are considered cooked even though their internal temperatures may only reach 130°F-140°F. Roast prime rib of beef is an example.

(xxxii) "Corrosion-resistant material" means a material that maintains acceptable surface cleanability characteristics under prolonged influence of the food contacted, the normal use of cleaning compounds and sanitizing solutions, and other conditions of use environment.

(xxxiii) "Cottage food business" means a business which produces not potentially hazardous food for sale at farmers' markets, roadside stands, private homes, or functions utilizing the home style equipment in the kitchen of a private home.

(xxxiv) "Country" when used in the name of meat, meat food product or meat by-product means that such meat, meat food product or meat by-product was actually prepared on the farm.

(xxxv) "Critical control point" means a point or procedure in a specific food system where loss of control may result in an unacceptable health risk

(xxxvi) "Critical item."

(A) "Critical item or critical violation" means a provision of this Rule, that, if in noncompliance, is more likely than other violations to contribute to food contamination, illness, or environmental health hazard.

(xxxvii) "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.

(xxxviii) "Cured" means meat to which specific non-meat ingredients have been incorporated by dry addition or use of aqueous solutions to affect preservation, safety, flavor, and/or color. The non-meat ingredients must include salt (sodium chloride), and most often include sodium nitrite/nitrate. In addition, sugar (sucrose) or other sweetening agents are frequently used.

(xxxix) "Custom carcass or meat" means carcasses, meat, meat food products or meat by-products which were slaughtered, dressed or otherwise processed by license holders.

(xl) "Department" means the Wyoming department of agriculture.

(xli) "Director" means the director of the Wyoming department of agriculture or his duly authorized representative.

(xlii) "Disinfectant" means any oxidant, including but not limited to, chlorine, chlorine dioxide, chloramines and ozone added to water in any part of the treatment or distribution process that is intended to kill or inactivate pathogenic microorganisms.

(xlili) "Distilled water" means bottled water which has been produced by a process of distillation and meets the definition of purified water in the 21st Edition of the United States Pharmacopeia.

(xliv) "Distressed merchandise" means any food:

(A) Which has had the label lost;

(B) Which has been subjected to possible damage due to accident, fire, flood, adverse weather, or any other similar cause; or

(C) Which may have been rendered unsafe or unsuitable for human or animal consumption or use.

(xlv) "Drinking water."

(A) "Drinking water" means water that meets 40 CFR 141 National Primary Drinking Water Regulations.

(B) "Drinking water" is traditionally known as "potable water."

(C) "Drinking water" 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.

(xlvi) "Dry storage area" means a room or area designated for the storage of packaged or containerized bulk food that is not potentially hazardous and dry goods such as single-service items.

(xlvii) "Easily cleanable."

(A) "Easily cleanable" means a characteristic of a surface that:

(I) Allows effective removal of soil by normal cleaning methods;

(II) Is dependent on the material, design, construction, and installation of the surface; and

(III) Varies with the likelihood of the surface's role in introducing pathogenic or toxigenic agents or other contaminants into food based on the surface's approved placement, purpose, and use.

(B) "Easily cleanable" includes a tiered application of the criteria that qualify the surface as easily cleanable as specified under Subparagraph (A) of this definition, to different situations in which varying degrees of cleanability are required such as:

(I) 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

(II) 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.

(xlviii) "Easily movable" means:

(A) Portable; mounted on casters, gliders, or rollers; or provided with a mechanical means to safely tilt a unit of equipment for cleaning; and

(B) 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.

(xlix) "Edible" means intended for use as human food.

(l) "Egg"

(A) "Egg" means the shell egg of avian species such

as chicken, turkey, duck, goose, guinea, quail or ratite.

(B) "Egg" does not include:

- (I) A balut;
- (II) The egg of reptile species such as alligator; or
- (III) An egg product.

(li) "Egg Product."

(A) "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.

(B) "Egg Product" does not include food which contains eggs only in a relatively small proportion such as cake mixes.

(iii) "Employee" means the license 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 an establishment or processing plant.

(iv) "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. EHEC is a subset of STEC, whose members produce additional virulence factors. Infections with EHEC may be asymptomatic but are classically associated with bloody diarrhea (hemorrhagic colitis) and hemolytic uremic syndrome (HUS) or thrombotic thrombocytopenic purpura (TTP). Examples of serotypes of EHEC include: *E. coli* O157:H7; *E. coli* O157:NM; *E. coli* O26:H11; *E. coli* O145:NM; *E. coli* O103:H2; or *E. coli* O111:NM. Also see shiga toxin-producing *e. coli*.

(liv) "EPA" means the U.S. Environmental Protection Agency.

(lv) "Equipment."

(A) "Equipment" means an article that is used in the operation of a food 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, vending machine, or warewashing machine.

(B) "Equipment" does not include items 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.

(lvi) "Establishment."

(A) "Establishment" means and includes any place or any area of any establishment in which food, drugs, devices and cosmetics are displayed for sale, manufactured, processed, packed, held or stored:

(I) Including but not limited to, a restaurant; retail store; meat slaughter or processing plant, dairy production and processing; bed and breakfast; bulk water hauler; satellite, group day care center or catered feeding location; catering operation if the operation provides food directly to a consumer or to a conveyance used to transport people; market; vending location; conveyance used to transport people; institution; or food bank; and

(II) That relinquishes possession of food to a consumer directly, or indirectly through a delivery service such as home delivery of grocery orders or restaurant takeout orders, or delivery service that is provided by common carriers.

(B) "Establishment" includes:

(I) An element of the operation such as a transportation vehicle or a central preparation facility that supplies a vending location or satellite feeding location unless the vending or feeding location is permitted by the regulatory authority; and

(II) An operation that is conducted in a mobile, stationary, temporary, or permanent facility or location; where consumption is on or off the premises; and regardless of whether there is a charge for the food.

(C) "Establishment" does not include:

(I) A kitchen in a private home if only food that is not potentially hazardous is prepared for sale or use at farmers' markets, roadside stands, private homes or functions.

(II) An area where food that is prepared as specified in Subparagraph (C) (I) of this definition, is sold or offered for human consumption;

(III) A kitchen in a private home, such as a small family day-care provider; or

(IV) A private home that receives catered or home-

delivered food.

(lvii) "Establishment number" means an official number assigned by the director to each establishment and included on the inspection legend and label to identify all inspected and passed carcasses, meat, meat food products and meat by-products handled in that establishment.

(lviii) "Exclude" means to prevent a person from working as a food employee or entering an establishment or processing plant as a food employee.

(ix) "Exotic animal" means any reindeer, elk, deer, antelope, water buffalo or bison.

(lx) "Extracted honey" means honey that has been separated from the comb by centrifugal force, gravity, straining, or by other means.

(xi) "Farmers market" means a common facility or area where several vendors may gather on a regular, recurring basis to sell a variety of fresh fruits and vegetables, locally grown farm products and other items directly to consumers.

(xii) "FDA" means the U.S. Food and Drug Administration.

(xiii) "Family style meals" means a meal prepared in a bed and breakfast facility or ranch recreation facility and served in the same facility around a common table(s). At no time would a menu or a preselected list of foods be available, and all foods not consumed, which were of a potentially hazardous nature, would be discarded following the meal.

(xiv) "Federal inspection" means meat and poultry inspection services conducted or approved by the meat inspection division and the poultry inspection division of the United States Department of Agriculture.

(xv) "Federal Meat Inspection Act" means the act of congress approved March 4, 1907, as amended and extended and the imported meat provisions of subsections 306 (b) and (c) of the Tariff Act of 1930 and 9 U.S.C. 1306 (b) and (c), as amended.

(xvi) "Federal Poultry Products Inspection Act" means the act of congress approved August 28, 1957, as amended by the Wholesome Poultry Products Act, 82 Stat. 791; 21 U.S.C. 451.

(xvii) "Fish."

(A) "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.

(B) "Fish" includes an edible human food product derived in whole or in part from fish, including fish that have been processed in any manner.

(lxviii) "Fluoridated water" means bottled water containing naturally occurring or added fluoride. The label shall specify whether the fluoride is naturally occurring or added. Any water which meets the definition of this paragraph shall contain not less than 0.7 and not more than 1.4 mg/l fluoride ions and otherwise comply with the Food and Drug Administration quality standards set forth in 21 CFR 165.110 Bottled Water.

(lxix) "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.

(lxx) "Foodborne disease outbreak" means the occurrence of two (2) or more cases of a similar illness resulting from the ingestion of a common food.

(lxxi) "Food-contact surface" means:

(A) A surface of equipment or a utensil with which food normally comes into contact; or

(B) A surface of equipment or a utensil from which food may drain, drip, or splash:

(I) Into a food; or

(II) Onto a surface normally in contact with food.

(lxxii) "Food employee" means an individual working with unpackaged food, food equipment or utensils, or food-contact surfaces.

(lxxiii) "Function" means any official ceremony or organized social occasion.

(lxxiv) "Game animals" means any big game animal, elk, deer, mountain sheep, wild goat, antelope, moose or bear.

(lxxv) "General use pesticide" means a pesticide that is not classified by EPA for restricted use as specified in 40 CFR 152.175.

(lxxvi) "Grade A standards" means the requirements of the United States Public Health Service/FDA Grade A Pasteurized Milk Ordinance, as amended, and Grade

A Condensed and Dry Milk Ordinance, as amended, with which certain fluid and dry milk and milk products must comply.

(lxxvii) "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, as amended.

(lxxviii) "Handwashing Sink."

(A) "Handwashing sink" means a lavatory, a basin or vessel for washing, a wash basin, or a plumbing fixture especially placed for use in personal hygiene and designed for the washing of the hands.

(B) "Handwashing sink" includes an automatic handwashing facility.

(lxxix) "Hazard" means a biological, chemical, or physical property that may cause an unacceptable consumer health risk.

(lxxx) "Health officer" means the person appointed by the director of the department of health pursuant to W.S. 9-2-101(f) and 9-2-103.

(lxxxi) "Health practitioner" means a physician licensed to practice medicine, or if allowed by law, a nurse practitioner, physician assistant, or similar medical professional.

(lxxxii) "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.

(lxxxiii) "Highly susceptible population" means a group that is composed of persons who are more likely than other groups of persons in the general population to experience foodborne disease because they are:

(A) Immunocompromised; or older adults who live in a facility that provides health care or assisted living services, such as a hospital or nursing home; or preschool age children in a facility that provides custodial care, such as a day care center.

(B) 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.

(lxxxiv) "Honey" means a food product which is the nectar and saccharin exudation of plants gathered, modified, and stored in the comb by honey bees; is levorotatory; and contains not more than twenty-five percent (25%) of water, not more than twenty-five hundredths percent (.25%) of ash, nor more than eight percent (8%) sucrose.

(lxxxv) "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:

- (A) The number of potential injuries; and
- (B) The nature, severity, and duration of the anticipated injury.

(lxxxvi) "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 with juices which may be referred to as "injecting," "pinning," or "stitch pumping."

(lxxxvii) "Juice."

(A) "Juice," when used in the context of food safety, 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.

(B) "Juice" does not include, for purposes of HACCP, liquids, purées, or concentrates that are not used as beverages or ingredients of beverages.

(lxxxviii) "Kitchenware" means food preparation and storage utensils.

(lxxxix) "Law" means applicable local, state, and federal statutes, rules, regulations, and ordinances.

(xc) "License" means the document issued by the regulatory authority that authorizes a person to operate an establishment or a processing plant.

(xci) "License holder" means the entity that:

(A) Is legally responsible for the operation of the establishment or processing plant such as the owner, the owner's agent, or other person; and

(B) Possesses a valid license to operate an establishment or processing plant.

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

(xciii) "Lodging unit" means a room with one (1) or more beds, bunks or other facilities for sleeping purposes for an unspecified number of persons.

(xciv) "Major Food Allergen."

(A) "Major food allergen" means:

(I) Milk, egg, fish (such as bass, flounder, cod, and including crustacean shellfish such as crab, lobster, or shrimp), tree nuts (such as almonds, pecans, or walnuts), wheat, peanuts, and soybeans; or

(II) A food ingredient that contains protein derived from a food, as specified in Subparagraph (A)(I) of this definition.

(B) "Major food allergen" does not include:

(I) Any highly refined oil derived from a food specified in Subparagraph (A)(I) of this definition and any ingredient derived from such highly refined oil; or

(II) 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).

(xcv) "Manufactured" means meat which has been processed by curing, smoking, canning, cooking, freezing, dehydration, production of intermediate moisture products, and/or the use of certain additives, chemicals, and enzymes into a product different from the starting raw material. This definition shall not include simple grinding, cutting, or mixing.

(xcvi) "Manufacturing Milk" means milk for manufacturing purposes produced for processing and manufacturing into products for human consumption but not subject to Grade A or comparable requirements.

(xcvii) "Meat" means the edible part of the muscle of animals, which is skeletal or which is found in the tongue, in the diaphragm, in the heart or in the esophagus, with or without the accompanying or overlying fat, and the portions of bone, skin, sinew, nerve and blood vessels which normally accompany the muscle tissue and which are not separated from it in the process of dressing; it does not include the muscle found in the lips, snout or ears.

(A) This definition shall be limited to livestock as defined in 9

CFR 301.2 Definitions.

(xcviii) "Meat by-product" means any edible part of an animal other than meat or meat food products.

(xcix) "Meat food product" means any article of food for human consumption or any article which enters into the composition of food for human consumption, which is derived or prepared in whole or in part from any portion of any animal, except organotherapeutic substances, meat juices, meat extract and the like which are only for medicinal purposes and are advertised only to the medical profession; any edible part of the carcass which has been manufactured, cured, smoked, processed or otherwise treated shall be considered a meat food product.

(c) "mg/l" means milligrams per liter, which is the metric equivalent of parts per million (ppm).

(ci) "Milk grader or milk hauler" means any person who samples, approves or rejects raw milk for utilization in milk products.

(cii) "Milk tester" means any person who tests samples of milk taken by a milk grader for the purpose of determining compliance with this Rule, the United States Public Health Service/FDA Grade A Pasteurized Milk Ordinance, as amended or for payment purposes.

(ciii) "Mineral water" means bottled water that contains not less than 500 parts per million mineral solids. "Mineral water" shall meet the requirements of "Natural water."

(civ) "Misbranded" has the meaning stated in the Federal Food, Drug and Cosmetic Act, 21 USC 343.

(cv) "Mobile establishment" means an establishment designed to be readily movable such as a vehicle-mounted unit or a pushcart.

(cvi) "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.

(cvii) "Natural water" means bottled spring, artesian well, or well water which is not derived from a public system and which is unmodified by blending with water from another source or by mineral addition or deletion, except as it relates to ozonation or equivalent disinfection and filtration.

(cviii) "Non-salvageable merchandise" means "distressed merchandise," which cannot be safely or practically reconditioned.

(cix) "Not potentially hazardous food" means any food which does not require time or temperature control for safety to limit pathogenic microorganism growth or toxin formation. The natural pH or the final pH of acidified food must be 4.6 or less.

