DEPARTMENT OF HEALTH

Adoption of Chapter 11-50
Hawaii Administrative Rules

FEB 24 2014

SUMMARY

1. Chapter 11-12, Hawaii Administrative Rules, entitled "Food Establishment Sanitation", is repealed.

2. Chapter 11-50, Hawaii Administrative Rules, entitled "Food Safety Code", is adopted.

HAWAII ADMINITRATIVE RULES

TITLE 11

DEPARTMENT OF HEALTH

CHAPTER 12

FOOD ESTABLISHMENT SANITATION

REPEALED

§§ 11-12-1 to 11-12-114 Repealed,

[R FEB 24 2014]

HAWAII ADMINISTRATIVE RULES

TITLE 11

DEPARTMENT OF HEALTH

CHAPTER 50

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Historical Note: Chapter 11-50, Hawaii Administrative Rules is based substantially on Chapter 11-12, Food Establishment Sanitation, Department of Health, State of Hawaii. [Eff 11/22/96; comp 3/15/99; comp 6/15/2007; R FEB 24 2014]

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SUBCHAPTER 1

GENERAL PROVISIONS

§11-50-1 Purpose. The purpose of this chapter is to provide minimum requirements for the protection of the life, health, safety, and welfare of the general public.

(1) This chapter applies to all food establishments, or portions thereof, used, designed, or intended to be used as a food establishment or food operation within the State;

(2) The minimum requirements established herein shall not be construed as lowering the standards established by local ordinances or rules;

(3) Whenever local requirements contain more stringent provisions than any of the minimum requirements of this chapter, the more stringent requirements shall govern; and

(4) No ordinance, rules, ruling, or decision of any municipal body or officer of authority of any county shall repeal, amend, modify, or dispense with any of the minimum requirements provided in this chapter. [Eff FEB 24 2014] (Auth: HRS §321-11) (Imp: HRS §321-11)

§11-50-2 Definitions. As used in this chapter:

"Adulterated" has the meaning stated in section 402 of the Federal Food, Drug, and Cosmetic Act.

"Approved" means acceptable to the department based on a determination of conformity with principles, practices, and generally recognized standards that protect public health.

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

"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.

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"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.

"Beverage" means a liquid for drinking, including water.

"Bottled drinking water" means water that is sealed in bottles, packages, or other containers and offered for sale for human consumption, including bottled mineral water.

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

"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.

"CFR" means the 2009 Code of Federal Regulations. Citations in this chapter to the CFR refer sequentially to the Title, Part, and Section numbers, such as, 40 CFR 180.194 refers to Title 40, Part 180, Section 194.

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

"Color additive" has the meaning stated in the Federal Food, Drug, and Cosmetic Act, section 201(t) and 21 CFR 70.3(f).

"Commingle" means:

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

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

"Comminuted" means reduced in size by methods including chopping, flaking, grinding, or mincing. 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 or more types of meat that have been reduced in size and combined, such as sausages made from two or more meats.

"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.

"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.

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

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

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

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

"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.

"Cut leafy greens" means fresh leafy greens whose leaves have been cut, shredded, sliced, chopped, or torn. The term "leafy greens" includes iceberg lettuce, romaine lettuce, leaf lettuce, butter lettuce, baby leaf lettuce (i.e., immature lettuce or leafy greens), escarole, endive, spring mix, spinach, cabbage, kale, arugula, and chard. The term "leafy greens" does not include herbs such as cilantro or parsley.

"Dealer" means a person who is authorized by a shellfish control authority for the activities of shellstock shipper, shucker-packer, repacker, reshipper, or depuration processor of molluscan shellfish according to the provisions of the National Shellfish Sanitation Program.

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"Department" means the department of health, State of Hawaii.

"Director" means the director of health of the department of health, State of Hawaii, or an authorized representative.

"Disclosure" means a written statement that clearly identifies the animal-derived foods which are, or can be ordered, raw, undercooked, or without otherwise being processed to eliminate pathogens, or items that contain an ingredient that is raw, undercooked, or without otherwise being processed to eliminate pathogens.

"Drinking water" means water that meets criteria as specified in 40 CFR 141, entitled "National primary drinking water regulations", and is traditionally known as "potable water". 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.

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

"Easily cleanable" means a characteristic of a surface that:

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

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

(3) 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.

(4) Easily cleanable includes a tiered application of the criteria that qualify the surface as easily cleanable as specified in paragraph (1) to different situations in which varying degrees of cleanability are required such as:

(A) 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

(B) The need for a different degree of cleanability for a utilitarian attachment or accessory in the kitchen as opposed to a

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decorative attachment or accessory in the consumer dining area.

"Easily movable" means:

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

(2) 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.

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

(1) Egg does not include:

(A) A balut;

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

(C) An egg product.

"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. The term does not include food which contains eggs only in a relatively small proportion such as cake mixes.

"Employee" means the permit holder, person in charge, food employee, person having supervisory or management duties, person on the payroll, family member, volunteer, person performing work under contractual agreement, or other person working in a food establishment.

"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 has 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. See also Shiga toxin-producing E. Coli.

"EPA" means the U.S. Environmental Protection Agency.

"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.

"Equipment" does not include apparatuses used for handling or storing large quantities of packaged foods that are received from a supplier in a cased or overwrapped lot, such as hand trucks, forklifts, dollies, pallets, racks, and skids.

"Exclude" means to prevent a person from working as an employee in a food establishment or entering a food establishment as an employee.

"FDA" means the U.S. Food and Drug Administration.

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

"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.

"Food additive" has the meaning stated in the Federal Food, Drug, and Cosmetic Act, section 201(s) and 21 CFR 170.3(e)(1).

"Food-contact surface" means:

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

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

(A) Into a food; or

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

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

"Food establishment" means:

(1) Any place or portion thereof, maintained, used, or operated for the purpose of storing, preparing, serving, manufacturing, packaging,

transporting, or otherwise handling food at the retail or wholesale level;

(2) Any place used for cleaning food equipment or utensils in support of another food establishment; and

(3) Any operation that is conducted in or in conjunction with a mobile, stationary, temporary, or permanent facility or location where food is served or provided to the public, with or without charge, regardless of whether the food is consumed on or off the premises.

"Food processing plant" means a commercial operation that manufactures, packages, labels, or stores food for human consumption, and provides food for sale or distribution to other business entities such as food processing plants or food establishments.

"Game animal" means an animal, the products of which are food, that is not classified as livestock, sheep, swine, goat, horse, mule, or other equine in 9 CFR 301.2, entitled "Definitions", or as poultry, or fish.

(1) Game animals includes mammals such as reindeer, elk, deer, antelope, water buffalo, bison, rabbit, squirrel, opossum, raccoon, nutria, or muskrat, and nonaquatic reptiles such as land snakes.

(2) Game animals does not include ratites.

"General use pesticide" means a pesticide that is not classified by EPA for restricted use as specified in 40 CFR 152.175, entitled "Pesticides classified for restricted use".

"Grade A standards" means the requirements of the United States Public Health Service/FDA "Grade A Pasteurized Milk Ordinance" with which certain fluid and dry milk and milk products comply.

"HACCP" means Hazard Analysis and Critical Control Point.

"HACCP plan" means a written document that delineates the formal procedures for following the hazard analysis and critical control point principles developed by The National Advisory Committee on Microbiological Criteria for Foods.

"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. A handwashing sink includes an automatic handwashing facility.

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

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

"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.

"Highly susceptible population" means persons who are more likely than other people in the general population to experience foodborne disease because they are:

(1) Immunocompromised; preschool age children, or older adults; and

(2) 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.

"HRS" means Hawaii Revised Statutes.