(cx) "Official establishment" means any slaughtering, cutting, boning, meat canning, curing, smoking, salting, packing, rendering, or similar establishment at which inspection is maintained under the regulatory authority and this Rule.

(cxi) "Official inspection legend" means any symbol prescribed by the director showing that an article was inspected and passed in accordance with this Rule.

(cxii) "Official inspection mark" means any symbol prescribed by the director for the purpose of identifying the inspection status of any article so inspected.

(cxiii) "Packaged."

(A) "Packaged" means bottled, canned, cartoned, securely bagged, or securely wrapped, whether packaged in an establishment or processing plant.

(B) "Packaged" does not include a wrapper, carry-out box, or other nondurable container used to contain food with the purpose of facilitating food protection during service and receipt of the food by the consumer.

(cxiv) "Perishable" means there exists a significant risk of spoilage or deterioration when a product has not been properly refrigerated or handled.

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

(cxvi) "Person in charge" means the individual present at an establishment or processing plant who is responsible for the operation at the time of inspection.

(cxvii) "Personal care items."

(A) "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.

(B) "Personal care items" include items such as medicines; first aid supplies; and other items such as cosmetics, and toiletries such as toothpaste and mouthwash.

(cxviii) "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.

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

(cxx) "Plumbing fixture" means a receptacle or device that:

(A) Is permanently or temporarily connected to the water distribution system of the premises and demands a supply of water from the system; or

(B) Discharges used water, waste materials, or sewage directly or indirectly to the drainage system of the premises.

(cxxi) "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.

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

(A) Cleaners and sanitizers, which include cleaning and sanitizing agents and agents such as caustics, acids, drying agents, polishes, and other chemicals;

(B) Pesticides except sanitizers, which include substances such as insecticides and rodenticides;

(C) Substances necessary for the operation and maintenance of the establishment such as nonfood grade lubricants and personal care items that may be deleterious to health; and

(D) Substances that are not necessary for the operation and maintenance of the establishment and are on the premises for retail sale, such as petroleum products and paints.

(cxxiii) "Potentially Hazardous Food (Time/Temperature Control for Safety Food.)"

(A) "Potentially hazardous food (time/temperature control for safety food)" means a food that requires time/temperature control for safety (TCS) to limit pathogenic microorganism growth or toxin formation.

(B) "Potentially hazardous food (time/temperature control for safety food)" includes:

(I) 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 mixtures of cut tomatoes, or garlic-in-oil mixtures that are not modified in a way that results in mixtures that do not support pathogenic microorganism growth or toxin formation; and

(II) Except as specified in Subparagraph (C)(IV) of this definition, a food that because of the interaction of its AW and PH values is designated as Product Assessment Required (PA) in Table A or B of this definition:

Table A. Interaction of pH and aw for control of spores in food heat treated to destroy vegetative cells and subsequently packaged			
AW values	pH		
	4.6 or less	> 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 AW for control of vegetative cells and spores in food not heat-treated or heat-treated but not packaged

AW values	pH			
	< 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

(C) "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 pasteurized 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 aw value, or interaction of aw and pH values, is designated as a non-PHF/non-TCS food in Table A or B of this definition;

(IV) A food that is designated as Product Assessment Required (PA) 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:

(1.) Intrinsic factors including added or natural characteristics of the food such as preservatives, antimicrobials, humectants, acidulants, or nutrients,

(2.) 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

(3.) A combination of intrinsic and extrinsic factors; or

(V) A food that does not support the growth or toxin formation of pathogenic microorganisms in accordance with one of the Subparagraphs (C)(I) - (C)(IV) of this definition even though the food may contain a pathogenic microorganism or chemical or physical contaminant at a level sufficient to cause illness or injury.

(cxxiv) "Poultry."

(A) "Poultry" means:

(I) Any domesticated bird (chickens, turkeys, ducks, geese, guineas or ratites), whether live or dead, as defined in 9 CFR 381 Poultry Products Inspection Regulations, as amended; and

(II) Any migratory waterfowl, game bird, such as pheasant, partridge, quail, grouse, guinea, pigeon, or squab, whether live or dead, as defined in 9 CFR 362 Voluntary Poultry Inspection Regulations, as amended.

(cxxv) "Premises" means:

(A) The physical facility, its contents, and the contiguous land or property under the control of the license holder; or

(B) The physical facility, its contents, and the land or property not described under Subparagraph (A) of this definition, if its facilities and contents are under the control of the license holder and may impact the establishment or processing plant personnel, facilities, or operations, if an establishment or processing plant is only one component of a larger operation such as a health care facility, hotel, motel, school, recreational camp, or prison.

(cxxvi) "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.

(cxxvii) "Processed" as applied to meat products means fresh meat which has been altered to affect preservation and/or manufacture of meat products, except for simple grinding, cutting, or mixing. This includes curing, smoking, canning, cooking, freezing, dehydration, production of intermediate moisture products, and the use of certain additives, chemicals, and enzymes. Processed does not include otherwise

unprocessed meats that are sold in a frozen state.

(cxxviii) "Processing plant."

(A) "Processing plant" means a commercial operation that manufactures, packages, labels, or stores food for human consumption and may provide food directly to a consumer.

(B) "Processing plant" does not include an establishment as defined under Chapter 1, Section 8 (lvi).

(cxxix) "Public water system" has the meaning stated in 40 CFR 141 National Primary Drinking Water Regulations, as amended.

(cxxxi) "Purified water" means bottled water produced by distillation, deionization, reverse osmosis, or other suitable process and meets the requirements of purified water in the 21st Edition of the United States Pharmacopeia. Water which meets the definition of this paragraph, and is vaporized, then condensed, may be labeled "distilled water."

(cxxxi) "Ranch recreation facility" means a ranch/farm facility containing or having under use agreement one hundred sixty (160) acres or more which may for a charge to the public provide activities for not more than a daily average of eight (8) persons in any given thirty (30) day period or may include sleeping facilities in not more than four (4) sleeping units along with accompanying family style meals. Meals and lodging shall be considered an adjunct to the activities which take place on the ranch and are not available to non-registered guests. This definition does not apply to a dude ranch.

(cxxxi) "Ratite" means a group of flightless birds including ostriches, cassowaries, kiwis, emus, etc., having undeveloped wings and a breastbone without a keel.

(cxxxi) "Ready-to-eat food."

(A) "Ready-to-eat food" means food that:

(I) Is in a form that is edible without additional preparation to achieve food safety, as specified under Chapter 3, Section 41(a)-(c), Section 42, or Section 34; or

(II) Is a raw or partially cooked animal food and the consumer is advised as specified under Chapter 3, Section 41(d)(i) and (ii); or

(III) Is prepared in accordance with a variance that is granted as specified under Chapter 3, Section 41(d)(i) and (iii); and

(IV) May receive additional preparation for palatability or aesthetic, epicurean, gastronomic, or culinary purposes.

(B) "Ready-to-eat food" includes:

(I) Raw animal food that is cooked as specified under Chapter 3, Sections 41 and 42, or frozen as specified under Chapter 3, Section 34;

(II) Raw fruits and vegetables that are washed as specified under Chapter 3, Section 40;

(III) Fruits and vegetables that are cooked for hot holding, as specified under Chapter 3, Section 43;

(IV) All potentially hazardous food that is cooked to the temperature and time required for the specific food under Chapter 3, Section 41, 42, 43, and cooled as specified in Chapter 3, Section 31;

(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 according to 21 CFR Part 113, Thermally Processed Low-Acid Foods Packaged in Hermetically Sealed Containers.

(cxxxiv) "Reconditioning" means any appropriate process or procedure by which distressed merchandise can be brought into compliance with the standards of the regulatory authority for consumption or use by the public.

(cxxv) "Reconstituted" means dehydrated food products recombined with water or other liquids.

(cxxvi) "Reduced oxygen packaging."

(A) "Reduced oxygen packaging" means:

(I) 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 surrounding 21% oxygen atmosphere; and

(II) A process as specified in Subparagraph (A)(I) of this definition that involves a food for which the hazards *Clostridium botulinum* or *Listeria monocytogenes* require control in the final packaged form.

(B) "Reduced oxygen packaging" includes:

(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 which 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 psychotrophic 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 psychotrophic pathogens.

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

(cxxxviii) "Regulatory authority" means the local, state, or federal enforcement body or authorized representative having jurisdiction over the establishment

or processing plant.

(cxxxix) "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; and unwrapped single-service or single-use articles.

(cxl) "Restricted egg" means any check, dirty egg, incubator reject, inedible, leaker, or loss as defined in 9 CFR 590 Inspection of Eggs and Egg Products (Egg Products Inspection Act).

(cxli) "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.

(cxlii) "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.

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

(cxliv) "Safe materials" means:

(A) 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;

(B) An article that is used as specified in Section 409 or 706 of the Federal Food, Drug, and Cosmetic Act, as amended; or

(C) Articles that are used in conformity with applicable regulations.

(cxlv) "Salvage distributor" means a person who engages in the business of selling, distribution or otherwise trafficking in any distressed or salvaged merchandise.

(cxlvi) "Salvage handler" means a person who engages in the business of handling distressed merchandise at the scene of an accident, fire, flood or other disaster, with or without taking ownership of the distressed merchandise.

(cxlvii) "Salvage processing plant" means an establishment primarily engaged in the business of reconditioning or by other means salvaging distressed merchandise and which sells or distributes salvaged merchandise for human or animal

consumption or use.

(cxlviii) "Salvageable merchandise" means any distressed merchandise which can be reconditioned to the satisfaction of the regulatory authority.

(cxlix) "Salvaged merchandise" means distressed merchandise which has been reconditioned.

(cli) "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 five (5) logs, which is equal to a ninety nine and nine hundred ninety nine thousandths percent (99.999%) reduction, of representative disease microorganisms of public health importance.

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

(clii) "Service animal" means an animal such as a guide dog, signal dog, or other animal individually trained to provide assistance to an individual with a disability.

(cliii) "Servicing area" means an operating base location to which a mobile establishment or transportation vehicle returns regularly for such things as vehicle and equipment cleaning, discharging liquid or solid wastes, refilling water tanks and ice bins, and boarding food.

(cliv) "Sewage" means liquid waste containing animal or vegetable matter in suspension or solution and may include liquids containing chemicals in solution.

(clv) "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.

(clvi) "Shellstock" means raw, in-shell molluscan shellfish.

(clvii) "Shiga toxin-producing *Escherichia coli*" 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.*

(clviii) "Shipping container or outside container" means the box, bag, barrel, crate, or other receptacle or covering enclosing any product packed in one (1) or more immediate or true containers.

(clix) "Shucked shellfish" means molluscan shellfish that have one or both shells removed.

(clx) "Single-service article" means tableware, carry-out utensils, and other items such as 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.

(clxi) "Single-use articles."

(A) "Single-use articles" means utensils and bulk food containers designed and constructed to be used once and discarded.

(B) "Single-use articles" include 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 do not meet the materials, durability, strength, and cleanability specifications under Chapter 6, Sections 1, 13 and 16, for multi-use utensils.

(clxii) "Slacking" means the process of moderating the temperature of a food such as allowing a food to gradually increase from a temperature of -10°F (-23°C) to 25°F (-4°C) in preparation for deep-fat frying or to facilitate even heat penetration during the cooking of previously block-frozen food such as spinach.

(clxiii) "Slaughterhouse" shall include all buildings, structures, and facilities used in the slaughtering or dressing of animals for human consumption.

(clxiv) "Smoked" means meat to which smoke or smoke flavorings have been applied/added for the purpose of preservation, color, flavor, and/or aroma.

(clxv) "Smooth" means:

(A) A food-contact surface having a surface free of pits and inclusions with a cleanability equal to or exceeding that of one hundred (100) grit number three (3) stainless steel;

(B) A nonfood-contact surface of equipment having a surface equal to that of commercial grade hot-rolled steel free of visible scale; and

(C) A floor, wall, or ceiling having an even or level surface with no roughness or projections that renders it difficult to clean.

(clxvi) "Spring water" means water derived from an underground formation from which water flows naturally to the surface of the earth. "Spring water" shall meet the requirements of "natural water."

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

(clxviii) "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.

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

(clxx) "Temporary establishment" means an establishment that operates for a period of no more than fourteen (14) consecutive days in conjunction with a single event or celebration.

(clxxi) "Temporary Sampling Establishment" means an establishment that operates for a period of no more than fourteen (14) individual days within three (3) consecutive months in conjunction with a farmers' market~~s~~ or other events held at a single location where:

(A) Only free samples of products sold by vendors who hold a food (distributors/processors) license or by agricultural producers may be provided to the public;

(B) Free samples and associated products sold under the food (distributors/processors) license shall meet all requirements of the Wyoming Food Safety Rule during processing;

(C) Temporary establishment licensing requirements and fees apply; and

(D) Whole intact product is exempt from the temporary sampling establishment license.

(clxxii) "Unwholesome" means any animal, carcass, meat, meat food product or meat by product which:

(A) Is unsound, injurious to health, contains any biological residue not permitted under these rules, or is otherwise unfit for human consumption;

(B) Consists in whole or in part of any filthy, putrid or decomposed substance;

(C) Was processed, prepared, packed or held under insanitary conditions so that the same may have become contaminated or may have become

injurious to health;

(D) Was produced in whole or in part from animals which died other than by slaughter.

(clxxiii) "USDA" means the U.S. Department of Agriculture.

(clxxiv) "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 multi-use, 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.

(clxxv) "Variance" means a written document issued by the Wyoming Department of Agriculture that authorizes a modification or waiver of one or more requirements of this Rule if, in the opinion of the regulatory authority, a health hazard or nuisance will not result from the modification or waiver.

(clxxvi) "Vehicles" means any truck, car, bus, or other means by which distressed, salvageable or salvaged merchandise is transported from one location to another.

(clxxvii) "Vending machine" means a self-service device that, upon insertion of a coin, paper currency, token, card, 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.

(clxxviii) "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.

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

(clxxx) "Water hauler" means any person engaged in the distribution of bulk quantities of water by truck or other type of vehicle or conveyance, for sale for human consumption.

(clxxxi) "Well water" means bottled water from a hole bored, drilled, or otherwise constructed in the ground, which taps the water of an aquifer. "Well water" shall meet the requirements of "natural water."

(clxxxii) "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.

(clxxxiii) "Wholesome" means sound, healthful, clean and otherwise fit for human consumption.

(clxxxiv) "Wyoming condemned," or abbreviation thereof, means the animal so marked has been inspected and found to be in a dying condition, or to be affected with any other condition or disease that would require condemnation of its carcass.

(clxxxv) "Wyoming inspected and condemned," or abbreviation thereof, means that the carcass, meat, meat food product or meat by-product, so marked or so identified, is unwholesome or adulterated and shall be disposed of in the manner prescribed by the director.

(clxxxvi) "Wyoming inspected and passed," or abbreviation thereof, means that the carcass, meat, meat food product, or meat by-product, so marked or so identified, was at the time it was so marked or so identified found to be wholesome.

(clxxxvii) "Wyoming retained" means that the carcass, meat, meat food product so identified is held for further examination by the director or contract veterinarian to determine its disposal.

(clxxxviii) "Wyoming suspect" means that an animal so marked and identified is suspected of being affected with a disease or condition which may require its condemnation, in whole or in part, when slaughtered, and is subject to further examination by the director or a contract veterinarian to determine its disposal.

Section 9. Person in Charge Requirement.

(a) The license holder shall be the person in charge or shall designate a person in charge and shall ensure that a person in charge is present at the establishment or processing plant during all hours of operation.

Section 10. Demonstration of Food Safety Knowledge.

(a) Based on the risks of foodborne illness inherent to the establishment or processing plant, during inspections and upon request, the person in charge shall demonstrate to the regulatory authority knowledge of foodborne disease prevention, application of the HACCP principles, if applicable, and the requirements of this Rule. The person in charge shall demonstrate this knowledge by compliance with this Rule, by responding correctly to the inspectors' questions as they relate to the specific establishment or processing plant, or by voluntarily being a certified food protection

manager who has shown proficiency of required information through passing a test that is part of an accredited program. The areas of knowledge may include:

- (i) Describing the relationship between the prevention of foodborne disease and the personal hygiene of a food employee;
- (ii) 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;
- (iii) Describing the symptoms associated with the diseases that are transmissible through food;
- (iv) Explaining the significance of the relationship between maintaining the time and temperature of potentially hazardous food and the prevention of foodborne illness;
- (v) Explaining the hazards involved in the consumption of raw or undercooked meat, poultry, eggs, and fish;
- (vi) Stating the required food temperatures and times for safe cooking of potentially hazardous food including meat, poultry, eggs, and fish;
- (vii) Stating the required temperatures and times for the safe refrigerated storage, hot holding, cooling, and reheating of potentially hazardous food;
- (viii) Describing the relationship between the prevention of foodborne illness and the management and control of the following:
 - (A) Cross contamination;
 - (B) Hand contact with ready-to-eat foods;
 - (C) Handwashing; and
 - (D) Maintaining the establishment or processing plant in a clean condition and in good repair;
- (ix) Describing foods identified as major food allergens and the symptoms that a major food allergen could cause in a sensitive individual who has an allergic reaction.
- (x) Explaining the relationship between food safety and providing equipment that is:

- (A) Sufficient in number and capacity; and
 - (B) Properly designed, constructed, located, installed, operated, maintained, and cleaned;
- (xi) Explaining correct procedures for cleaning and sanitizing utensils and food-contact surfaces of equipment;
- (xii) 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;
- (xiii) Identifying poisonous or toxic materials in the establishment or processing plant and the procedures necessary to ensure that they are safely stored, dispensed, used, and disposed of according to law;
- (xiv) 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 this Rule;
- (xv) Explaining the details of how the person in charge and food employees comply with the HACCP plan if a plan is required by the law, this Rule, or an agreement between the regulatory authority and the establishment or processing plant; and
- (xvi) Explaining how the person in charge, food employees, and conditional employees comply with reporting responsibilities and exclusion or restriction of food employees.

Section 11. Person in Charge, Duties.

(a) The person in charge shall ensure that:

- (i) Establishment or processing plant operations are not conducted in a private home or in a room used as living or sleeping quarters as specified under Chapter 9, Section 42;
- (ii) Persons unnecessary to the establishment or processing plant operation are not allowed in the food preparation, food storage, or warewashing areas, except that brief visits and tours may be authorized by the person in charge if steps are taken to ensure that exposed food; clean equipment, utensils, and linens; and unwrapped single-service and single-use articles are protected from contamination;

(iii) Employees and other persons such as delivery and maintenance persons and pesticide applicators entering the food preparation, food storage, and warewashing areas comply with this Rule;

(iv) Employees are effectively cleaning their hands, by routinely monitoring the employees' handwashing;

(v) Employees are visibly observing foods as they are received to determine that they are from approved sources, delivered at the required temperatures, protected from contamination, unadulterated, and accurately presented, by routinely monitoring the employees' observations and periodically evaluating foods upon their receipt;

(vi) Employees are properly cooking potentially hazardous food, being particularly careful in cooking those foods known to cause severe foodborne illness and death, such as eggs and comminuted meats, through daily oversight of the employees' routine monitoring of the cooking temperatures using appropriate temperature measuring devices properly scaled and calibrated as specified under Chapter 6, Section 38(b), and Section 48;

(vii) Employees are using proper methods to rapidly cool potentially hazardous foods that are not held hot or are not for consumption within four (4) hours, through daily oversight of the employees' routine monitoring of food temperatures during cooling;

(viii) Employees are cooking food sufficiently to ensure its safety;

(ix) Employees are properly sanitizing cleaned multi-use equipment and utensils before they are reused, through routine monitoring of solution temperature and exposure time for hot water sanitizing, and chemical concentration, pH, temperature, and exposure time for chemical sanitizing;

(x) Consumers are notified that clean tableware is to be used when they return to self-service areas such as salad bars and buffets as specified under Chapter 3, Section 53;

(xi) Except when otherwise approved as specified in Chapter 3, Section 39(b), employees are preventing cross-contamination of ready-to-eat food with bare hands by properly using suitable utensils such as deli tissue, spatulas, tongs, single-use gloves, or dispensing equipment;

(xii) Employees are properly trained in food safety as it relates to their assigned duties; and

(xiii) Food employees and conditional employees are informed of their

responsibility to report in accordance with law, to the person in charge, information about their health and activities as they relate to diseases that are transmissible through food, as specified under Chapter 1, Section 12 (a).

Section 12. Health Status of Food Employees and Applicants.

(a) The license holder shall require food employees and conditional employees to report to the person in charge information about their health and activities as they relate to diseases that are transmissible through food. A food employee or conditional employee shall report the information in a manner that allows the person in charge to reduce the risk of foodborne disease transmission, including providing necessary additional information, such as the date of onset of symptoms and an illness, or of a diagnosis without symptoms, if the food employee or conditional employee:

(i) Has any of the following symptoms:

(A) Diarrhea;

(B) Vomiting;

(C) Jaundice; or

(D) Sore throat with fever, or;

(E) A lesion containing pus such as a boil or infected wound that is open or draining and is:

(I) On the hands or wrists, unless an impermeable cover such as a finger cot or stall protects the lesion and a single-use glove is worn over the impermeable cover;

(II) On exposed portions of the arms, unless the lesion is protected by an impermeable cover; or

(III) On other parts of the body, unless the lesion is covered by a dry, durable, tight-fitting bandage;

(ii) Has an illness diagnosed by a health practitioner due to:

(A) *Salmonella spp.*;

(B) *Shigella spp.*;

(C) Enterohemorrhagic or Shiga toxin-producing *Escherichia*

coli;

- (D) Hepatitis A virus; or
 - (E) Viral Gastroenteritis including Norovirus
- (iii) Had a previous illness, diagnosed by a health practitioner:
- (A) *Salmonella spp.* within the past three months,
 - (B) *Shigella spp.* within the past month,
 - (C) Shiga toxin-producing *Escherichia coli*, within the past month; or
 - (D) Hepatitis A virus.
- (iv) Has been exposed to, or is the suspected source of, a confirmed disease outbreak, because the food employee or conditional employee consumed or prepared food implicated in the outbreak, or consumed food at an event prepared by a person who is infected or ill with:
- (A) Viral Gastroenteritis including Norovirus within the past 48 hours of the last exposure,
 - (B) Enterohemorrhagic or Shiga toxin-producing *Escherichia coli*, or *Shigella spp.* within the past 3 days of the last exposure,
 - (C) *Salmonella spp.* within the past 14 days of the last exposure,
 - (D) Hepatitis A virus within the past 30 days of the last exposure; or
- (v) Has been exposed by attending or working in a setting where there is a confirmed disease outbreak, or living in the same household as, and has knowledge about, an individual who attends or works in a setting where there is a confirmed disease outbreak, or living in the same household as, and has knowledge about, an individual diagnosed with an illness caused by:
- (A) Viral Gastroenteritis including Norovirus within the past 48 hours of the last exposure,
 - (B) Enterohemorrhagic or Shiga toxin-producing *Escherichia coli*, or *Shigella spp.* within the past 3 days of the last exposure,

(C) *Salmonella spp.* within the past 14 days of the last exposure,

(D) Hepatitis A virus within the past 30 days of the last exposure.

(b) The person in charge shall notify the regulatory authority when a food employee is:

(i) Jaundiced, or

(A) Diagnosed with a current or previous illness due to a pathogen as specified in Chapter 1, Section 12 (a) (ii) (A)-(E) or (iii) (A)-(D).

(c) The person in charge shall ensure that a conditional employee:

(i) Who exhibits or reports a symptom, or who reports a diagnosed illness as specified in Chapter 1, Section 12 (a) (i)-(iii), is prohibited from becoming a food employee until the conditional employee meets the criteria for the specific symptoms or diagnosed illness as specified in Chapter 1, Section 14; and

(ii) Who will work as a food employee in a food establishment that serves a highly susceptible population and reports a history of exposure as specified in Chapter 1, Section 12 (a) (iv)-(v), is prohibited from becoming a food employee until the conditional employee meets the criteria as specified in Chapter 1, Section 14 (a) (ix).

(d) The person in charge shall ensure that a food employee who exhibits or reports a symptom, or who reports a diagnosed illness or a history of exposure as specified in Chapter 1, Section 12 (a) (i)-(v) is:

(i) Excluded as specified in Chapter 1, Section 13 (a) (i)-(iii), and Section 13 (a) (iv) (A), (v) (A), (vi) (A), or (vii) (A) and in compliance with the provisions specified in Chapter 1, Section 14 (a) (i)-(vii); or

(ii) Restricted as specified in Chapter 1, Section 13 (a) (iv) (B), (v) (B), (vi) (B), (vii) (B), or Section 13 (a) (viii) or (ix) and in compliance with the provisions specified in Chapter 1, Section 14 (a) (iv)-(ix).

(e) A food employee or conditional employee shall report to the person in charge the information as specified in Chapter 1, Section 12 (a).

(f) A food employee shall:

(i) Comply with an exclusion as specified in Chapter 1, Section 13 (a)

(i)-(iii) and Section 13 (a) (iv) (A), (v) (A), (vi) (A), or (vii) (A) and with the provisions specified in Chapter 1, Section 14 (a) (i)-(vii); or

(ii) Comply with a restriction as specified in Chapter 1, Section 13 (a) (iv) (B), (v) (B), (vi) (B), (vii) (B), or Section 13 (a) (viii) or (ix) and comply with the provisions specified in Chapter 1, Section 14 (a) (iv)-(ix).

Section 13. Exclusions and Restrictions of Food Employees.

(a) The person in charge shall exclude or restrict a food employee from an establishment or processing plant in accordance with the following:

(i) Except when the symptom is from a noninfectious condition, exclude a food employee from working with exposed food; clean equipment, utensils, and linens; and unwrapped single-service and single-use articles, in an establishment or processing plant if the food employee is:

(A) Symptomatic with vomiting or diarrhea; or

(B) Symptomatic with vomiting or diarrhea and diagnosed with an infection from viral gastroenteritis including Norovirus, *Shigella spp.*, or Enterohemorrhagic or Shiga toxin-producing *Escherichia coli*.

(ii) Exclude a food employee who is:

(A) Jaundiced and the onset of jaundice occurred within the last 7 calendar days, unless the food employee provides to the person in charge written medical documentation from a health practitioner specifying that the jaundice is not caused by hepatitis A virus or other fecal-orally transmitted infection;

(B) Diagnosed with an infection from hepatitis A virus within 14 calendar days from the onset of any illness symptoms, or within 7 calendar days of the onset of jaundice; or

(C) Diagnosed with an infection from hepatitis A virus without developing symptoms.

(iii) Exclude a food employee who is diagnosed with an infection from *Salmonella* spp, or reports a previous infection with *Salmonella* spp within the past 3 months as specified under Chapter 1, Section 12 (a) (iii).

(iv) If a food employee is diagnosed with an infection from Norovirus and is asymptomatic:

- (A) Exclude the food employee who works in a food establishment serving a highly susceptible population; or
 - (B) Restrict the food employee who works in a food establishment not serving a highly susceptible population.
- (v) If a food employee is diagnosed within the past month with an infection from *Shigella* spp. and is asymptomatic:
- (A) Exclude the food employee who works in a food establishment serving a highly susceptible population; or
 - (B) Restrict the food employee who works in a food establishment not serving a highly susceptible population.
- (vi) If a food employee is diagnosed within the past month with an infection from enterohemorrhagic or shiga toxin-producing *E. coli*, and is asymptomatic:
- (A) Exclude the food employee who works in a food establishment serving a highly susceptible population; or
 - (B) Restrict the food employee who works in a food establishment not serving a highly susceptible population.
- (vii) If a food employee is ill with symptoms of acute onset of sore throat with fever:
- (A) Exclude the food employee who works in a food establishment serving a highly susceptible population; or
 - (B) Restrict the food employee who works in a food establishment not serving a highly susceptible population.
- (viii) If a food employee is infected with a skin lesion containing pus such as a boil or infected wound that is open or draining and not properly covered as specified under Chapter 1, Section 12 (a) (i) (E), restrict the food employee.
- (ix) If a food employee is exposed to a foodborne pathogen as specified under Chapter 1, Section 12 (a) (iv) or (v), restrict the food employee who works in a food establishment serving a highly susceptible population.

Section 14. Removal, Adjustment, or Retention of Exclusions and Restrictions of Food Employees.

(a) The person in charge may remove, adjust, or retain the exclusion or restriction of a food employee according to the following conditions:

(i) Except when a food employee is diagnosed with an infection from hepatitis A virus or *Salmonella* spp:

(A) Reinstate a food employee who was excluded as specified under Chapter 1, Section 13 (a) (i) (A) if the food employee:

(I) Is asymptomatic for at least 48 hours; or

(II) Provides to the person in charge written medical documentation from a health practitioner that states the symptom is from a noninfectious condition.

(B) If a food employee was diagnosed with an infection from viral gastroenteritis including Norovirus and excluded as specified in Chapter 1, Section 13 (a) (i) (B):

(I) Restrict the food employee, who is asymptomatic for at least 48 hours and works in a food establishment not serving a highly susceptible population, until the conditions for reinstatement as specified in Chapter 1, Section 14 (a) (iv) (A) or (B) are met; or

(II) Retain the exclusion for the food employee, who is asymptomatic for at least 48 hours and works in a food establishment that serves a highly susceptible population, until the conditions for reinstatement as specified in Chapter 1, Section 14 (a) (iv) (A) or (B) are met.

(C) If a food employee was diagnosed with an infection from *Shigella* spp. and excluded as specified in Chapter 1, Section 13 (a) (i) (B):

(I) Restrict the food employee, who is asymptomatic for at least 24 hours and works in a food establishment not serving a highly susceptible population, until the conditions for reinstatement as specified in Chapter 1, Section 14 (a) (v) (A) or (B) are met; or

(II) Retain the exclusion for the food employee, who is asymptomatic for at least 24 hours and works in a food establishment that serves a highly susceptible population, until the conditions for reinstatement as specified in Chapter 1, Section 14 (a) (v) (A) or (B) are met.