"Homeless" means:

(1) An individual or family who lacks a fixed, regular, and adequate night-time residence; or

(2) An individual or family who has a primary night-time residence that is:

(A) A supervised publicly or privately operated shelter designed to provide temporary living accommodations;

(B) An institution that provides temporary residence for individuals intended to be institutionalized; or

(C) A public or private place not designed for or ordinarily used as sleeping accommodations for human beings.

This term does not include any individual imprisoned or otherwise detained under an Act of Congress or a state law.

"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:

(1) The number of potential injuries; and
(2) The nature, severity, and duration of the anticipated injury.

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

"Juice" means the aqueous liquid expressed or extracted from one or more fruits or vegetables, purées of the edible portions of one or more fruits or vegetables, or any concentrates of such liquid or purée. The term does not include, for purposes of HACCP, liquids, purées, or concentrates that are not used as beverages or ingredients of beverages.

"Kitchenware" means food preparation and storage utensils.

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

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

"Major food allergen":

(1) Means:
  (A) 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
  (B) A food ingredient that contains protein derived from a food as specified in subparagraph (A);
(2) Major food allergen does not include:
  (A) Any highly refined oil derived from a food specified in paragraph (1)(A) and any ingredient derived from such highly refined oil; or
  (B) 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).

"Meat" means the flesh of animals used as food including the dressed flesh of cattle, swine, sheep, or goats and other edible animals, except fish, poultry, and wild game animals as specified in section 11-50-31(g)(1)(C).

"Mechanically tenderized" means manipulating meat with deep penetration by processes which may be referred to as "blade tenderizing", "jaccarding", "pinning", "needling", or using blades, pins, needles or any mechanical device. The term does not include processes by which solutions are injected into meat.

"Menu change" means a modification of a food establishment's menu that would require a change in the food establishment's food preparation methods, equipment, or storage capacity previously approved by the department. These changes may include but are not limited to, the addition of potentially hazardous foods to a menu, installation of new food preparation or storage equipment, or increasing storage capacity.

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

"Mobile food establishment" means a vehicle-mounted food establishment capable of being readily moved that operates in conjunction with an approved food establishment. This includes but is not limited to, licensed trailer-type vehicles, push carts, lunchwagons, tour cruise boats and peddlers.

"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.

"Natural disaster" means any disaster such as a tsunami, hurricane, volcanic eruption, typhoon, earthquake, or flood.

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

"Packaged" means bottled, canned, cartoned, securely bagged, or securely wrapped, whether packaged in a food establishment or a food processing plant. The term does not include a wrapper, carry-out box, or other nondurable container used to containerize food with the purpose of facilitating food protection during service and receipt of the food by the consumer.

"Permit" means the document issued by the department that authorizes a person to operate a food establishment.

"Permit holder" means the entity that:

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

(2) Possesses a valid permit to operate a food establishment.

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

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

"Person in charge" means the individual present at a food establishment who is responsible for the operation at the time of inspection.

"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 and seven indicate acidity and values between seven and fourteen indicate alkalinity. The value for pure distilled water is seven, which is considered neutral.

"PHF" means potentially hazardous food.

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

"Plumbing fixture" means a receptacle or device that:

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

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

"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.

"Poisonous or toxic materials" means substances that are not intended for ingestion and are included in four categories:

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

"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.

(1) Potentially hazardous food includes:
(A) 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 leafy greens, cut tomatoes or mixtures of cut tomatoes that are not modified in a way so that they are unable to support pathogenic microorganism growth or toxin formation, or garlic-in-oil mixtures that are not modified in a way so that they are unable to support pathogenic microorganism growth or toxin formation; and
(B) Except as specified in paragraph (2)(D), a food that because of the interaction of its A_w and pH values is designated as Product Assessment Required (PA) in Table 2-1 or Table 2-2:

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Table 2-1 Interaction of pH and A_w for control of spores in food heat-treated to destroy vegetative cells and subsequently packaged

A_w values	pH values		
	4.6 or less	> 4.6 to 5.6	> 5.6
≤0.92	non-PHF/non-TCS food	non-PHF/non-TCS food	non-PHF/non-TCS food
>0.92 to 0.95	non-PHF/non-TCS food	non-PHF/non-TCS food	PA
>0.95	non-PHF/non-TCS food	PA	PA

Table 2-2 Interaction of pH and A_w for control of vegetative cells and spores in food not heat-treated or heat-treated but not packaged

A_w values	pH values			
	< 4.2	4.2 to 4.6	> 4.6 to 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 to 0.90	non-PHF/non-TCS food	non-PHF/non-TCS food	non-PHF/non-TCS food	PA
>0.90 to 0.92	non-PHF/non-TCS food	non-PHF/non-TCS food	PA	PA
>0.92	non-PHF/non-TCS food	PA	PA	PA

(2) Potentially hazardous food does not include:

(A) 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;

(B) 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;

(C) A food that because of its pH or A_w value, or interaction of A_w and pH values, is designated as a non-PHF/non-TCS food in Table 2-1 or Table 2-2 of this definition;

(D) A food that is designated as Product Assessment Required (PA) in Table 2-1 or

Table 2-2 of this definition and has undergone a Product Assessment showing that the growth or toxin formation of pathogenic microorganisms that are reasonably likely to occur in that food is precluded due to:

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

(ii) Extrinsic factors including environmental or operational factors that affect the food such as packaging, modified atmosphere such as reduced oxygen packaging, shelf life and use, or temperature range of storage and use; or

(iii) A combination of intrinsic and extrinsic factors; or

(E) A food that does not support the growth or toxin formation of pathogenic microorganisms in accordance with one of the paragraph (2)(A), (2)(B), (2)(C), or (2)(D) 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.

"Poultry" means:

(1) Any domesticated bird (chickens, turkeys, ducks, geese, guineas, ratites, or squabs), whether live or dead, as defined in 9 CFR 381.1; and

(2) Any migratory waterfowl or game bird, pheasant, partridge, quail, grouse, or pigeon, whether live or dead, as defined in 9 CFR 362.1.

"Premises" means:

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

(2) The physical facility, its contents, and the land or property not described in paragraph (1) if its facilities and contents are under the control of the permit holder and may impact food establishment personnel, facilities, or operations, and a food establishment is only one component of a larger operation such as a health

care facility, hotel, motel, school, recreational camp, or prison.

"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.

"Public water system" has the meaning stated in 40 CFR 141, entitled "National primary drinking water regulations".

"Ratite" means a flightless bird such as an emu, ostrich, or rhea.

"Reduced oxygen packaging":

(1) Means:

(A) The reduction of the amount of oxygen in a package by removing oxygen; displacing oxygen and replacing it with another gas or combination of gases; or otherwise controlling the oxygen content to a level below that normally found in the atmosphere (approximately twenty-one per cent at sea level); and

(B) A process as specified in subparagraph (A) that involves a food for which the hazards Clostridium botulinum or Listeria monocytogenes require control in the final packaged form;

(2) Reduced oxygen packaging includes:

(A) 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;

(B) 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;

(C) 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;

(D) 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 psychrotrophic pathogens; or

(E) 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 psychrotrophic pathogens.

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

"Regulatory authority" means the local, state, or federal enforcement body or authorized representative having jurisdiction over the food establishment.

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

"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.

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

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

"Restricted use pesticide" means a pesticide product that contains the active ingredients specified in 40 CFR 152.175, entitled "Pesticides classified for restricted use" and that is limited to use by or under the direct supervision of a certified applicator.