(D) If a food employee was diagnosed with an infection from Enterohemorrhagic or Shiga toxin-producing *Escherichia coli* and excluded as specified in Chapter 1, Section 13 (a) (i) (B):

(I) Restrict the food employee, who is asymptomatic for at least 24 hours and works in a food establishment not serving a highly susceptible population, until the conditions for reinstatement as specified in Chapter 1, Section 14 (a) (vi) (A) or (B) are met; or

(II) Retain the exclusion for the food employee, who is asymptomatic for at least 24 hours and works in a food establishment that serves a highly susceptible population, until the conditions for reinstatement as specified in Chapter 1, Section 14 (a) (vi) (A) or (B) are met.

(ii) Reinstate a food employee who was excluded as specified in Chapter 1, Section 13 (a) (ii) if the person in charge obtains approval from the regulatory authority and one of the following conditions is met:

(A) The food employee has been jaundiced for more than 7 calendar days;

(B) The anicteric food employee has been symptomatic with symptoms other than jaundice for more than 14 calendar days; or

(C) The food employee provides to the person in charge written medical documentation from a health practitioner stating that the food employee is free of a hepatitis A virus infection.

(iii) Reinstate a food employee who was excluded as specified in Chapter 1, Section 13 (a) (iii) if:

(A) The person in charge obtains approval from the regulatory authority; and

(B) The food employee provides to the person in charge written medical documentation from a health practitioner that states the food employee is free from *Salmonella*. spp infection as demonstrated by two (2) consecutive negative stool cultures collected at least 24 hours apart for non-typhoidal *Salmonella*; or three (3) consecutive negative stool cultures collected at least 24 hours apart for *Salmonella* sero type Typhi. If any of these cultures are positive for Typhi, exclude the employee and repeat cultures at monthly intervals until three (3) consecutive negative cultures are obtained.

(iv) Reinstate a food employee who was excluded as specified in Chapter 1, Section 13 (a) (i) (B) or (a) (iv) (A) who was restricted in Chapter 1, Section 13 (a) (iv) (B) if the person in charge obtains approval from the regulatory authority and one of the following conditions is met:

(A) The excluded or restricted food employee provides to the

person in charge written medical documentation from a health practitioner stating that the food employee is free of a Norovirus infection;

(B) The food employee was excluded or restricted after symptoms of vomiting or diarrhea resolved, and more than 48 hours have passed since the food employee became asymptomatic; or

(C) The food employee was excluded or restricted and did not develop symptoms and more than 48 hours have passed since the food employee was diagnosed.

(v) Reinstate a food employee who was excluded as specified in Chapter 1, Section 13 (a) (i) (B) or (a) (v) (A) or who was restricted in Chapter 1, Section 13 (a) (v) (B) if the person in charge obtains approval from the regulatory authority and one of the following conditions is met:

(A) The excluded or restricted food employee provides to the person in charge written medical documentation from a health practitioner stating that the food employee is free of a *Shigella* spp. infection based on test results showing 2 consecutive negative stool specimen cultures that are taken:

(I) Not earlier than 48 hours after discontinuance of antibiotics, and

(II) At least 24 hours apart;

(B) The food employee was excluded or restricted after symptoms of vomiting or diarrhea resolved, and more than 4 weeks have passed since the food employee became asymptomatic; or

(C) The food employee was excluded or restricted and did not develop symptoms and more than 4 weeks have passed since the food employee was diagnosed.

(vi) Reinstate a food employee who was excluded or restricted as specified in Chapter 1, Section 13 (a) (i) (B) or (a) (vi) (A) or who was restricted in Chapter 1, Section 13 (a) (vi) (B) if the person in charge obtains approval from the regulatory authority and one of the following conditions is met:

(A) The excluded or restricted food employee provides to the person in charge written medical documentation from a health practitioner stating that the food employee is free of an infection from Enterohemorrhagic or Shiga toxin-producing *Escherichia coli* based on test results that show 2 consecutive negative stool specimen cultures that are taken:

(I) Not earlier than 48 hours after discontinuance of

antibiotics; and

(II) At least 24 hours apart.

(B) The food employee was excluded or restricted after symptoms of vomiting or diarrhea resolved and more than 7 calendar days have passed since the food employee became asymptomatic; or

(C) The food employee was excluded or restricted and did not develop symptoms and more than 7 days have passed since the food employee was diagnosed.

(vii) Reinstate a food employee who was excluded or restricted as specified in Chapter 1, Section 13 (a) (vii) (A) or (B) if due to group A strep pharyngitis and the food employee provides to the person in charge written medical documentation from a health practitioner stating that the food employee meets one of the following conditions:

(A) Has received antibiotic therapy for *Streptococcus pyogenes* infection for more than 24 hours;

(B) Has at least one negative throat specimen culture for *Streptococcus pyogenes* infection; or

(C) Is otherwise determined by a health practitioner to be free of a *Streptococcus pyogenes* infection.

(viii) Reinstate a food employee who was restricted as specified in Chapter 1, Section 13 (a) (viii) if the skin, infected wound, cut, or pustular boil is properly covered with one of the following:

(A) An impermeable cover such as a finger cot or stall and a single-use glove over the impermeable cover if the infected wound or pustular boil is on the hand, finger, or wrist;

(B) An impermeable cover on the arm if the infected wound or pustular boil is on the arm; or

(C) A dry, durable, tight-fitting bandage if the infected wound or pustular boil is on another part of the body.

(ix) Reinstate a food employee who was restricted as specified in Chapter 1, Section 13 (a) (ix) and was exposed to one of the following pathogens as specified in Chapter 1, Section 12 (a) (iv) or (v):

(A) Viral Gastroenteritis including Norovirus and one of the following conditions is met:

(I) More than 48 hours have passed since the last day the food employee was potentially exposed; or

(II) More than 48 hours have passed since the food employee's household contact became asymptomatic.

(B) *Shigella* spp. or Enterohemorrhagic or Shiga toxin producing *Escherichia coli* and one of the following conditions is met:

(I) More than 3 calendar days have passed since the last day the food employee was potentially exposed; or

(II) More than 3 calendar days have passed since the food employee's household contact became asymptomatic.

(C) *Salmonella*. spp and one of the following conditions is met:

(I) More than 14 calendar days have passed since the last day the food employee was potentially exposed; if *Salmonella Typhi*, a food employee must have two (2) negative stool cultures twenty four (24) hours apart; or

(II) More than 14 calendar days have passed since the food employee's household contact became asymptomatic; if *Salmonella Typhi*, a food employee must have two (2) negative stool cultures twenty four (24) hours apart.

(D) Hepatitis A virus and one of the following conditions is met:

(I) The food employee is immune to hepatitis A virus infection because of a prior illness from hepatitis A;

(II) The food employee is immune to hepatitis A virus infection because of vaccination against hepatitis A;

(III) The food employee is immune to hepatitis A virus infection because of IgG administration;

(IV) More than 30 calendar days have passed since the last day the food employee was potentially exposed;

(V) More than 30 calendar days have passed since the food employee's household contact became jaundiced; or

(VI) The Food employee does not use an alternative

procedure that allows bare hand contact with ready to-eat food until at least 30 days after the potential exposure, as specified in Chapter 1, Section 14 (a) (ix) (D) (IV) and (V), and the food employee receives additional training about:

- (1.) Hepatitis A symptoms and preventing the transmission of infection,
- (2.) Proper handwashing procedures, and
- (3.) Protecting ready-to-eat food from contamination introduced by bare hand contact.

Section 15. Bed and Breakfast and Ranch Recreation Requirements.

(a) Food service provided at bed and breakfast and ranch recreation facilities shall be for the bona fide guests of said facilities and shall not be available for charge or otherwise to other members of the public that might be present.

(i) The kitchen in a bed and breakfast or ranch recreation facility in a home may be equipped the same as any normal home style kitchen provided food safety procedures can be achieved.

Section 16. State Meat and Poultry Inspection Program.

(a) As authorized by W.S. 35-7-123; 9 CFR, 321 Cooperation with States and Territories, as amended, and 9 CFR 381 Subpart R-Cooperation with States and Territories; Certification of State and Territorial Programs as at Least Equal to Federal Program, as amended, the Wyoming department of agriculture shall maintain a State Meat and Poultry Inspection Program.

(i) The director shall administer and enforce the provisions of this Rule and shall employ or contract with such persons as may be appropriate.

(b) As authorized by 9 CFR 307.5 Overtime and Holiday Inspection Service and 307.6 Basis of Billing for Overtime and Holiday Services, the Department has the authority to charge state inspected meat and poultry plants for overtime and holiday inspection services.

(i) The owner/operator of a state inspected meat or poultry plant shall reimburse the Department for the cost of the inspection service furnished on any holiday as specified in Section 16 (b) (ii); or for more than 8 hours on any day, or more than 40 hours in any workweek Saturday through Friday.

(ii) Holidays for State employees shall be New Year's Day, January 1; Equality Day, the third Monday in January; President's Day, the third Monday in February; Memorial Day, the last Monday in May; Independence Day, July 4; Labor Day, the first Monday in September; Veterans' Day, November 11; Thanksgiving Day, the fourth Thursday in November; Christmas Day, December 25 or any other day declared to be a holiday by the Governor of Wyoming or the President of the United States. When any of the above listed holidays falls outside the basic workweek, the nearest workday within that week shall become a holiday.

(iii) Each recipient of overtime or holiday inspection service, or both, shall be billed at the rate of one and one half (1½) times the normal hourly rate of the Inspector-In-Charge for the plant making the request, in increments of quarter hours. For billing purposes, 8 or more minutes shall be considered a full quarter hour. Billing will be for each quarter hour of service rendered by each Department employee.

(iv) State inspected meat or poultry plants requesting and receiving the services of a Department employee after he or she has completed his or her day's assignment and left the premises, or called back to duty during any overtime or holiday period, shall be billed for a minimum of 2 hours overtime or holiday inspection service at the established rate.

(v) Bills are payable upon receipt and become delinquent 30 days from the date of the bill. Overtime or holiday inspection will not be performed for anyone having a delinquent account.

CHAPTER 10

HAZARD ANALYSIS AND CRITICAL CONTROL POINTS (HACCP)

Section 1. When a HACCP Plan is Required.

- (a) Before engaging in an activity that requires a HACCP plan, a license applicant or license holder shall submit to the regulatory authority for approval a properly prepared HACCP plan as specified under Chapter 10, Section 2, and the relevant provisions of this Rule if:
- (i) Submission of a HACCP plan is required according to law;
 - (ii) A variance is required as specified under Chapter 3, Sections 41(d)(iii), 62, or Chapter 6, Section 20 18 (b); or
 - (iii) The regulatory authority determines that a food preparation or processing method requires a variance based on a plan submittal specified under Chapter 2, Section 6 7, an inspection finding, or a variance request.
- (b) A license applicant or license holder shall have a properly prepared HACCP plan as specified under Chapter 3, Section 62.

Section 2. Contents of a HACCP Plan.

- (a) For an establishment or processing plant that is required under Chapter 10, Section 1, to have a HACCP plan, the plan and specification shall indicate:
- (i) A categorization of the types of potentially hazardous foods that are specified in the menu such as soups and sauces, salads, and bulk, solid foods such as meat roasts, or other foods that are specified by the regulatory authority;
 - (ii) A flow diagram by specific food or category type identifying critical control points and providing information on the following:
 - (A) Ingredients, materials, and equipment used in the preparation of that food; and
 - (B) Formulations, or recipes that delineate methods and procedural control measures that address the food safety concerns involved;
 - (iii) Food employee and supervisory training plan that addresses the food safety issues of concern;
 - (iv) A statement of standard operating procedures for the plan under

consideration including clearly identifying:

- (A) Each critical control point;
 - (B) The critical limits for critical control point;
 - (C) The method and frequency for monitoring and controlling each critical control point by the food employee designated by the person in charge;
 - (D) 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;
 - (E) Action to be taken by the person in charge if the critical limits for each critical control point are not met;
 - (F) Records to be maintained by the person in charge to demonstrate that the HACCP plan is properly operated and managed; and
- (v) Additional scientific data or other information, as required by the regulatory authority, supporting the determination that food safety is not compromised by the proposal.

Section 3. Trade Secrets.

- (a) The regulatory authority shall treat as confidential in accordance with law information that meets criteria specified in law for a trade secret and is contained on inspection report forms and in the plans and specifications submitted as specified under Chapter 2, Section 6 7, and Chapter 10, Section 2.

Section 4. HACCP Plans Required in Official Meat and Poultry Establishments.

- (a) Every official establishment shall have a written HACCP plan as specified in 9 CFR 417 Hazard Analysis and Critical Control Point (HACCP) Systems, as amended.

are sufficient to comply with Chapter 3, Section 30; and

(iv) The existence of a documented agreement with the license holder that the facilities or equipment will be replaced as specified under Chapter 2, Section 12 (a)(vii), or upgraded or replaced as specified under Chapter 2, Section 12 (a)(vii)(A).

Section 5. Variances of Modifications and Waivers.

(a) The Wyoming department of agriculture may grant a variance by modifying or waiving the requirements of this Rule if in the opinion of the Wyoming department of agriculture a health hazard or nuisance will not result from the variance. If a variance is granted, the Wyoming department of agriculture shall retain the information specified under Chapter 1, Section 6, in its records for the establishment or processing plant.

Section 6. Documentation of Proposed Variance and Justification.

(a) Before a variance from a requirement of this Rule is approved, the information that shall be provided by the person requesting the variance and retained in the Wyoming department of agriculture's file on the establishment or processing plant must include:

(i) A statement of the proposed variance of the Rule requirement citing relevant Rule Section numbers;

(ii) An analysis of the rationale for how the potential public health hazards and nuisances addressed by the relevant Rule Sections will be alternatively addressed by the proposal; and

(iii) A HACCP Plan if required as specified under Chapter 10, Section 1(a) that includes the information specified under Chapter 10, Section 2, as it is relevant to the variance requested.

Section 7. Variance Requirements.

(a) If the Wyoming department of agriculture grants a variance as specified in Chapter 1, Section 6, or a HACCP plan is otherwise required as specified under Chapter 10, Section 1, the license holder shall:

(i) Comply with the HACCP Plan and procedures that are submitted as specified under Chapter 10, Section 2, and approved as a basis for the modification or waiver; and

(ii) Maintain and provide to the Wyoming department of agriculture, upon request, records specified under Chapter 10, Section 2 (a) (iv) and (v), that demonstrate that the following are routinely employed:

- (A) Procedures for monitoring critical control points;
- (B) Monitoring of the critical control points;
- (C) Verification of the effectiveness of an operation or process; and
- (D) Necessary corrective actions if there is failure at a critical control point.

Section 8. Applicability and Terms Defined.

(a) The following terms are defined and apply in the interpretation and application of this Rule.

- (i) "Accredited program."
 - (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.
 - (B) "Accredited program" 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; and test development and administration.
 - (C) "Accredited program" does not refer to training functions or educational programs.

(ii) "Additive."

(A) "Food additive" has the meaning stated in the Federal Food, Drug, and Cosmetic Act, §201(s) and 21 CFR 170 Food Additives.

(B) "Color additive" means a material, other than a material exempt under the federal act, which:

(I) Is a dye, pigment or other substance from a vegetable, animal, mineral or other source; or

(II) When added or applied to a food, drug or cosmetic, or to the human body or any part thereof is capable (alone or through reaction with other substances) of imparting color thereto.

(iii) "Administrative meeting" means an informal meeting conducted by the Wyoming department of agriculture for the purpose of facilitating a mutually agreed upon plan of compliance for the license holder.

(iv) "Adulterated" has the meaning stated in the Federal Food, Drug and Cosmetic Act, 21 USC, Section 342.

(v) "Animals" means but is not limited to livestock as defined in 9 CFR 301 Definitions, as amended, poultry as defined in 9 CFR 381.1 Definitions, as amended, or exotic animals as defined in 9 CFR 352.1 Definitions, as amended, and fish.

(vi) "Approved" means acceptable to the regulatory authority based on determination of conformity with principles, practices, and generally recognized standards that protect public health.

(vii) "Approved source" when used in reference to a bottled water plant's water product or water used in the plant's operations, means the source(s) of the water whether it be from a spring, artesian well, drilled well, municipal water supply, or any other source that has been inspected and the water sampled, analyzed, and found to be of a safe and sanitary quality in accordance with the applicable laws and regulations of the State of Wyoming. The presence in the plant of current certificates or modifications of approval from the State Engineer shall constitute approval of the source in the case of non-municipal water supplies.

(viii) "Approved water source" means any public water source or private well that has been routinely sampled and verified to not have contaminants in excess of the legal maximum contaminant levels as outlined in the primary Environmental Protection Agency (EPA) water quality standards, as amended.

(ix) "Artesian water" means bottled water from a well tapping an aquifer in which the water level will stand above the bottom of the confining bed of the aquifer and in which the hydraulic pressure of the water in the aquifer is greater than the force of gravity. "Artesian well water" shall meet the requirements of "natural water."

(x) "Asymptomatic."

(A) "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.

(B) "Asymptomatic" includes not showing symptoms because symptoms have resolved or subsided, or because symptoms never manifested.

(xi) " 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 .

(xii) "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.

(xiii) "Bed and breakfast facility" means a private home which is used to provide temporary accommodations for a charge to the public with not more than four (4) lodging units or not more than a daily average of eight (8) persons per night during any thirty (30) day period and in which no more than two (2) family style meals are provided per twenty four (24) hour period.

(xiv) "Beverage" means a liquid for drinking, including water.

(xv) "Bottled water" means water that is from an approved source and is placed in a sealed container or package and is offered for sale for human consumption or other consumer uses.

(xvi) "Bulk water" means water which is handled in containers of 25 gallon capacity or greater.

(xvii) "Carcass" means all or any part of a slaughtered animal, including viscera, which is capable of being used for human consumption.

(xviii) "Casing" means a tubular container for sausage products made of either natural or artificial (synthetic) material.

(xix) "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, as amended.

(xx) "CFR" means Code of Federal Regulations. Citations in this Regulation 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.

(xxi) "CIP."

(A) "CIP" means cleaned in place by circulation or flowing by mechanical means through a piping system of a detergent solution, water rinse, and sanitizing solution onto or over equipment surfaces that require cleaning, such as the

method used, in part, to clean and sanitize a frozen dessert machine.

(B) "CIP" does not include the cleaning of equipment such as band saws, slicers, or mixers that are subjected to in-place manual cleaning without the use of a CIP system.

(xxii) "Code of Federal Regulations" means the compilation of the general and permanent regulations published in the Federal Register by the executive departments and agencies of the federal government which:

(A) Is published annually by the U.S. Government Printing Office; and

(B) Contains FDA regulations in 21 CFR, USDA regulations in 7 CFR and 9 CFR, EPA regulations in 40 CFR, and Wildlife and Fisheries regulations in 50 CFR.

(xxiii) "Comb honey" means honey contained in the cells of the comb in which it is produced.

(xxiv) "Commingle" means:

(A) To combine shellstock harvested on different days or from different growing areas as identified on the tag or label, or

(I) To combine shucked shellfish from containers with different container codes or different shucking dates.

(xxv) "Comminuted."

(I) "Comminuted" 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.

(xxvi) "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.

(xxvii) "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.

(xxviii) "Consumer" means a person who is a member of the public, who takes possession of food, who is not functioning in the capacity of an operator of an establishment or processing plant, or who does not offer the food for resale.

(xxix) "Contaminant" means any physical, chemical, biological or radiological substance or matter in water.

(xxx) "Contract veterinarian" means a graduate of a school of veterinary medicine accredited by the American Veterinary Medical Association who provides services for the department under contract, and who is licensed to practice veterinary medicine in the state of Wyoming."

(xxxi) "Cooked" means food to which heat has been applied for preservation and/or to change the color, aroma, texture, and/or flavor of the product. Internal temperatures typically range from 145°F to 180°F, whereas externally the product may reach temperatures over 200°F. Some products are considered cooked even though their internal temperatures may only reach 130°F-140°F. Roast prime rib of beef is an example.

(xxxii) "Corrosion-resistant material" means a material that maintains acceptable surface cleanability characteristics under prolonged influence of the food contacted, the normal use of cleaning compounds and sanitizing solutions, and other conditions of use environment.

(xxxiii) "Cottage food business" means a business which produces not potentially hazardous food for sale at farmers' markets, roadside stands, private homes, or functions utilizing the home style equipment in the kitchen of a private home.

(xxxiv) "Country" when used in the name of meat, meat food product or meat by-product means that such meat, meat food product or meat by-product was actually prepared on the farm.

(xxxv) "Critical control point" means a point or procedure in a specific food system where loss of control may result in an unacceptable health risk

(xxxvi) "Critical item."

(A) "Critical item or critical violation" means a provision of this Rule, that, if in noncompliance, is more likely than other violations to contribute to food contamination, illness, or environmental health hazard.

(xxxvii) "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.

(xxxviii) "Cured" means meat to which specific non-meat ingredients have been incorporated by dry addition or use of aqueous solutions to affect preservation, safety, flavor, and/or color. The non-meat ingredients must include salt (sodium chloride), and most often include sodium nitrite/nitrate. In addition, sugar (sucrose) or other sweetening agents are frequently used.

(xxxix) "Custom carcass or meat" means carcasses, meat, meat food products or meat by-products which were slaughtered, dressed or otherwise processed by license holders.

(xl) "Department" means the Wyoming department of agriculture.

(xli) "Director" means the director of the Wyoming department of agriculture or his duly authorized representative.

(xlii) "Disinfectant" means any oxidant, including but not limited to, chlorine, chlorine dioxide, chloramines and ozone added to water in any part of the treatment or distribution process that is intended to kill or inactivate pathogenic microorganisms.

(xlili) "Distilled water" means bottled water which has been produced by a process of distillation and meets the definition of purified water in the 21st Edition of the United States Pharmacopeia.

(xliv) "Distressed merchandise" means any food:

(A) Which has had the label lost;

(B) Which has been subjected to possible damage due to accident, fire, flood, adverse weather, or any other similar cause; or

(C) Which may have been rendered unsafe or unsuitable for human or animal consumption or use.

(xlv) "Drinking water."

(A) "Drinking water" means water that meets 40 CFR 141 National Primary Drinking Water Regulations.

(B) "Drinking water" is traditionally known as "potable water."

(C) "Drinking water" 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.

(xlvi) "Dry storage area" means a room or area designated for the storage of packaged or containerized bulk food that is not potentially hazardous and dry goods such as single-service items.

(xlvii) "Easily cleanable."

(A) "Easily cleanable" means a characteristic of a surface that:

(I) Allows effective removal of soil by normal cleaning methods;

(II) Is dependent on the material, design, construction, and installation of the surface; and

(III) Varies with the likelihood of the surface's role in introducing pathogenic or toxigenic agents or other contaminants into food based on the surface's approved placement, purpose, and use.

(B) "Easily cleanable" includes a tiered application of the criteria that qualify the surface as easily cleanable as specified under Subparagraph (A) of this definition, to different situations in which varying degrees of cleanability are required such as:

(I) 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

(II) 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.

(xlviii) "Easily movable" means:

(A) Portable; mounted on casters, gliders, or rollers; or provided with a mechanical means to safely tilt a unit of equipment for cleaning; and

(B) 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.

(xlix) "Edible" means intended for use as human food.

(l) "Egg"

(A) "Egg" means the shell egg of avian species such

as chicken, turkey, duck, goose, guinea, quail or ratite.

(B) "Egg" does not include:

- (I) A balut;
- (II) The egg of reptile species such as alligator; or
- (III) An egg product.

(li) "Egg Product."

(A) "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.

(B) "Egg Product" does not include food which contains eggs only in a relatively small proportion such as cake mixes.

(iii) "Employee" means the license 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 an establishment or processing plant.

(iv) "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. EHEC is a subset of STEC, whose members produce additional virulence factors. Infections with EHEC may be asymptomatic but are classically associated with bloody diarrhea (hemorrhagic colitis) and hemolytic uremic syndrome (HUS) or thrombotic thrombocytopenic purpura (TTP). Examples of serotypes of EHEC include: *E. coli* O157:H7; *E. coli* O157:NM; *E. coli* O26:H11; *E. coli* O145:NM; *E. coli* O103:H2; or *E. coli* O111:NM. Also see shiga toxin-producing *e. coli*.

(liv) "EPA" means the U.S. Environmental Protection Agency.

(lv) "Equipment."

(A) "Equipment" means an article that is used in the operation of a food 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, vending machine, or warewashing machine.

(B) "Equipment" does not include items 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.

(lvi) "Establishment."

(A) "Establishment" means and includes any place or any area of any establishment in which food, drugs, devices and cosmetics are displayed for sale, manufactured, processed, packed, held or stored:

(I) Including but not limited to, a restaurant; retail store; meat slaughter or processing plant, dairy production and processing; bed and breakfast; bulk water hauler; satellite, group day care center or catered feeding location; catering operation if the operation provides food directly to a consumer or to a conveyance used to transport people; market; vending location; conveyance used to transport people; institution; or food bank; and

(II) That relinquishes possession of food to a consumer directly, or indirectly through a delivery service such as home delivery of grocery orders or restaurant takeout orders, or delivery service that is provided by common carriers.

(B) "Establishment" includes:

(I) An element of the operation such as a transportation vehicle or a central preparation facility that supplies a vending location or satellite feeding location unless the vending or feeding location is permitted by the regulatory authority; and

(II) An operation that is conducted in a mobile, stationary, temporary, or permanent facility or location; where consumption is on or off the premises; and regardless of whether there is a charge for the food.

(C) "Establishment" does not include:

(I) A kitchen in a private home if only food that is not potentially hazardous is prepared for sale or use at farmers' markets, roadside stands, private homes or functions.

(II) An area where food that is prepared as specified in Subparagraph (C) (I) of this definition, is sold or offered for human consumption;

(III) A kitchen in a private home, such as a small family day-care provider; or

(IV) A private home that receives catered or home-

delivered food.

(lvii) "Establishment number" means an official number assigned by the director to each establishment and included on the inspection legend and label to identify all inspected and passed carcasses, meat, meat food products and meat by-products handled in that establishment.

(lviii) "Exclude" means to prevent a person from working as a food employee or entering an establishment or processing plant as a food employee.

(ix) "Exotic animal" means any reindeer, elk, deer, antelope, water buffalo or bison.

(lx) "Extracted honey" means honey that has been separated from the comb by centrifugal force, gravity, straining, or by other means.

(xi) "Farmers market" means a common facility or area where several vendors may gather on a regular, recurring basis to sell a variety of fresh fruits and vegetables, locally grown farm products and other items directly to consumers.

(xii) "FDA" means the U.S. Food and Drug Administration.

(xiii) "Family style meals" means a meal prepared in a bed and breakfast facility or ranch recreation facility and served in the same facility around a common table(s). At no time would a menu or a preselected list of foods be available, and all foods not consumed, which were of a potentially hazardous nature, would be discarded following the meal.

(xiv) "Federal inspection" means meat and poultry inspection services conducted or approved by the meat inspection division and the poultry inspection division of the United States Department of Agriculture.

(xv) "Federal Meat Inspection Act" means the act of congress approved March 4, 1907, as amended and extended and the imported meat provisions of subsections 306 (b) and (c) of the Tariff Act of 1930 and 9 U.S.C. 1306 (b) and (c), as amended.

(xvi) "Federal Poultry Products Inspection Act" means the act of congress approved August 28, 1957, as amended by the Wholesome Poultry Products Act, 82 Stat. 791; 21 U.S.C. 451.

(xvii) "Fish."

(A) "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.

(B) "Fish" includes an edible human food product derived in whole or in part from fish, including fish that have been processed in any manner.

(lxviii) "Fluoridated water" means bottled water containing naturally occurring or added fluoride. The label shall specify whether the fluoride is naturally occurring or added. Any water which meets the definition of this paragraph shall contain not less than 0.7 and not more than 1.4 mg/l fluoride ions and otherwise comply with the Food and Drug Administration quality standards set forth in 21 CFR 165.110 Bottled Water.

(lxix) "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.

(lxx) "Foodborne disease outbreak" means the occurrence of two (2) or more cases of a similar illness resulting from the ingestion of a common food.

(lxxi) "Food-contact surface" means:

(A) A surface of equipment or a utensil with which food normally comes into contact; or

(B) A surface of equipment or a utensil from which food may drain, drip, or splash:

(I) Into a food; or

(II) Onto a surface normally in contact with food.

(lxxii) "Food employee" means an individual working with unpackaged food, food equipment or utensils, or food-contact surfaces.

(lxxiii) "Function" means any official ceremony or organized social occasion.

(lxxiv) "Game animals" means any big game animal, elk, deer, mountain sheep, wild goat, antelope, moose or bear.

(lxxv) "General use pesticide" means a pesticide that is not classified by EPA for restricted use as specified in 40 CFR 152.175.

(lxxvi) "Grade A standards" means the requirements of the United States Public Health Service/FDA Grade A Pasteurized Milk Ordinance, as amended, and Grade

A Condensed and Dry Milk Ordinance, as amended, with which certain fluid and dry milk and milk products must comply.

(lxxvii) "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, as amended.

(lxxviii) "Handwashing Sink."

(A) "Handwashing sink" means a lavatory, a basin or vessel for washing, a wash basin, or a plumbing fixture especially placed for use in personal hygiene and designed for the washing of the hands.

(B) "Handwashing sink" includes an automatic handwashing facility.

(lxxix) "Hazard" means a biological, chemical, or physical property that may cause an unacceptable consumer health risk.

(lxxx) "Health officer" means the person appointed by the director of the department of health pursuant to W.S. 9-2-101(f) and 9-2-103.

(lxxxi) "Health practitioner" means a physician licensed to practice medicine, or if allowed by law, a nurse practitioner, physician assistant, or similar medical professional.

(lxxxii) "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.