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

"Safe material" means:

(1) An article manufactured from or composed of materials that may not reasonably be expected to

result, directly or indirectly, in their becoming a component or otherwise affecting the characteristics of any food;

(2) An additive that is used as specified in section 409 of the Federal Food, Drug, and Cosmetic Act; or

(3) Other materials that are not additives and that are used in conformity with applicable regulations of the Food and Drug Administration.

"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 logs, which is equal to a 99.999 per cent reduction, of representative disease microorganisms of public health importance.

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

"Service animal" means an animal that meets the criteria as specified in 28 CFR 36, entitled "Nondiscrimination on the basis of disability in public places and commercial facilities".

"Servicing area" means an operating base location to which a mobile food 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.

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

"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.

"Shellstock" means raw, in-shell molluscan shellfish.

"Shiga toxin-producing Escherichia Coli" (STEC) means any E. Coli capable of producing Shiga toxins (also called verocytotoxins or "Shiga-like" toxins). Examples of serotypes of STEC include both O157 and non-O157 E. Coli. Also see Enterohemorrhagic Escherichia Coli.

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

"Single-service articles" 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.

"Single-use articles" means utensils and bulk food containers designed and constructed to be used once and discarded. 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 10 cans which do not meet the materials, durability, strength, and cleanability specifications in sections 11-50-45(a) and 11-50-46(a) and (c) for multiuse utensils.

"Slacking" means the process of moderating the temperature of a food such as allowing a food to gradually increase from a temperature of minus ten degrees Fahrenheit to twenty-five degrees Fahrenheit in preparation for deep-fat frying or to facilitate even heat penetration during the cooking of previously block-frozen food such as shrimp.

"Smooth" means:

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

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

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

"State" means the State of Hawaii.

"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.

"TCS food" means time/temperature control for safety food.

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

"Temporary food establishment" means any food establishment which operates at a fixed location for a limited period of time and does not exceed twenty days in any one hundred twenty day period and does not sell products to other food establishments.

"USDA" means the U.S. Department of Agriculture.

"Utensil" means a food-contact implement or container used in the storage, preparation, transportation,

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dispensing, sale, or service of food, such as kitchenware or tableware that is multiuse, single-service, or single-use; gloves used in contact with food; temperature sensing probes of food temperature measuring devices; and probe-type price or identification tags used in contact with food.

"Variance" means a written document issued by the department that authorizes a modification or waiver of one or more requirements of this chapter if, in the opinion of the department, a health hazard or nuisance will not result from the modification or waiver.

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

"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.

"Water activity" means the 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.

"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.

"Warewashing" means the cleaning and sanitizing of utensils and food-contact surfaces of equipment. [Eff FEB 24 2014] (Auth: HRS §321-11) (Imp: HRS §321-11)

§11-50-3 Permits. (a) A person may not operate a food establishment without a valid permit to operate issued by the department. A permit shall be valid for one year after the date of issuance as indicated by the expiration date printed on the permit, after which the permit becomes null and void.

(b) To qualify for a permit, an applicant shall:

(1) Be an owner of the food establishment or an officer of the legal ownership;

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(2) Acknowledge that application for an issuance of a permit is in agreement to be familiar with and operate in compliance with the requirements of the chapter;
(3) As specified in section 11-50-8(c), agree to allow access to the food establishment and to provide any requested information reasonably necessary to determine compliance with this chapter; and
(4) Pay the applicable permit fees at the time the application is submitted.
(c) A permit is not required for:
(1) An establishment that offers only prepackaged foods that are not potentially hazardous food(time/temperature control for safety food) manufactured and packaged in an approved food establishment;
(2) A food establishment offers for sale only whole, uncut fresh fruits and vegetables;
(3) A kitchen in a private home, operating as a small family child-care provider, or a bed-and-breakfast operation that prepares and offers only not potentially hazardous food (time/temperature control for safety food) to guests if the home is owner occupied, the number of guests does not exceed six, and the consumer is informed by statements contained in published advertisements, mailed brochures, and placards posted at the registration area that the food is prepared in a kitchen that is not regulated and inspected by the department;
(4) Food establishments that are inspected by another federal or Hawaii state or county regulatory agency, provided that a memorandum of understanding or a memorandum of agreement has been filed with the department and the agency assumes regulatory responsibility for the establishment;
(5) A producer of hand-pounded poi, where the producer:
    (A) Sells hand-pounded poi directly to the consumer;
    (B) Has available a permanent or temporary hand-wash sink and adequate soap and disposable hand towels supplied, within ten feet of the operating area;

(C) Labels each container of poi with the name and contact information of the producer;

(D) Labels each container of poi with a prominent and clear label stating that "This hand-pounded poi was not prepared in a Department of Health approved facility, and consuming this product may increase your risk of contracting a foodborne illness";

(E) Attends a department of health approved food safety workshop and pass the food safety certification exam;

(F) Complies with any and all other measures authorized by the director of health to protect public health and safety with respect to hand-pounded poi;

(6) A food establishment that offers only pre-packaged frozen confections produced in an approved food establishment or food processing plant;

(7) A establishment that offers only not potentially hazardous hot beverages (such as coffee or hot tea) served directly into sanitary single-service articles;

(8) A establishment that offers only dry, not potentially hazardous, not ready-to-eat foods (such as dry beans, dry grains, coffee beans, tea leaves, or herbs for tea); or

(9) Vending machines dispensing only pre-packaged food manufactured and packaged in an approved food establishment. [Eff FEB 24 2014] (Auth: HRS §321-11) (Imp: HRS §321-11)

§11-50-4 Permit application and supporting documentation. (a) A permit to operate a food establishment shall not be issued unless and until the department receives a complete application on the forms provided by the department, as well as all necessary plans, menus, operating procedures, the required fee, other information deemed necessary to access the operations of the proposed food establishment, and the preoperational inspection(s) specified in subsection (k) has been completed.

(b) For new or converted food establishments the applicant shall submit to the department:

(1) A completed application for food establishment permit;
(2) The plans and specifications of the food establishment with an application for plan review, if requested by the department;
(3) A list of food items to be offered by the food establishment;
(4) A HACCP plan if requested by the department; and
(5) Other information that may be required by the department to assure proper handling of food.

(c) For existing food establishments, the department may renew a permit after:
(1) A statement for renewal is submitted;
(2) The required fee is submitted; and
(3) If a significant operational or menu change has occurred, an inspection shows that the establishment is in compliance with this chapter.

(d) For changes of ownership of food establishments, the department may issue a permit to a new owner of an existing establishment after:
(1) A completed application for food establishment is submitted;
(2) The required fee is submitted; and
(3) An inspection shows that the establishment is in compliance with this chapter.

(e) The department shall not act upon nor consider any incomplete application for a food establishment permit. An application shall be deemed complete only when all required and requested information, including the application form, plans, specifications, and other information have been timely submitted.

(f) Every application shall be signed a person with authority and shall constitute an acknowledgement and agreement that the applicant will comply with all the terms and conditions of this chapter.

(g) The department may require the submission of additional information after the application has been submitted, and may ensure that, if an application is incomplete or otherwise deficient, processing of the application shall not be completed until such time as the applicant has supplied all required information or otherwise corrected the deficiency.

(h) The failure of the department to act on a completed application within thirty days of the receipt of the application shall be deemed an approval of the application; provided that the applicant acts consistently

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with the application process and has submitted all requested information.

(i) The department may request that an application for a food establishment permit be accompanied by plans and specifications including but not limited to:

(1) Intended menu;

(2) Anticipated volume of food to be stored, prepared, and sold or served;

(3) Proposed layout, mechanical schematics, constructions materials, and finish schedules;

(4) Proposed equipment types, manufactures, model numbers, locations, dimensions, performance capacity, and installation specifications;

(5) Evidence that standard procedures that ensure compliance with the requirements of this chapter are developed or are deemed developed;

(6) A wastewater generation statement if the food establishment will be connected to an individual wastewater system;

(7) Window and door schedules for naturally ventilated food establishments; and

(8) Other information that may be required by the director for the proper review of the proposed construction, conversion, or modification, and procedures for operating a food establishment.