(lxxxiii) "Highly susceptible population" means a group that is composed of persons who are more likely than other groups of persons in the general population to experience foodborne disease because they are:

(A) Immunocompromised; or older adults who live in a facility that provides health care or assisted living services, such as a hospital or nursing home; or preschool age children in a facility that provides custodial care, such as a day care center.

(B) 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.

(lxxxiv) "Honey" means a food product which is the nectar and saccharin exudation of plants gathered, modified, and stored in the comb by honey bees; is levorotatory; and contains not more than twenty-five percent (25%) of water, not more than twenty-five hundredths percent (.25%) of ash, nor more than eight percent (8%) sucrose.

(lxxxv) "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:

- (A) The number of potential injuries; and
- (B) The nature, severity, and duration of the anticipated injury.

(lxxxvi) "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 with juices which may be referred to as "injecting," "pinning," or "stitch pumping."

(lxxxvii) "Juice."

(A) "Juice," when used in the context of food safety, 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.

(B) "Juice" does not include, for purposes of HACCP, liquids, purées, or concentrates that are not used as beverages or ingredients of beverages.

(lxxxviii) "Kitchenware" means food preparation and storage utensils.

(lxxxix) "Law" means applicable local, state, and federal statutes, rules, regulations, and ordinances.

(xc) "License" means the document issued by the regulatory authority that authorizes a person to operate an establishment or a processing plant.

(xci) "License holder" means the entity that:

(A) Is legally responsible for the operation of the establishment or processing plant such as the owner, the owner's agent, or other person; and

(B) Possesses a valid license to operate an establishment or processing plant.

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

(xciii) "Lodging unit" means a room with one (1) or more beds, bunks or other facilities for sleeping purposes for an unspecified number of persons.

(xciv) "Major Food Allergen."

(A) "Major food allergen" means:

(I) Milk, egg, fish (such as bass, flounder, cod, and including crustacean shellfish such as crab, lobster, or shrimp), tree nuts (such as almonds, pecans, or walnuts), wheat, peanuts, and soybeans; or

(II) A food ingredient that contains protein derived from a food, as specified in Subparagraph (A)(I) of this definition.

(B) "Major food allergen" does not include:

(I) Any highly refined oil derived from a food specified in Subparagraph (A)(I) of this definition and any ingredient derived from such highly refined oil; or

(II) 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).

(xcv) "Manufactured" means meat which has been processed by curing, smoking, canning, cooking, freezing, dehydration, production of intermediate moisture products, and/or the use of certain additives, chemicals, and enzymes into a product different from the starting raw material. This definition shall not include simple grinding, cutting, or mixing.

(xcvi) "Manufacturing Milk" means milk for manufacturing purposes produced for processing and manufacturing into products for human consumption but not subject to Grade A or comparable requirements.

(xcvii) "Meat" means the edible part of the muscle of animals, which is skeletal or which is found in the tongue, in the diaphragm, in the heart or in the esophagus, with or without the accompanying or overlying fat, and the portions of bone, skin, sinew, nerve and blood vessels which normally accompany the muscle tissue and which are not separated from it in the process of dressing; it does not include the muscle found in the lips, snout or ears.

(A) This definition shall be limited to livestock as defined in 9

CFR 301.2 Definitions.

(xcviii) "Meat by-product" means any edible part of an animal other than meat or meat food products.

(xcix) "Meat food product" means any article of food for human consumption or any article which enters into the composition of food for human consumption, which is derived or prepared in whole or in part from any portion of any animal, except organotherapeutic substances, meat juices, meat extract and the like which are only for medicinal purposes and are advertised only to the medical profession; any edible part of the carcass which has been manufactured, cured, smoked, processed or otherwise treated shall be considered a meat food product.

(c) "mg/l" means milligrams per liter, which is the metric equivalent of parts per million (ppm).

(ci) "Milk grader or milk hauler" means any person who samples, approves or rejects raw milk for utilization in milk products.

(cii) "Milk tester" means any person who tests samples of milk taken by a milk grader for the purpose of determining compliance with this Rule, the United States Public Health Service/FDA Grade A Pasteurized Milk Ordinance, as amended or for payment purposes.

(ciii) "Mineral water" means bottled water that contains not less than 500 parts per million mineral solids. "Mineral water" shall meet the requirements of "Natural water."

(civ) "Misbranded" has the meaning stated in the Federal Food, Drug and Cosmetic Act, 21 USC 343.

(cv) "Mobile establishment" means an establishment designed to be readily movable such as a vehicle-mounted unit or a pushcart.

(cvi) "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.

(cvii) "Natural water" means bottled spring, artesian well, or well water which is not derived from a public system and which is unmodified by blending with water from another source or by mineral addition or deletion, except as it relates to ozonation or equivalent disinfection and filtration.

(cviii) "Non-salvageable merchandise" means "distressed merchandise," which cannot be safely or practically reconditioned.

(cix) "Not potentially hazardous food" means any food which does not require time or temperature control for safety to limit pathogenic microorganism growth or toxin formation. The natural pH or the final pH of acidified food must be 4.6 or less.

(cx) "Official establishment" means any slaughtering, cutting, boning, meat canning, curing, smoking, salting, packing, rendering, or similar establishment at which inspection is maintained under the regulatory authority and this Rule.

(cxi) "Official inspection legend" means any symbol prescribed by the director showing that an article was inspected and passed in accordance with this Rule.

(cxii) "Official inspection mark" means any symbol prescribed by the director for the purpose of identifying the inspection status of any article so inspected.

(cxiii) "Packaged."

(A) "Packaged" means bottled, canned, cartoned, securely bagged, or securely wrapped, whether packaged in an establishment or processing plant.

(B) "Packaged" does not include a wrapper, carry-out box, or other nondurable container used to contain food with the purpose of facilitating food protection during service and receipt of the food by the consumer.

(cxiv) "Perishable" means there exists a significant risk of spoilage or deterioration when a product has not been properly refrigerated or handled.

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

(cxvi) "Person in charge" means the individual present at an establishment or processing plant who is responsible for the operation at the time of inspection.

(cxvii) "Personal care items."

(A) "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.

(B) "Personal care items" include items such as medicines; first aid supplies; and other items such as cosmetics, and toiletries such as toothpaste and mouthwash.

(cxviii) "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.

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

(cxx) "Plumbing fixture" means a receptacle or device that:

(A) Is permanently or temporarily connected to the water distribution system of the premises and demands a supply of water from the system; or

(B) Discharges used water, waste materials, or sewage directly or indirectly to the drainage system of the premises.

(cxxi) "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.

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

(A) Cleaners and sanitizers, which include cleaning and sanitizing agents and agents such as caustics, acids, drying agents, polishes, and other chemicals;

(B) Pesticides except sanitizers, which include substances such as insecticides and rodenticides;

(C) Substances necessary for the operation and maintenance of the establishment such as nonfood grade lubricants and personal care items that may be deleterious to health; and

(D) Substances that are not necessary for the operation and maintenance of the establishment and are on the premises for retail sale, such as petroleum products and paints.

(cxxiii) "Potentially Hazardous Food (Time/Temperature Control for Safety Food.)"

(A) "Potentially hazardous food (time/temperature control for safety food)" means a food that requires time/temperature control for safety (TCS) to limit pathogenic microorganism growth or toxin formation.

(B) "Potentially hazardous food (time/temperature control for safety food)" includes:

(I) 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 mixtures of cut tomatoes, or garlic-in-oil mixtures that are not modified in a way that results in mixtures that do not support pathogenic microorganism growth or toxin formation; and

(II) Except as specified in Subparagraph (C)(IV) of this definition, a food that because of the interaction of its AW and PH values is designated as Product Assessment Required (PA) in Table A or B of this definition:

Table A. Interaction of pH and aw for control of spores in food heat treated to destroy vegetative cells and subsequently packaged			
AW values	pH		
	4.6 or less	> 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 AW for control of vegetative cells and spores in food not heat-treated or heat-treated but not packaged

AW values	pH			
	< 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

(C) "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 pasteurized 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 aw value, or interaction of aw and pH values, is designated as a non-PHF/non-TCS food in Table A or B of this definition;

(IV) A food that is designated as Product Assessment Required (PA) 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:

(1.) Intrinsic factors including added or natural characteristics of the food such as preservatives, antimicrobials, humectants, acidulants, or nutrients,

(2.) 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

(3.) A combination of intrinsic and extrinsic factors; or

(V) A food that does not support the growth or toxin formation of pathogenic microorganisms in accordance with one of the Subparagraphs (C)(I) - (C)(IV) of this definition even though the food may contain a pathogenic microorganism or chemical or physical contaminant at a level sufficient to cause illness or injury.

(cxxiv) "Poultry."

(A) "Poultry" means:

(I) Any domesticated bird (chickens, turkeys, ducks, geese, guineas or ratites), whether live or dead, as defined in 9 CFR 381 Poultry Products Inspection Regulations, as amended; and

(II) Any migratory waterfowl, game bird, such as pheasant, partridge, quail, grouse, guinea, pigeon, or squab, whether live or dead, as defined in 9 CFR 362 Voluntary Poultry Inspection Regulations, as amended.

(cxxv) "Premises" means:

(A) The physical facility, its contents, and the contiguous land or property under the control of the license holder; or

(B) The physical facility, its contents, and the land or property not described under Subparagraph (A) of this definition, if its facilities and contents are under the control of the license holder and may impact the establishment or processing plant personnel, facilities, or operations, if an establishment or processing plant is only one component of a larger operation such as a health care facility, hotel, motel, school, recreational camp, or prison.

(cxxvi) "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.

(cxxvii) "Processed" as applied to meat products means fresh meat which has been altered to affect preservation and/or manufacture of meat products, except for simple grinding, cutting, or mixing. This includes curing, smoking, canning, cooking, freezing, dehydration, production of intermediate moisture products, and the use of certain additives, chemicals, and enzymes. Processed does not include otherwise

unprocessed meats that are sold in a frozen state.

(cxxviii) "Processing plant."

(A) "Processing plant" means a commercial operation that manufactures, packages, labels, or stores food for human consumption and may provide food directly to a consumer.

(B) "Processing plant" does not include an establishment as defined under Chapter 1, Section 8 (lvi).

(cxxix) "Public water system" has the meaning stated in 40 CFR 141 National Primary Drinking Water Regulations, as amended.

(cxxxi) "Purified water" means bottled water produced by distillation, deionization, reverse osmosis, or other suitable process and meets the requirements of purified water in the 21st Edition of the United States Pharmacopeia. Water which meets the definition of this paragraph, and is vaporized, then condensed, may be labeled "distilled water."

(cxxxi) "Ranch recreation facility" means a ranch/farm facility containing or having under use agreement one hundred sixty (160) acres or more which may for a charge to the public provide activities for not more than a daily average of eight (8) persons in any given thirty (30) day period or may include sleeping facilities in not more than four (4) sleeping units along with accompanying family style meals. Meals and lodging shall be considered an adjunct to the activities which take place on the ranch and are not available to non-registered guests. This definition does not apply to a dude ranch.

(cxxxi) "Ratite" means a group of flightless birds including ostriches, cassowaries, kiwis, emus, etc., having undeveloped wings and a breastbone without a keel.

(cxxxi) "Ready-to-eat food."

(A) "Ready-to-eat food" means food that:

(I) Is in a form that is edible without additional preparation to achieve food safety, as specified under Chapter 3, Section 41(a)-(c), Section 42, or Section 34; or

(II) Is a raw or partially cooked animal food and the consumer is advised as specified under Chapter 3, Section 41(d)(i) and (ii); or

(III) Is prepared in accordance with a variance that is granted as specified under Chapter 3, Section 41(d)(i) and (iii); and

(IV) May receive additional preparation for palatability or aesthetic, epicurean, gastronomic, or culinary purposes.

(B) "Ready-to-eat food" includes:

(I) Raw animal food that is cooked as specified under Chapter 3, Sections 41 and 42, or frozen as specified under Chapter 3, Section 34;

(II) Raw fruits and vegetables that are washed as specified under Chapter 3, Section 40;

(III) Fruits and vegetables that are cooked for hot holding, as specified under Chapter 3, Section 43;

(IV) All potentially hazardous food that is cooked to the temperature and time required for the specific food under Chapter 3, Section 41, 42, 43, and cooled as specified in Chapter 3, Section 31;

(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 according to 21 CFR Part 113, Thermally Processed Low-Acid Foods Packaged in Hermetically Sealed Containers.

(cxxxiv) "Reconditioning" means any appropriate process or procedure by which distressed merchandise can be brought into compliance with the standards of the regulatory authority for consumption or use by the public.

(cxxv) "Reconstituted" means dehydrated food products recombined with water or other liquids.

(cxxvi) "Reduced oxygen packaging."

(A) "Reduced oxygen packaging" means:

(I) 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 surrounding 21% oxygen atmosphere; and

(II) A process as specified in Subparagraph (A)(I) of this definition that involves a food for which the hazards *Clostridium botulinum* or *Listeria monocytogenes* require control in the final packaged form.

(B) "Reduced oxygen packaging" includes:

(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 which 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 psychotrophic 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 psychotrophic pathogens.

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

(cxxxviii) "Regulatory authority" means the local, state, or federal enforcement body or authorized representative having jurisdiction over the establishment

or processing plant.

(cxxxix) "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; and unwrapped single-service or single-use articles.

(cxl) "Restricted egg" means any check, dirty egg, incubator reject, inedible, leaker, or loss as defined in 9 CFR 590 Inspection of Eggs and Egg Products (Egg Products Inspection Act).

(cxli) "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.

(cxlii) "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.

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

(cxliv) "Safe materials" means:

(A) 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;

(B) An article that is used as specified in Section 409 or 706 of the Federal Food, Drug, and Cosmetic Act, as amended; or

(C) Articles that are used in conformity with applicable regulations.

(cxlv) "Salvage distributor" means a person who engages in the business of selling, distribution or otherwise trafficking in any distressed or salvaged merchandise.

(cxlvi) "Salvage handler" means a person who engages in the business of handling distressed merchandise at the scene of an accident, fire, flood or other disaster, with or without taking ownership of the distressed merchandise.

(cxlvii) "Salvage processing plant" means an establishment primarily engaged in the business of reconditioning or by other means salvaging distressed merchandise and which sells or distributes salvaged merchandise for human or animal

consumption or use.

(cxlviii) "Salvageable merchandise" means any distressed merchandise which can be reconditioned to the satisfaction of the regulatory authority.

(cxlix) "Salvaged merchandise" means distressed merchandise which has been reconditioned.

(cl) "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 five (5) logs, which is equal to a ninety nine and nine hundred ninety nine thousandths percent (99.999%) reduction, of representative disease microorganisms of public health importance.

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

(cli) "Service animal" means an animal such as a guide dog, signal dog, or other animal individually trained to provide assistance to an individual with a disability.

(cli) "Servicing area" means an operating base location to which a mobile establishment or transportation vehicle returns regularly for such things as vehicle and equipment cleaning, discharging liquid or solid wastes, refilling water tanks and ice bins, and boarding food.