(j) Hazard Analysis and Critical Control Point (HACCP) plan.

(1) A HACCP plan shall accompany an application for a food establishment permit when:

(A) A variance is required as specified in section 11-50-33(a)(4)(D), 11-50-34(j), or 11-50-46(w)(2);

(B) A variance is requested;

(C) The department determines that a food preparation or processing method requires a variance based on information submitted pursuant to an application for permit; or

(D) Circumstances discovered during an inspection indicate the need for a HACCP plan.

(2) For a food establishment that is required to have a HACCP plan, the plans and specifications shall indicate:

(A) A categorization of the types of potentially hazardous foods (time/temperature control for safety foods)

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that are specified in the menu such as soups and sauces, salads, and bulk, solid foods such as meat roasts, or of other foods that are specified by the department;

(B) A flow diagram by specific food or risk category type identifying critical control points and providing information on the following:

(i) Ingredients, materials, and equipment used in the preparation of that food; and

(ii) Formulations or recipes that delineate methods and procedural control measures that address the food safety concerns involved;

(C) Food employee and supervisory training plan that addresses the food safety issues of concern;

(D) A statement of standard operating procedures for the plan under consideration including clearly identifying:

(i) Each critical control point;

(ii) The critical limits for each critical control point;

(iii) The method and frequency for monitoring and controlling each critical control point by the food employee designated by the person in charge;

(iv) 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;

(v) Action to be taken by the person in charge if the critical limits for each critical control point are not met; and

(vi) Records to be maintained by the person in charge to demonstrate that the HACCP plan is properly operated and managed; and

(E) Additional scientific data or other information, as required by the department, supporting the determination that food safety is not compromised by the proposal.

(k) The department shall conduct one or more preoperational inspections to verify that the food establishment is constructed and equipped in accordance with the approved plans and approved modifications of those plans, has established standard operating procedures as specified in section 11-50-4(i)(5), and is in compliance with this chapter and other laws. [Eff FEB 24 2014] (Auth: HRS §321-11) (Imp: HRS §321-11)

§11-50-5 Special provisions regarding temporary food establishment. (a) Any person may operate a temporary food establishment if:

(1) A completed application for a temporary food establishment permit is submitted to the department and processed;

(2) That person has a temporary food establishment permit or a copy of an application recognized as a temporary food establishment permit that has been approved and signed by the director;

(3) The temporary food establishment permit or the copy of the signed application is kept at the site of the temporary operation and shall be made available to any member of the public upon request; and

(4) The temporary operation does not exceed twenty days in any one hundred twenty day period;

(b) The completed application for a temporary food establishment permit shall be submitted at least ten business days prior to the opening date of the event. If this requirement is not met, the application for permit may not be reviewed and processed;

(c) When a temporary food establishment extends operation beyond twenty days in any one hundred twenty day period, the requirements for a fixed food establishment shall be met and any continued operation without first obtaining for a fixed shall constitute the operation of a food establishment without a permit and a violation of this chapter.

(d) All persons who intend to operate a temporary food establishment shall apply to the department of health to allow a hazard evaluation of the product and proposed operation (or at least to make an informed decision as to whether the food is potentially hazardous food or non-potentially hazardous food). If the food is non-

potentially hazardous and there are no specific hazards which must be addressed, no permit will be required. [Eff FEB 24 2014] (Auth: HRS §321-11) (Imp: HRS §321-11)

§11-50-6 Responsibilities of the permit holder. Upon acceptance of the permit issued by the department, the permit holder in order to retain the permit shall:

(1) Post the permit in a location in the food establishment that is conspicuous to consumers;

(2) Comply with the provisions of this chapter including the conditions of a granted variance as specified in section 11-50-13(i), and approved plans as specified in section 11-50-4(i);

(3) If a food establishment is required in section 11-50-4(j)(1) and (2) to operate under a HACCP plan, comply with the plan as specified in section 11-50-13(i);

(4) Immediately discontinue operations and notify the department if an imminent health hazard may exist as specified in section 11-50-8(i);

(5) Allow representatives of the department access to the food establishment as specified in section 11-50-8(c);

(6) Replace existing facilities and equipment with facilities and equipment that comply with this chapter if:

(A) The department 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 department 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;

(7) Comply with directives of the department including time frames for corrective actions specified in inspection reports, notices, orders, warnings, and other directives issued by the department in regard to the permit holder's food establishment or in response to community emergencies;

(8) Accept notices issued and served by the department according to law; and

(9) Be subject to the administrative, civil, and injunctive remedies authorized in law for failure to comply with this chapter or a directive of the department, including time frames for corrective actions specified in inspection reports, notices, orders, warnings, and other directives. [Eff FEB 24 2014] (Auth: HRS §321-11) (Imp: HRS §321-11)

§11-50-7 Fees. (a) Each application for issuance or renewal of a food establishment permit shall be accompanied by the payment of a fee.

(b) No food establishment permit shall be issued or renewed unless all fees required by this chapter are paid.

(c) If an establishment fails to qualify for issuance or renewal of a food establishment permit, no part of the fee will be refunded to the applicant.

(d) A renewal fee for each food establishment shall be paid to the department before the permit expiration date.

(e) The fees shall be based on the following permit categories shown in Table 7-1. The permit categories are based on the total number of food operations within the establishment. These food operations include the following:

(1) Receiving;
(2) Cold storage, holding, preparation, and thawing;
(3) Hot storage, holding, and preparation;
(4) Thermal processing;
(5) Transportation;
(6) Cooling;
(7) Reheating; and
(8) Display.

(f) The following permit risk categories are as follows:

(1)	Category 1	Any six to eight of the food operations noted in subsection (e);
(2)	Category 2	Any three to five of the food operations noted in subsection (e);

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(3) Category 3 Any zero to two of the food operations noted in subsection (e);

(g) Annual and renewal permit fees are as specified in Table 7-1.

Table 7-1 ANNUAL AND RENEWAL PERMIT FEES SCHEDULE

FOOD ESTABLISHMENT TYPE	s.f.[1] (size)	RISK CATEGORY	ANNUAL/ RENEWAL FEE
1. Catering	-	1	$400
2. Catering	-	2	$300
3. Catering	-	3	$200
4. Convenience store	≤1,000	1	$300
5. Convenience store	≤1,000	2	$200
6. Convenience store	≤1,000	3	$100
7. Food Manufacturer - small	≤1,000	1	$300
8. Food Manufacturer - small	≤1,000	2	$200
9. Food Manufacturer - small	≤1,000	3	$100
10. Food Manufacturer - large	>1,000	1	$400
11. Food Manufacturer - large	>1,000	2	$300
12. Food Manufacturer - large	>1,000	3	$200
13. Food Warehouse - small	≤1,000	-	$100
14. Food Warehouse - large	>1,000	-	$300
15. Hotel Main Kitchen/ Banquet/Convention	-	1	$600
16. Hotel Main Kitchen/ Banquet/Convention	-	2	$500
17. High Risk Institutional Kitchens (pre-schools, elementary schools, hospitals, other high-risk populations)	-	1	$400
18. Institutional Kitchens (schools, adult/child day care facilities, prisons, etc.)	-	1	$400
19. Institutional Kitchens (schools, adult/child day care facilities, prisons, etc.)	-	2	$300
20. Institutional Kitchens (schools, adult/child day care facilities, prisons, etc.)	-	3	$100
21. Market - small	≤1,000	1	$300
22. Market - small	≤1,000	2	$200
23. Market - small	≤1,000	3	$100
24. Market - large	>1,000	1	$400