(cliv) "Sewage" means liquid waste containing animal or vegetable matter in suspension or solution and may include liquids containing chemicals in solution.

(clv) "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.

(clvi) "Shellstock" means raw, in-shell molluscan shellfish.

(clvii) "Shiga toxin-producing *Escherichia coli*" 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.*

(clviii) "Shipping container or outside container" means the box, bag, barrel, crate, or other receptacle or covering enclosing any product packed in one (1) or more immediate or true containers.

(clix) "Shucked shellfish" means molluscan shellfish that have one or both shells removed.

(clx) "Single-service article" means tableware, carry-out utensils, and other items such as 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.

(clxi) "Single-use articles."

(A) "Single-use articles" means utensils and bulk food containers designed and constructed to be used once and discarded.

(B) "Single-use articles" include 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 do not meet the materials, durability, strength, and cleanability specifications under Chapter 6, Sections 1, 13 and 16, for multi-use utensils.

(clxii) "Slacking" means the process of moderating the temperature of a food such as allowing a food to gradually increase from a temperature of -10°F (-23°C) to 25°F (-4°C) in preparation for deep-fat frying or to facilitate even heat penetration during the cooking of previously block-frozen food such as spinach.

(clxiii) "Slaughterhouse" shall include all buildings, structures, and facilities used in the slaughtering or dressing of animals for human consumption.

(clxiv) "Smoked" means meat to which smoke or smoke flavorings have been applied/added for the purpose of preservation, color, flavor, and/or aroma.

(clxv) "Smooth" means:

(A) A food-contact surface having a surface free of pits and inclusions with a cleanability equal to or exceeding that of one hundred (100) grit number three (3) stainless steel;

(B) A nonfood-contact surface of equipment having a surface equal to that of commercial grade hot-rolled steel free of visible scale; and

(C) A floor, wall, or ceiling having an even or level surface with no roughness or projections that renders it difficult to clean.

(clxvi) "Spring water" means water derived from an underground formation from which water flows naturally to the surface of the earth. "Spring water" shall meet the requirements of "natural water."

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

(clxviii) "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.

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

(clxx) "Temporary establishment" means an establishment that operates for a period of no more than fourteen (14) consecutive days in conjunction with a single event or celebration.

(clxxi) "Temporary Sampling Establishment" means an establishment that operates for a period of no more than fourteen (14) individual days within three (3) consecutive months in conjunction with a farmers' market~~s~~ or other events held at a single location where:

(A) Only free samples of products sold by vendors who hold a food (distributors/processors) license or by agricultural producers may be provided to the public;

(B) Free samples and associated products sold under the food (distributors/processors) license shall meet all requirements of the Wyoming Food Safety Rule during processing;

(C) Temporary establishment licensing requirements and fees apply; and

(D) Whole intact product is exempt from the temporary sampling establishment license.

(clxxii) "Unwholesome" means any animal, carcass, meat, meat food product or meat by product which:

(A) Is unsound, injurious to health, contains any biological residue not permitted under these rules, or is otherwise unfit for human consumption;

(B) Consists in whole or in part of any filthy, putrid or decomposed substance;

(C) Was processed, prepared, packed or held under insanitary conditions so that the same may have become contaminated or may have become

injurious to health;

(D) Was produced in whole or in part from animals which died other than by slaughter.

(clxxiii) "USDA" means the U.S. Department of Agriculture.

(clxxiv) "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 multi-use, 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.

(clxxv) "Variance" means a written document issued by the Wyoming Department of Agriculture that authorizes a modification or waiver of one or more requirements of this Rule if, in the opinion of the regulatory authority, a health hazard or nuisance will not result from the modification or waiver.

(clxxvi) "Vehicles" means any truck, car, bus, or other means by which distressed, salvageable or salvaged merchandise is transported from one location to another.

(clxxvii) "Vending machine" means a self-service device that, upon insertion of a coin, paper currency, token, card, 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.

(clxxviii) "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.

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

(clxxx) "Water hauler" means any person engaged in the distribution of bulk quantities of water by truck or other type of vehicle or conveyance, for sale for human consumption.

(clxxxi) "Well water" means bottled water from a hole bored, drilled, or otherwise constructed in the ground, which taps the water of an aquifer. "Well water" shall meet the requirements of "natural water."

(clxxxii) "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.

(clxxxiii) "Wholesome" means sound, healthful, clean and otherwise fit for human consumption.

(clxxxiv) "Wyoming condemned," or abbreviation thereof, means the animal so marked has been inspected and found to be in a dying condition, or to be affected with any other condition or disease that would require condemnation of its carcass.

(clxxxv) "Wyoming inspected and condemned," or abbreviation thereof, means that the carcass, meat, meat food product or meat by-product, so marked or so identified, is unwholesome or adulterated and shall be disposed of in the manner prescribed by the director.

(clxxxvi) "Wyoming inspected and passed," or abbreviation thereof, means that the carcass, meat, meat food product, or meat by-product, so marked or so identified, was at the time it was so marked or so identified found to be wholesome.

(clxxxvii) "Wyoming retained" means that the carcass, meat, meat food product so identified is held for further examination by the director or contract veterinarian to determine its disposal.

(clxxxviii) "Wyoming suspect" means that an animal so marked and identified is suspected of being affected with a disease or condition which may require its condemnation, in whole or in part, when slaughtered, and is subject to further examination by the director or a contract veterinarian to determine its disposal.

Section 9. Person in Charge Requirement.

(a) The license holder shall be the person in charge or shall designate a person in charge and shall ensure that a person in charge is present at the establishment or processing plant during all hours of operation.

Section 10. Demonstration of Food Safety Knowledge.

(a) Based on the risks of foodborne illness inherent to the establishment or processing plant, during inspections and upon request, the person in charge shall demonstrate to the regulatory authority knowledge of foodborne disease prevention, application of the HACCP principles, if applicable, and the requirements of this Rule. The person in charge shall demonstrate this knowledge by compliance with this Rule, by responding correctly to the inspectors' questions as they relate to the specific establishment or processing plant, or by voluntarily being a certified food protection

manager who has shown proficiency of required information through passing a test that is part of an accredited program. The areas of knowledge may include:

- (i) Describing the relationship between the prevention of foodborne disease and the personal hygiene of a food employee;
- (ii) 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;
- (iii) Describing the symptoms associated with the diseases that are transmissible through food;
- (iv) Explaining the significance of the relationship between maintaining the time and temperature of potentially hazardous food and the prevention of foodborne illness;
- (v) Explaining the hazards involved in the consumption of raw or undercooked meat, poultry, eggs, and fish;
- (vi) Stating the required food temperatures and times for safe cooking of potentially hazardous food including meat, poultry, eggs, and fish;
- (vii) Stating the required temperatures and times for the safe refrigerated storage, hot holding, cooling, and reheating of potentially hazardous food;
- (viii) Describing the relationship between the prevention of foodborne illness and the management and control of the following:
 - (A) Cross contamination;
 - (B) Hand contact with ready-to-eat foods;
 - (C) Handwashing; and
 - (D) Maintaining the establishment or processing plant in a clean condition and in good repair;
- (ix) Describing foods identified as major food allergens and the symptoms that a major food allergen could cause in a sensitive individual who has an allergic reaction.
- (x) Explaining the relationship between food safety and providing equipment that is:

- (A) Sufficient in number and capacity; and
 - (B) Properly designed, constructed, located, installed, operated, maintained, and cleaned;
- (xi) Explaining correct procedures for cleaning and sanitizing utensils and food-contact surfaces of equipment;
- (xii) 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;
- (xiii) Identifying poisonous or toxic materials in the establishment or processing plant and the procedures necessary to ensure that they are safely stored, dispensed, used, and disposed of according to law;
- (xiv) 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 this Rule;
- (xv) Explaining the details of how the person in charge and food employees comply with the HACCP plan if a plan is required by the law, this Rule, or an agreement between the regulatory authority and the establishment or processing plant; and
- (xvi) Explaining how the person in charge, food employees, and conditional employees comply with reporting responsibilities and exclusion or restriction of food employees.

Section 11. Person in Charge, Duties.

(a) The person in charge shall ensure that:

- (i) Establishment or processing plant operations are not conducted in a private home or in a room used as living or sleeping quarters as specified under Chapter 9, Section 42;
- (ii) Persons unnecessary to the establishment or processing plant operation are not allowed in the food preparation, food storage, or warewashing areas, except that brief visits and tours may be authorized by the person in charge if steps are taken to ensure that exposed food; clean equipment, utensils, and linens; and unwrapped single-service and single-use articles are protected from contamination;

(iii) Employees and other persons such as delivery and maintenance persons and pesticide applicators entering the food preparation, food storage, and warewashing areas comply with this Rule;

(iv) Employees are effectively cleaning their hands, by routinely monitoring the employees' handwashing;

(v) Employees are visibly observing foods as they are received to determine that they are from approved sources, delivered at the required temperatures, protected from contamination, unadulterated, and accurately presented, by routinely monitoring the employees' observations and periodically evaluating foods upon their receipt;

(vi) Employees are properly cooking potentially hazardous food, being particularly careful in cooking those foods known to cause severe foodborne illness and death, such as eggs and comminuted meats, through daily oversight of the employees' routine monitoring of the cooking temperatures using appropriate temperature measuring devices properly scaled and calibrated as specified under Chapter 6, Section 38(b), and Section 48;

(vii) Employees are using proper methods to rapidly cool potentially hazardous foods that are not held hot or are not for consumption within four (4) hours, through daily oversight of the employees' routine monitoring of food temperatures during cooling;

(viii) Employees are cooking food sufficiently to ensure its safety;

(ix) Employees are properly sanitizing cleaned multi-use equipment and utensils before they are reused, through routine monitoring of solution temperature and exposure time for hot water sanitizing, and chemical concentration, pH, temperature, and exposure time for chemical sanitizing;

(x) Consumers are notified that clean tableware is to be used when they return to self-service areas such as salad bars and buffets as specified under Chapter 3, Section 53;

(xi) Except when otherwise approved as specified in Chapter 3, Section 39(b), employees are preventing cross-contamination of ready-to-eat food with bare hands by properly using suitable utensils such as deli tissue, spatulas, tongs, single-use gloves, or dispensing equipment;

(xii) Employees are properly trained in food safety as it relates to their assigned duties; and

(xiii) Food employees and conditional employees are informed of their

responsibility to report in accordance with law, to the person in charge, information about their health and activities as they relate to diseases that are transmissible through food, as specified under Chapter 1, Section 12 (a).

Section 12. Health Status of Food Employees and Applicants.

(a) The license holder shall require food employees and conditional employees to report to the person in charge information about their health and activities as they relate to diseases that are transmissible through food. A food employee or conditional employee shall report the information in a manner that allows the person in charge to reduce the risk of foodborne disease transmission, including providing necessary additional information, such as the date of onset of symptoms and an illness, or of a diagnosis without symptoms, if the food employee or conditional employee:

(i) Has any of the following symptoms:

(A) Diarrhea;

(B) Vomiting;

(C) Jaundice; or

(D) Sore throat with fever, or;

(E) A lesion containing pus such as a boil or infected wound that is open or draining and is:

(I) On the hands or wrists, unless an impermeable cover such as a finger cot or stall protects the lesion and a single-use glove is worn over the impermeable cover;

(II) On exposed portions of the arms, unless the lesion is protected by an impermeable cover; or

(III) On other parts of the body, unless the lesion is covered by a dry, durable, tight-fitting bandage;

(ii) Has an illness diagnosed by a health practitioner due to:

(A) *Salmonella spp.*;

(B) *Shigella spp.*;

(C) Enterohemorrhagic or Shiga toxin-producing *Escherichia*

coli;

- (D) Hepatitis A virus; or
 - (E) Viral Gastroenteritis including Norovirus
- (iii) Had a previous illness, diagnosed by a health practitioner:
- (A) *Salmonella spp.* within the past three months,
 - (B) *Shigella spp.* within the past month,
 - (C) Shiga toxin-producing *Escherichia coli*, within the past month; or
 - (D) Hepatitis A virus.
- (iv) Has been exposed to, or is the suspected source of, a confirmed disease outbreak, because the food employee or conditional employee consumed or prepared food implicated in the outbreak, or consumed food at an event prepared by a person who is infected or ill with:
- (A) Viral Gastroenteritis including Norovirus within the past 48 hours of the last exposure,
 - (B) Enterohemorrhagic or Shiga toxin-producing *Escherichia coli*, or *Shigella spp.* within the past 3 days of the last exposure,
 - (C) *Salmonella spp.* within the past 14 days of the last exposure,
 - (D) Hepatitis A virus within the past 30 days of the last exposure; or
- (v) Has been exposed by attending or working in a setting where there is a confirmed disease outbreak, or living in the same household as, and has knowledge about, an individual who attends or works in a setting where there is a confirmed disease outbreak, or living in the same household as, and has knowledge about, an individual diagnosed with an illness caused by:
- (A) Viral Gastroenteritis including Norovirus within the past 48 hours of the last exposure,
 - (B) Enterohemorrhagic or Shiga toxin-producing *Escherichia coli*, or *Shigella spp.* within the past 3 days of the last exposure,

(C) *Salmonella spp.* within the past 14 days of the last exposure,

(D) Hepatitis A virus within the past 30 days of the last exposure.

(b) The person in charge shall notify the regulatory authority when a food employee is:

(i) Jaundiced, or

(A) Diagnosed with a current or previous illness due to a pathogen as specified in Chapter 1, Section 12 (a) (ii) (A)-(E) or (iii) (A)-(D).

(c) The person in charge shall ensure that a conditional employee:

(i) Who exhibits or reports a symptom, or who reports a diagnosed illness as specified in Chapter 1, Section 12 (a) (i)-(iii), is prohibited from becoming a food employee until the conditional employee meets the criteria for the specific symptoms or diagnosed illness as specified in Chapter 1, Section 14; and

(ii) Who will work as a food employee in a food establishment that serves a highly susceptible population and reports a history of exposure as specified in Chapter 1, Section 12 (a) (iv)-(v), is prohibited from becoming a food employee until the conditional employee meets the criteria as specified in Chapter 1, Section 14 (a) (ix).

(d) The person in charge shall ensure that a food employee who exhibits or reports a symptom, or who reports a diagnosed illness or a history of exposure as specified in Chapter 1, Section 12 (a) (i)-(v) is:

(i) Excluded as specified in Chapter 1, Section 13 (a) (i)-(iii), and Section 13 (a) (iv) (A), (v) (A), (vi) (A), or (vii) (A) and in compliance with the provisions specified in Chapter 1, Section 14 (a) (i)-(vii); or

(ii) Restricted as specified in Chapter 1, Section 13 (a) (iv) (B), (v) (B), (vi) (B), (vii) (B), or Section 13 (a) (viii) or (ix) and in compliance with the provisions specified in Chapter 1, Section 14 (a) (iv)-(ix).

(e) A food employee or conditional employee shall report to the person in charge the information as specified in Chapter 1, Section 12 (a).