25. Market - large	>1,000	2	$300
26. Market - large	>1,000	3	$200
27. Mobile Lunchwagons, Trailers, Boats	-	1	$300
28. Mobile Lunchwagons, Trailers, Boats	-	2	$200
29. Mobile Lunchwagons, Trailers, Boats	-	3	$100
30. Mobile Push Cart	-	1	$150
31. Mobile Push Cart	-	2	$100
32. Mobile Push Cart	-	3	$50
33. Mobile Unit Support Kitchen	-	1	$300
34. Mobile Unit Support Kitchen	-	2	$200
35. Mobile Unit Support Kitchen	-	3	$100
36. Restaurant - small	≤1,000	1	$300
37. Restaurant - small	≤1,000	2	$200
38. Restaurant - small	≤1,000	3	$100
39. Restaurant - large	>1,000	1	$400
40. Restaurant - large	>1,000	2	$300
41. Restaurant - large	>1,000	3	$200
42. Service Area - limited food prep	-	-	$100
43. Service Area - no food prep	-	-	$50
44. Any Food Establishment used only to prepare or serve food to the homeless without compensation, consideration, or donation by the person or persons being served	-	-	$0
45. Temporary Food Establishment: 1-5 days	-	-	$50
46. Temporary Food Establishment: 6-10 days	-	-	$75
47. Temporary Food Establishment: 11-20 days	-	-	$100
48. Temporary Food Establishment: Value added farm products	-	-	$25
49. Temporary Food Establishment (applicants such as youth groups, schools, hospitals, religious groups, community service organizations, athletic groups, and other charitable or benevolent organizations)	-	-	$0

[1]s.f. means square feet

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(h) All permit fees are non-transferable and non-refundable and must be fully paid prior to the issuance of any new or renewed permit.

(i) Food establishment renewal fees that are received by the department after the expiration date will be subject to an additional late fee equal to twenty per cent of the annual permit fee.

(j) Plan review fees are as specified in Table 7-2.

Table 7-2 PLAN REVIEW FEE TABLE

PLAN REVIEW TYPE	SUB-TYPE	FEE
Food Establishment, Liquor Establishment, Mobile Unit	1,000 s.f. or less	$200
Food Establishment, Liquor Establishment, Mobile Unit	>1,000 s.f.	$300
Prepackaged Only	Mobile or fixed	No Fee

[1]s.f. means square feet

[Eff FEB 24 2014] (Auth: HRS §321-11) (Imp: HRS §321-11)

§11-50-8 Inspection and correction of violations.

(a) Establishing inspection interval.

(1) The department may inspect a food establishment at a frequency based upon the risk of foodborne illness transmission as determined by the department. Inspections shall also be conducted in response to a complaint or an epidemiological investigation of an alleged foodborne illness outbreak;

(2) The director shall be permitted to examine the records of the establishment to get pertinent information regarding food, supplies, and services purchased, received, or used and persons employed.

(b) The department may prioritize, and conduct more frequent inspections based upon its assessment of a food establishment's history of compliance with this chapter and the establishment's potential as a vector of foodborne illness by evaluating:

(1) Past performance, for nonconformance with this chapter or HACCP plan requirements that are critical items;
(2) Past performance, for numerous or repeat violations of this chapter or HACCP plan requirements that are noncritical items;
(3) Past performance, for complaints investigated and found to be valid;
(4) The hazards associated with the particular foods that are prepared, stored, or served;
(5) The type of operation including the methods and extent of food storage, preparation, and service;
(6) The number of people served; and
(7) Whether the population served is a highly susceptible population.

(c) After the director presents official credentials and provides notice of the purpose of, and an intent to conduct an inspection, the person in charge shall allow the director to determine if the food establishment is in compliance with this chapter by allowing access to the establishment, allowing inspection, and providing information and records specified in this chapter and to which the department is entitled according to law, during the food establishment's hours of operation and other reasonable times.

(d) An inspection report or other electronic record shall be used to document observed violative conditions or other deviations from this chapter that require correction by the permit holder that may include the following:
(1) Nonconformance with requirements of this chapter;
(2) 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 department as specified in section 11-50-13(i);
(3) Failure of the person in charge to provide records required by the department for determining conformance with a HACCP plan as specified in section 11-50-4(j)(2)(D)(vi); and
(4) Nonconformance with critical limits of a HACCP plan.

(e) The director shall specify on the inspection report form the time frame for correction of the violations as specified in subsections (i), (k), and (m).

(f) At the conclusion of the inspection, the director shall request a signature by the person in charge acknowledging receipt of the inspectional findings.

(g) Refusal to sign acknowledgment of inspectional findings will not affect the permit holder's obligation to correct the violations noted in the inspection report within the time frames specified.

(h) The director shall treat the inspection report as a public document and shall make the report available for disclosure to a person who requests the report as provided in law.

(i) Ceasing operation and report - Imminent health hazard.

(1) Except as specified in paragraph (2), a permit holder shall immediately discontinue operations and notify the department if an imminent health hazard may exist because of an emergency such as a fire, flood, extended interruption of electrical or water service, sewage backup, natural disaster, misuse of poisonous or toxic materials, onset of an apparent foodborne illness outbreak, gross insanitary occurrence or condition, or other circumstance that may endanger public health;

(2) A permit holder may not be required to discontinue operations in an area of an establishment that is unaffected by the imminent health hazard.

(j) Resumption of operations. If operations are discontinued as specified in subsection (i) or otherwise according to law, the permit holder shall obtain approval from the department before resuming operations.

(k) Timely correction - violation of critical item.

(1) Except as specified in paragraph (2), a permit holder shall at the time of inspection correct a critical violation of this chapter and implement corrective actions for a HACCP plan provision that is not in compliance with its critical limit;

(2) Considering the nature of the potential hazard involved and the complexity of the corrective action needed, the director may agree to or specify a longer time frame after the inspection, for the permit holder to correct critical violations or HACCP plan deviations.

(l) Verification and documentation of correction.

(1) After observing at the time of inspection a correction of a critical violation or a HACCP plan deviation, the director shall enter the violation and information about the corrective action on the inspection report;

(2) As specified in subsection (k)(2), after receiving notification that the permit holder has corrected a critical violation or HACCP plan deviation, or at the end of the specified period of time, the director shall verify correction of the violation, document the information on an inspection report, and enter the report in the department's records.

(m) Time frame for correction - other violations. The permit holder shall correct all other violations by a date and time agreed to or specified by the director.

(n) Upon request, the director shall provide a copy of the completed inspection report to the permit holder or person in charge.

(o) Time frame for correction - temporary food establishment. The permit holder shall correct all violations immediately. Failure to comply with this notice may result in immediate termination of the temporary authorization to operate. [Eff FEB 24 2014] (Auth: HRS §321-11) (Imp: HRS §321-11)

§11-50-9 Placarding. (a) Upon completion of a regular inspection or follow-up inspection, the director shall post at every food establishment a color coded placard indicating the compliance status of that establishment. The placard shall be posted clearly visible to the general public and patrons entering the food establishment.

(1) Clearly visible to the general public and patrons means:

(A) Posted in the window of the food establishment within five feet of the main entrance to the establishment;

(B) Posted in a display case (such as a menu box) mounted on the outside wall of the food establishment within five feet of the main entrance to the establishment; or

(C) Posted in a location approved by the director to ensure proper notice to the general public and patrons.

(b) In the event that a food establishment is operated in the same building as a separately permitted or licensed business, or in the event that a facility shares common patron entrance with a separately permitted facility or licensed business, or in the event of both, the director shall post the placard in the initial patron contact area, or in a location approved by the director.

(c) The placard shall not be defaced, marred, camouflaged, hidden, or removed. It shall be unlawful to operate a food establishment unless the placard is posted in accordance with this chapter.

(d) Removal of the placard is a violation of this chapter and may result in the suspension of the food establishment permit, and may be subject to daily fines as specified in section 321-20, HRS.

(e) A placard shall remain valid from the time of issuance until a new placard is issued at the completion of a regular inspection, follow-up inspection, or change of ownership.

(f) Placard color coding:

(1) A green placard shall be posted when:

(A) Zero or one critical violation was observed during the regular inspection, and the critical violation was corrected or mitigated during the inspection; or

(B) A follow-up inspection verifies correction of all critical violations;

(2) A yellow placard shall be posted when one violation as described in paragraph (1)(A) remains uncorrected or when two or more critical violations were observed during a regular inspection or foodborne illness inspection:

(A) Follow-up inspections will be conducted within two business days to ensure all critical violations are corrected or mitigated and remain corrected;

(B) The yellow placard shall remain posted until all critical violations are corrected or mitigated and verified;

(3) A red placard shall be posted when there is:

(A) Closure of the facility due to immediate danger to public health, such as but not limited to:

(i) Epidemiological evidence of foodborne illness or disease transmission connected to the food establishment;

(ii) An employee of the food establishment who is a carrier of a communicable disease working in a capacity whereby the disease may be transmitted through food;
(iii) Hot or cold water not available as required;
(iv) No power available to operate refrigeration or cooking equipment;
(v) Rodent or vermin infestation;
(vi) Sewage overflow or flooding within the establishment;
(vii) Any other condition that poses an immediate danger to public health;

(B) Suspension of the food establishment permit;

(g) Critical violations may include, but are not limited to:

(1) Employees with communicable diseases, wounds, and rashes;
(2) An employee has discharge from the eyes, nose, or mouth;
(3) Hands not clean and not properly washed, gloves not used properly;
(4) Handwashing facilities not provided, not supplied, not properly operating, or inaccessible;
(5) Improper temperature control of potentially hazardous foods;
(6) PHF (time/temperature control for safety food) not properly labeled when using time as a public health control;
(7) PHF (time/temperature control for safety food) improperly cooled;
(8) Improper cooking time and temperatures not adhered to;
(9) Improper reheating procedures for hot holding not adhered to;
(10) Re-service of returned food;
(11) Food contaminated or adulterated;
(12) Food-contact surfaces not cleaned and sanitized as required;
(13) Improper warewashing procedure;
(14) Non-compliance with proper shellfish handling and service;

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(15) Non-compliance with HACCP plans, specialized process, and variances;
(16) Prohibited food offered to highly susceptible population;
(17) Hot or cold water not available as required;
(18) Sewage and wastewater not properly disposed of;
(19) Rodents, insects, birds, or prohibited animals within establishment;
(20) Food not protected from cross contamination;
(21) Restrictions on eating and the use of tobacco; and
(22) Improper storage or use of poisonous or toxic materials. [Eff FEB 24 2014] (Auth: HRS §321-11) (Imp: HRS §321-11)

§11-50-10 Embargo and detention. (a) Based upon inspection findings or other evidence, the director may embargo or detain any food determined to be a potential health hazard.

(1) The director may attach a tag or other appropriate marking to food determined to be a potential health hazard. The marking shall be removed only by the director following verification that the condition has been corrected;
(2) Food embargoed or detained pursuant to this subsection shall not be moved or used unless the embargo or detainment has been rescinded;
(3) Within seventy-two hours of the embargo or detainment, the director shall:
    (A) Inform the establishment of the potential health hazard and supporting evidence justifying the action;
    (B) Extend the holding period for a specified period of time needed to complete testing or research to determine the safety of the food being held; or
    (C) Rescind the action.

(b) If the director determines the food to be a potential health hazard, the director shall:

(1) State in writing, the specific reasons for which the food has been determined to be a potential health hazard; and
(2) Offer an opportunity for a hearing to a person whose food has been determined to be a potential

health hazard, provided a written request for a hearing is filed with the director by the permit holder within twenty days after receipt of the notice as specified in subsection (a)(3)(A);

(A) If a written request is filed within twenty days, an opportunity for a hearing with the director or the director's designated representative shall be provided;

(B) If no written request is filed within the twenty day period, the permit holder shall properly dispose of the embargoed or detained food. [Eff FEB 24 2014] (Auth: HRS §321-11) (Imp: HRS §321-11)

§11-50-11 Prevention of foodborne disease transmission by employees. (a) The department shall act when it has reasonable cause to believe that a food employee or conditional employee has possibly transmitted disease; may be infected with a disease in a communicable form that is transmissible through food; may be a carrier of infectious agents that cause a disease that is transmissible through food; or is affected with a boil, an infected wound, or acute respiratory infection, by:

(1) Securing a confidential medical history of the food employee or conditional employee suspected of transmitting disease or making other investigations as deemed appropriate; and

(2) Requiring appropriate medical examinations, including collection of specimens for laboratory analysis, of a suspected food employee or conditional employee.

(b) Based on the findings of an investigation related to a food employee or conditional employee who is suspected of being infected or diseased, the department may issue an order to the suspected food employee, conditional employee, or permit holder instituting one or more of the following control measures:

(1) Restricting the food employee or conditional employee;

(2) Excluding the food employee or conditional employee; or

(3) Closing the food establishment by summarily suspending a permit to operate pursuant to section 11-50-12(c).

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(c) Based on the findings of the investigation as specified in subsection (a) and to control disease transmission, the department may issue an order of restriction or exclusion to a suspected food employee or the permit holder without prior warning, notice of a hearing, or a hearing if the order:

(1) States the reasons for the restriction or exclusion that is ordered;

(2) States the evidence that the food employee or permit holder shall provide in order to demonstrate that the reasons for the restriction or exclusion are eliminated;

(3) States that the suspected food employee or the permit holder may request an appeal hearing by submitting a timely request as provided in law; and

(4) Provides the name and address of the department representative to whom a request for an appeal hearing may be made.

(d) The department shall release a food employee or conditional employee from restriction or exclusion according to law and the conditions specified in section 11-50-21(c). [Eff FEB 24 2014] (Auth: HRS §321-11) (Imp: HRS §321-11)

§11-50-12 Permit suspension. (a) The department may suspend a permit whenever:

(1) An inspection of the establishment reveals that the establishment has not corrected the violations in the required time; or

(2) The department is unable to conduct inspections in accordance with this chapter due to circumstances within the control of the permit holder or person in charge.

(b) Permit suspension procedures.

(1) The department shall notify the permit holder, or the person in charge in writing, when a permit is to be suspended;

(2) The department shall state in writing, specific reasons for which the permit is to be suspended;

(3) The department shall offer an opportunity for a hearing to a person whose permit is to be suspended, provided a written request for a hearing is filed with the department by the

permit holder, not later than twenty calendar days after receipt of the notice;

(4) If a written request for a hearing is filed within twenty calendar days after the notice of suspension, an opportunity for a hearing with the department or the department's designated representative shall be offered;

(5) If no written request for a hearing is filed within twenty calendar days after the notice of suspension, the permit shall be suspended upon serving of the suspension notice;

(6) The establishment shall be closed and shall remain closed until the permit has been reinstated;

(7) A person whose permit has been suspended may request an inspection, and the permit shall be reinstated if the inspection shows the correction of the violation that led to the suspension.