(f) A food employee shall:

(i) Comply with an exclusion as specified in Chapter 1, Section 13 (a)

(i)-(iii) and Section 13 (a) (iv) (A), (v) (A), (vi) (A), or (vii) (A) and with the provisions specified in Chapter 1, Section 14 (a) (i)-(vii); or

(ii) Comply with a restriction as specified in Chapter 1, Section 13 (a) (iv) (B), (v) (B), (vi) (B), (vii) (B), or Section 13 (a) (viii) or (ix) and comply with the provisions specified in Chapter 1, Section 14 (a) (iv)-(ix).

Section 13. Exclusions and Restrictions of Food Employees.

(a) The person in charge shall exclude or restrict a food employee from an establishment or processing plant in accordance with the following:

(i) Except when the symptom is from a noninfectious condition, exclude a food employee from working with exposed food; clean equipment, utensils, and linens; and unwrapped single-service and single-use articles, in an establishment or processing plant if the food employee is:

(A) Symptomatic with vomiting or diarrhea; or

(B) Symptomatic with vomiting or diarrhea and diagnosed with an infection from viral gastroenteritis including Norovirus, *Shigella spp.*, or Enterohemorrhagic or Shiga toxin-producing *Escherichia coli*.

(ii) Exclude a food employee who is:

(A) Jaundiced and the onset of jaundice occurred within the last 7 calendar days, unless the food employee provides to the person in charge written medical documentation from a health practitioner specifying that the jaundice is not caused by hepatitis A virus or other fecal-orally transmitted infection;

(B) Diagnosed with an infection from hepatitis A virus within 14 calendar days from the onset of any illness symptoms, or within 7 calendar days of the onset of jaundice; or

(C) Diagnosed with an infection from hepatitis A virus without developing symptoms.

(iii) Exclude a food employee who is diagnosed with an infection from *Salmonella* spp, or reports a previous infection with *Salmonella* spp within the past 3 months as specified under Chapter 1, Section 12 (a) (iii).

(iv) If a food employee is diagnosed with an infection from Norovirus and is asymptomatic:

- (A) Exclude the food employee who works in a food establishment serving a highly susceptible population; or
 - (B) Restrict the food employee who works in a food establishment not serving a highly susceptible population.
- (v) If a food employee is diagnosed within the past month with an infection from *Shigella* spp. and is asymptomatic:
- (A) Exclude the food employee who works in a food establishment serving a highly susceptible population; or
 - (B) Restrict the food employee who works in a food establishment not serving a highly susceptible population.
- (vi) If a food employee is diagnosed within the past month with an infection from enterohemorrhagic or shiga toxin-producing *E. coli*, and is asymptomatic:
- (A) Exclude the food employee who works in a food establishment serving a highly susceptible population; or
 - (B) Restrict the food employee who works in a food establishment not serving a highly susceptible population.
- (vii) If a food employee is ill with symptoms of acute onset of sore throat with fever:
- (A) Exclude the food employee who works in a food establishment serving a highly susceptible population; or
 - (B) Restrict the food employee who works in a food establishment not serving a highly susceptible population.
- (viii) If a food employee is infected with a skin lesion containing pus such as a boil or infected wound that is open or draining and not properly covered as specified under Chapter 1, Section 12 (a) (i) (E), restrict the food employee.
- (ix) If a food employee is exposed to a foodborne pathogen as specified under Chapter 1, Section 12 (a) (iv) or (v), restrict the food employee who works in a food establishment serving a highly susceptible population.

Section 14. Removal, Adjustment, or Retention of Exclusions and Restrictions of Food Employees.

(a) The person in charge may remove, adjust, or retain the exclusion or restriction of a food employee according to the following conditions:

(i) Except when a food employee is diagnosed with an infection from hepatitis A virus or *Salmonella* spp:

(A) Reinstate a food employee who was excluded as specified under Chapter 1, Section 13 (a) (i) (A) if the food employee:

(I) Is asymptomatic for at least 48 hours; or

(II) Provides to the person in charge written medical documentation from a health practitioner that states the symptom is from a noninfectious condition.

(B) If a food employee was diagnosed with an infection from viral gastroenteritis including Norovirus and excluded as specified in Chapter 1, Section 13 (a) (i) (B):

(I) Restrict the food employee, who is asymptomatic for at least 48 hours and works in a food establishment not serving a highly susceptible population, until the conditions for reinstatement as specified in Chapter 1, Section 14 (a) (iv) (A) or (B) are met; or

(II) Retain the exclusion for the food employee, who is asymptomatic for at least 48 hours and works in a food establishment that serves a highly susceptible population, until the conditions for reinstatement as specified in Chapter 1, Section 14 (a) (iv) (A) or (B) are met.

(C) If a food employee was diagnosed with an infection from *Shigella* spp. and excluded as specified in Chapter 1, Section 13 (a) (i) (B):

(I) Restrict the food employee, who is asymptomatic for at least 24 hours and works in a food establishment not serving a highly susceptible population, until the conditions for reinstatement as specified in Chapter 1, Section 14 (a) (v) (A) or (B) are met; or

(II) Retain the exclusion for the food employee, who is asymptomatic for at least 24 hours and works in a food establishment that serves a highly susceptible population, until the conditions for reinstatement as specified in Chapter 1, Section 14 (a) (v) (A) or (B) are met.

(D) If a food employee was diagnosed with an infection from Enterohemorrhagic or Shiga toxin-producing *Escherichia coli* and excluded as specified in Chapter 1, Section 13 (a) (i) (B):

(I) Restrict the food employee, who is asymptomatic for at least 24 hours and works in a food establishment not serving a highly susceptible population, until the conditions for reinstatement as specified in Chapter 1, Section 14 (a) (vi) (A) or (B) are met; or

(II) Retain the exclusion for the food employee, who is asymptomatic for at least 24 hours and works in a food establishment that serves a highly susceptible population, until the conditions for reinstatement as specified in Chapter 1, Section 14 (a) (vi) (A) or (B) are met.

(ii) Reinstate a food employee who was excluded as specified in Chapter 1, Section 13 (a) (ii) if the person in charge obtains approval from the regulatory authority and one of the following conditions is met:

(A) The food employee has been jaundiced for more than 7 calendar days;

(B) The anicteric food employee has been symptomatic with symptoms other than jaundice for more than 14 calendar days; or

(C) The food employee provides to the person in charge written medical documentation from a health practitioner stating that the food employee is free of a hepatitis A virus infection.

(iii) Reinstate a food employee who was excluded as specified in Chapter 1, Section 13 (a) (iii) if:

(A) The person in charge obtains approval from the regulatory authority; and

(B) The food employee provides to the person in charge written medical documentation from a health practitioner that states the food employee is free from *Salmonella*. spp infection as demonstrated by two (2) consecutive negative stool cultures collected at least 24 hours apart for non-typhoidal *Salmonella*; or three (3) consecutive negative stool cultures collected at least 24 hours apart for *Salmonella* sero type Typhi. If any of these cultures are positive for Typhi, exclude the employee and repeat cultures at monthly intervals until three (3) consecutive negative cultures are obtained.

(iv) Reinstate a food employee who was excluded as specified in Chapter 1, Section 13 (a) (i) (B) or (a) (iv) (A) who was restricted in Chapter 1, Section 13 (a) (iv) (B) if the person in charge obtains approval from the regulatory authority and one of the following conditions is met:

(A) The excluded or restricted food employee provides to the

person in charge written medical documentation from a health practitioner stating that the food employee is free of a Norovirus infection;

(B) The food employee was excluded or restricted after symptoms of vomiting or diarrhea resolved, and more than 48 hours have passed since the food employee became asymptomatic; or

(C) The food employee was excluded or restricted and did not develop symptoms and more than 48 hours have passed since the food employee was diagnosed.

(v) Reinstate a food employee who was excluded as specified in Chapter 1, Section 13 (a) (i) (B) or (a) (v) (A) or who was restricted in Chapter 1, Section 13 (a) (v) (B) if the person in charge obtains approval from the regulatory authority and one of the following conditions is met:

(A) The excluded or restricted food employee provides to the person in charge written medical documentation from a health practitioner stating that the food employee is free of a *Shigella* spp. infection based on test results showing 2 consecutive negative stool specimen cultures that are taken:

(I) Not earlier than 48 hours after discontinuance of antibiotics, and

(II) At least 24 hours apart;

(B) The food employee was excluded or restricted after symptoms of vomiting or diarrhea resolved, and more than 4 weeks have passed since the food employee became asymptomatic; or

(C) The food employee was excluded or restricted and did not develop symptoms and more than 4 weeks have passed since the food employee was diagnosed.

(vi) Reinstate a food employee who was excluded or restricted as specified in Chapter 1, Section 13 (a) (i) (B) or (a) (vi) (A) or who was restricted in Chapter 1, Section 13 (a) (vi) (B) if the person in charge obtains approval from the regulatory authority and one of the following conditions is met:

(A) The excluded or restricted food employee provides to the person in charge written medical documentation from a health practitioner stating that the food employee is free of an infection from Enterohemorrhagic or Shiga toxin-producing *Escherichia coli* based on test results that show 2 consecutive negative stool specimen cultures that are taken:

(I) Not earlier than 48 hours after discontinuance of

antibiotics; and

(II) At least 24 hours apart.

(B) The food employee was excluded or restricted after symptoms of vomiting or diarrhea resolved and more than 7 calendar days have passed since the food employee became asymptomatic; or

(C) The food employee was excluded or restricted and did not develop symptoms and more than 7 days have passed since the food employee was diagnosed.

(vii) Reinstate a food employee who was excluded or restricted as specified in Chapter 1, Section 13 (a) (vii) (A) or (B) if due to group A strep pharyngitis and the food employee provides to the person in charge written medical documentation from a health practitioner stating that the food employee meets one of the following conditions:

(A) Has received antibiotic therapy for *Streptococcus pyogenes* infection for more than 24 hours;

(B) Has at least one negative throat specimen culture for *Streptococcus pyogenes* infection; or

(C) Is otherwise determined by a health practitioner to be free of a *Streptococcus pyogenes* infection.

(viii) Reinstate a food employee who was restricted as specified in Chapter 1, Section 13 (a) (viii) if the skin, infected wound, cut, or pustular boil is properly covered with one of the following:

(A) An impermeable cover such as a finger cot or stall and a single-use glove over the impermeable cover if the infected wound or pustular boil is on the hand, finger, or wrist;

(B) An impermeable cover on the arm if the infected wound or pustular boil is on the arm; or

(C) A dry, durable, tight-fitting bandage if the infected wound or pustular boil is on another part of the body.

(ix) Reinstate a food employee who was restricted as specified in Chapter 1, Section 13 (a) (ix) and was exposed to one of the following pathogens as specified in Chapter 1, Section 12 (a) (iv) or (v):

(A) Viral Gastroenteritis including Norovirus and one of the following conditions is met:

(I) More than 48 hours have passed since the last day the food employee was potentially exposed; or

(II) More than 48 hours have passed since the food employee's household contact became asymptomatic.

(B) *Shigella* spp. or Enterohemorrhagic or Shiga toxin producing *Escherichia coli* and one of the following conditions is met:

(I) More than 3 calendar days have passed since the last day the food employee was potentially exposed; or

(II) More than 3 calendar days have passed since the food employee's household contact became asymptomatic.

(C) *Salmonella*. spp and one of the following conditions is met:

(I) More than 14 calendar days have passed since the last day the food employee was potentially exposed; if *Salmonella Typhi*, a food employee must have two (2) negative stool cultures twenty four (24) hours apart; or

(II) More than 14 calendar days have passed since the food employee's household contact became asymptomatic; if *Salmonella Typhi*, a food employee must have two (2) negative stool cultures twenty four (24) hours apart.

(D) Hepatitis A virus and one of the following conditions is met:

(I) The food employee is immune to hepatitis A virus infection because of a prior illness from hepatitis A;

(II) The food employee is immune to hepatitis A virus infection because of vaccination against hepatitis A;

(III) The food employee is immune to hepatitis A virus infection because of IgG administration;

(IV) More than 30 calendar days have passed since the last day the food employee was potentially exposed;

(V) More than 30 calendar days have passed since the food employee's household contact became jaundiced; or

(VI) The Food employee does not use an alternative

procedure that allows bare hand contact with ready to-eat food until at least 30 days after the potential exposure, as specified in Chapter 1, Section 14 (a) (ix) (D) (IV) and (V), and the food employee receives additional training about:

- (1.) Hepatitis A symptoms and preventing the transmission of infection,
- (2.) Proper handwashing procedures, and
- (3.) Protecting ready-to-eat food from contamination introduced by bare hand contact.

Section 15. Bed and Breakfast and Ranch Recreation Requirements.

(a) Food service provided at bed and breakfast and ranch recreation facilities shall be for the bona fide guests of said facilities and shall not be available for charge or otherwise to other members of the public that might be present.

(i) The kitchen in a bed and breakfast or ranch recreation facility in a home may be equipped the same as any normal home style kitchen provided food safety procedures can be achieved.

Section 16. State Meat and Poultry Inspection Program.

(a) As authorized by W.S. 35-7-123; 9 CFR, 321 Cooperation with States and Territories, as amended, and 9 CFR 381 Subpart R-Cooperation with States and Territories; Certification of State and Territorial Programs as at Least Equal to Federal Program, as amended, the Wyoming department of agriculture shall maintain a State Meat and Poultry Inspection Program.

(i) The director shall administer and enforce the provisions of this Rule and shall employ or contract with such persons as may be appropriate.

(b) As authorized by 9 CFR 307.5 Overtime and Holiday Inspection Service and 307.6 Basis of Billing for Overtime and Holiday Services, the Department has the authority to charge state inspected meat and poultry plants for overtime and holiday inspection services.

(i) The owner/operator of a state inspected meat or poultry plant shall reimburse the Department for the cost of the inspection service furnished on any holiday as specified in Section 16 (b) (ii); or for more than 8 hours on any day, or more than 40 hours in any workweek Saturday through Friday.

(ii) Holidays for State employees shall be New Year's Day, January 1; Equality Day, the third Monday in January; President's Day, the third Monday in February; Memorial Day, the last Monday in May; Independence Day, July 4; Labor Day, the first Monday in September; Veterans' Day, November 11; Thanksgiving Day, the fourth Thursday in November; Christmas Day, December 25 or any other day declared to be a holiday by the Governor of Wyoming or the President of the United States. When any of the above listed holidays falls outside the basic workweek, the nearest workday within that week shall become a holiday.

(iii) Each recipient of overtime or holiday inspection service, or both, shall be billed at the rate of one and one half (1½) times the normal hourly rate of the Inspector-In-Charge for the plant making the request, in increments of quarter hours. For billing purposes, 8 or more minutes shall be considered a full quarter hour. Billing will be for each quarter hour of service rendered by each Department employee.

(iv) State inspected meat or poultry plants requesting and receiving the services of a Department employee after he or she has completed his or her day's assignment and left the premises, or called back to duty during any overtime or holiday period, shall be billed for a minimum of 2 hours overtime or holiday inspection service at the established rate.

(v) Bills are payable upon receipt and become delinquent 30 days from the date of the bill. Overtime or holiday inspection will not be performed for anyone having a delinquent account.