(c) Notwithstanding subsections (a), where the department finds there exists in an establishment an imminent health hazard to the public health, unless the hazard is immediately corrected, the department may temporarily suspend the permit of the establishment without prior notice and hearing and order the establishment immediately closed by issuing an order in writing.

(1) An imminent health hazard exists under conditions described in the definition of "Imminent health hazard" and section 11-50-9(f)(3)(A)(i) to (vii);

(2) The permit suspension shall be in effect until the opportunity for a hearing is given within twenty-four hours after the service of the suspension order. After the hearing, the department or the department's designated representative may affirm, modify, or rescind the order as appropriate.

(d) In the event of a natural disaster, the department has the authority to order an establishment immediately closed if, in the opinion of the department, the establishment cannot operate in a safe and sanitary manner. The department shall decide under what conditions the establishment will be allowed to reopen.

(e) All hearings shall comply with chapter 91, HRS, and the Hawaii Administrative Rules, chapter 11-1, entitled "Rules of Practice and Procedure". [Eff FEB 24 2014] (Auth: HRS §321-11) (Imp: HRS §321-11)

11-50-13 Variances. (a) The department may grant a variance by modifying or waiving the requirements of this chapter if in the opinion of the department a health hazard or nuisance will not result from the variance. If a variance is granted, the department shall retain the information specified in subsection (b) in its records for the food establishment.

(b) Before a variance from a requirement of this chapter is approved, the information that shall be provided by the person requesting the variance and retained in the department's file on the food establishment including:

(1) A statement of the proposed variance of the chapter requirement citing relevant chapter section numbers;

(2) An analysis of the rationale for how the potential public health hazards and nuisances addressed by the relevant chapter sections will be alternatively addressed by the proposal; and

(3) A HACCP plan if required as specified in section 11-50-4(j)(1) that includes the information specified in section 11-50-4(j)(2) as it is relevant to the variance requested.

(c) Every application for a variance shall be made on forms furnished by the department.

(1) The department shall not act upon or consider any incomplete application for variance. An application shall be deemed complete only when all required and requested information, including the application form, plans, specifications, applicable fees, and other information have been timely submitted;

(2) Every application shall be signed by the applicant and shall constitute an acknowledgment and agreement that the applicant will comply with all the terms and conditions of the variance and this chapter;

(3) The department may require the submission of additional information, including challenge studies if applicable, after the application has been submitted, and may ensure that, if an application is incomplete or otherwise deficient, processing of the application shall not be completed until such time as the applicant has supplied all required information or otherwise corrected the deficiency. If the variance

application requires a challenge study for pathogen inactivation or growth inhibition to determine if a food requires time/temperature control for safety, the study shall follow the guideline entitled "Parameters for Determining Inoculated Pack/Challenge Study Protocols" by the National Advisory Committee on Microbiological Criteria for Foods, adopted 20 March 2009, Washington D.C.;

(4) The failure of the department to act on a completed application within thirty days of the receipt of such application shall be deemed an approval of such application provided that the applicant acts consistently with the application process and has submitted all required or requested information.

(d) Any approved variance shall be granted for time periods and under conditions consistent with this chapter and within the following limitations:

(1) The department may issue a variance for a period not exceeding two years;

(2) The department may revoke the variance at any time if the variance becomes a threat to public health and safety.

(e) Variance renewal. Any variance granted pursuant to this section may be renewed for periods not exceeding two years provided that:

(1) All of the conditions specified in the immediately preceding variance are complied with;

(2) Current food safety concerns and concerns addressed in the immediately preceding variance are addressed;

(3) A renewal application is submitted at least one hundred eighty days prior to expiration of the preceding variance; and

(4) A variance renewal fee of $200 is paid to the department.

(f) The department shall afford a hearing in accordance with chapter 91, HRS, in relation to an application for the denial of a variance.

(g) No variance shall be construed to prevent or limit the application of any emergency provisions and procedures provided by law.

(h) A non-refundable application processing fee of $200 shall be made payable to the department for all new and renewal variance applications.

(i) If the department grants a variance as specified in subsection (a), or a HACCP plan is otherwise required as specified in section 11-50-4(j)(1) and (2) the permit holder shall:

(1) Comply with the HACCP plans and procedures that are submitted as specified in section 11-50-4(j)(2) and approved as a basis for the modification or waiver;

(2) Maintain and provide to the department, upon request, records specified in section 11-50-4(j)(2)(D) and (E) that demonstrate that the following are routinely employed:

(A) Procedures for monitoring the critical control points;

(B) Monitoring of the critical control points;

(C) Verification of the effectiveness of the operation or process; and

(D) Necessary corrective actions if there is failure at a critical control point; and

(3) Provide any additional information and analyses deemed necessary by the department to eliminate or control public health hazards or nuisance. [Eff FEB 24 2014] (Auth: HRS §321-11) (Imp: HRS §321-11)

§11-50-14 Penalties and remedies. Any person who violates any provision of this chapter or an order of the department thereunder, shall be subject to a fine as provided in section 321-20, HRS. Each and every violation is a separate offense. [Eff FEB 24 2014] (Auth: HRS §321-11) (Imp: HRS §321-11)

§11-50-15 Severability. If any provision of this chapter, or the application of any provision of this chapter to any person or circumstance, is held invalid, the application of the provision to other persons or circumstances, and the remainder of this chapter, shall not be affected thereby. [Eff FEB 24 2014] (Auth: HRS §321-11) (Imp: HRS §321-11)

§§11-50-16 to 11-50-19 (Reserved).

SUBCHAPTER 2

PERSONNEL

§11-50-20 Supervision. (a) Except as specified in subsection (b), the permit 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 food establishment during all hours of operation.

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

(c) The person in charge shall ensure that:

(1) Food establishment operations are not conducted in a private home or in a room used as living or sleeping quarters as specified in section 11-50-71(s);

(2) Persons unnecessary to the food establishment 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;

(3) 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 chapter;

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

(5) 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

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employees' observations and periodically evaluating foods upon their receipt;

(6) Employees are properly cooking potentially hazardous food (time/temperature control for safety 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 in sections 11-50-46(k) and 11-50-49(p)(2);

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

(8) Consumers who order raw; or partially cooked ready-to-eat foods of animal origin are informed as specified in section 11-50-35(e) that the food is not cooked sufficiently to ensure its safety;

(9) Employees are properly sanitizing cleaned multiuse 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;

(10) 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 in section 11-50-32(o);

(11) Except when approval is obtained from the department as specified in section 11-50-32(a)(4), 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;

(12) Employees are properly trained in food safety, including food allergy awareness, as it relates to their assigned duties; and

(13) 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 in section 11-50-21(a)(1). [Eff FEB 24 2014] (Auth: HRS §321-11) (Imp: HRS §321-11)

§11-50-21 Employee health. (a) Responsibility of permit holder, person in charge, and conditional employees.

(1) The permit 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:

(A) Has any of the following symptoms:
- (i) Vomiting;
- (ii) Diarrhea;
- (iii) Jaundice;
- (iv) Sore throat with fever; or
- (v) A lesion containing pus such as a boil or infected wound that is open or draining;

(B) Has an illness diagnosed by a health practitioner due to:
- (i) Norovirus;
- (ii) Hepatitis A virus;
- (iii) Shigella spp.;
- (iv) Enterohemorrhagic or Shiga toxin-producing Escherichia Coli; or
- (v) Salmonella Typhi;

(C) Had a previous illness, diagnosed by a health practitioner, within the past three months due to Salmonella Typhi, without having received antibiotic therapy, as determined by a health practitioner;

(D) 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:

(i) Norovirus within the past forty-eight hours of the last exposure;

(ii) Enterohemorrhagic or Shiga toxin-producing Escherichia Coli, or Shigella spp. within the past three days of the last exposure;

(iii) Salmonella Typhi within the past fourteen days of the last exposure; or

(iv) Hepatitis A virus within the past thirty days of the last exposure; or

(E) 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 works or attends 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:

(i) Norovirus within the past forty-eight hours of the last exposure;

(ii) Enterohemorrhagic or Shiga toxin-producing Escherichia Coli, or Shigella spp. within the past three days of the last exposure;

(iii) Salmonella Typhi within the past fourteen days of the last exposure; or

(iv) Hepatitis A virus within the past thirty days of the last exposure;

(2) The person in charge shall ensure that a conditional employee:

(A) Who exhibits or reports a symptom, or who reports a diagnosed illness as specified in subsection (a)(1)(A) to (C), is prohibited from becoming a food employee until the conditional employee meets the criteria for the specific symptoms or diagnosed illness as specified in subsection (c); or

(B) Who will work as a food employee in a food establishment that serves as a highly susceptible population and reports a history of exposure as specified in subsection (a)(1)(D)and(E), is prohibited from becoming a food employee until the conditional employee meets the criteria as specified in subsection (c)(9);

(3) 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 subsection (a)(1)(A) to (E) is:

(A) Excluded as specified in subsection (b)(1) to (3), (4)(A), (5)(A), (6)(A), or (7)(A) and in compliance with the provisions specified in subsection (c)(1) to (7);

(B) Restricted as specified in subsection (b)(4)(B), (5)(B), (6)(B), (7)(B), or (8) or (9) and in compliance with the provisions specified in subsection (c)(4) to (9);

(4) A food employee or conditional employee shall report to the person in charge the information as specified in paragraph (1);

(5) A food employee shall:

(A) Comply with an exclusion as specified in subsection (b)(1) to (3), and (4)(A), (5)(A), (6)(A), or (7)(A) and with the provisions specified in subsection (c)(1) to (7);

(B) Comply with a restriction as specified in subsection (b)(4)(B), (5)(B), (6)(B), (7)(B), or (8) or (9) and comply with the provisions specified in subsection (c)(4) to (9);

(b) The person in charge shall exclude or restrict a food employee from a food establishment in accordance with the following:

(1) Except when the symptom is from a noninfectious condition, exclude a food employee if the food employee is:

(A) Symptomatic with vomiting or diarrhea; or

(B) Symptomatic with vomiting or diarrhea and diagnosed with an infection from Norovirus,

Shigella spp., or Enterohemorrhagic or Shiga toxin-producing E. Coli;

(2) Exclude a food employee who is:
   (A) Jaundiced and the onset of jaundice occurred within the last seven 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 fourteen calendar days from the onset of any illness symptoms, or within seven calendar days of the onset of jaundice; or
   (C) Diagnosed with an infection from hepatitis A virus without developing symptoms;

(3) Exclude a food employee who is diagnosed with an infection from Salmonella Typhi, or reports a previous infection with Salmonella Typhi within the past three months as specified in subsection (a)(1)(C);

(4) 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;

(5) If a food employee is diagnosed 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;

(6) If a food employee is diagnosed 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;

(7) 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;

(8) 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 in subsection (a)(1)(A)(v), restrict the food employee;

(9) If a food employee is exposed to a foodborne pathogen as specified in subsection (a)(1)(D) and (E), restrict the food employee who works in a food establishment serving a highly susceptible population.

(c) The person in charge shall adhere to the following conditions when removing, adjusting, or retaining the exclusion or restriction of a food employee:

(1) Except when a food employee is diagnosed with an infection from hepatitis A virus or Salmonella Typhi:

(A) Reinstate a food employee who was excluded as specified in subsection (b)(1)(A) if the food employee:

(i) Is asymptomatic for at least twenty-four 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 Norovirus and excluded as specified in subsection (b)(1)(B):

(i) Restrict the food employee, who is asymptomatic for at least twenty-four hours and works in a food establishment not serving a highly susceptible population, until the conditions for reinstatement as

specified in subsection (b)(4)(A) or (B) are met; or

(ii) Retain the exclusion for the food employee, who is asymptomatic for at least twenty-four hours and works in a food establishment that serves a highly susceptible population, until the conditions for reinstatement as specified in subsection (b)(4)(A) or (B) are met;

(C) If a food employee was diagnosed with an infection from Shigella spp. and excluded as specified in subsection (b)(1)(B):

(i) Restrict the food employee, who is asymptomatic for at least twenty-four hours and works in a food establishment not serving a highly susceptible population, until the conditions for reinstatement as specified in paragraph (5)(A) or (B) are met; or

(ii) Retain the exclusion for the food employee, who is asymptomatic for at least twenty-four hours and works in a food establishment that serves a highly susceptible population, until the conditions for reinstatement as specified in subsection (b)(5)(A) or (B), or (5)(A) and (c)(1)(C)(i) are met;

(D) If a food employee was diagnosed with an infection from Enterohemorrhagic or Shiga toxin-producing E. Coli and excluded as specified in subsection (b)(1)(B):

(i) Restrict the food employee, who is asymptomatic for at least twenty-four hours and works in a food establishment not serving a highly susceptible population, until the conditions for reinstatement as specified in subsection (b)(6)(A) or (B) are met; or

(ii) Retain the exclusion for the food employee, who is asymptomatic for at least twenty-four hours and works in a food establishment that serves a

highly susceptible population, until the conditions for reinstatement as specified in subsection (b)(6)(A) or (B) are met;

(2) Reinstate a food employee who was excluded as specified in subsection (b)(2) if the person in charge obtains approval from the department and one of the following conditions is met:
   (A) The food employee has been jaundiced for more than seven calendar days;
   (B) The anicteric food employee has been symptomatic with symptoms other than jaundice for more than fourteen 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;

(3) Reinstate a food employee who was excluded as specified in subsection (b)(3) if:
   (A) The person in charge obtains approval from the department; 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 S. Typhi infection;

(4) Reinstate a food employee who was excluded as specified in subsection (b)(1)(B) or (4)(A) who was restricted in subsection (b)(4)(B) if the person in charge obtains approval from the department 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 forty-eight 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 forty-eight hours have passed since the food employee was diagnosed;

(5) Reinstate a food employee who was excluded as specified in subsection (b)(1)(B) or (5)(A) or who was restricted in subsection (b)(5)(B) if the person in charge obtains approval from the department 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 two consecutive negative stool specimen cultures that are taken:

(i) Not earlier than forty-eight hours after discontinuance of antibiotics; and

(ii) At least twenty-four hours apart;

(B) The food employee was excluded or restricted after symptoms of vomiting or diarrhea resolved, and more than seven 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 seven calendar days have passed since the food employee was diagnosed;

(6) Reinstate a food employee who was excluded or restricted as specified in subsection (b)(1)(B) or (b)(6)(A) or who was restricted in subsection (b)(6)(B) if the person in charge obtains approval from the department 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 two consecutive negative stool specimen cultures that are taken:

(i) Not earlier than forty-eight hours after discontinuance of antibiotics;

(ii) At least twenty-four hours apart;

(B) The food employee was excluded or restricted after symptoms of vomiting or diarrhea resolved and more than seven 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 seven days have passed since the food employee was diagnosed;

(7) Reinstate a food employee who was excluded or restricted as specified in subsection (b)(7)(A) or (B) if 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 twenty-four 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;

(8) Reinstate a food employee who was restricted as specified in subsection (b)(8) 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;

(9) Reinstate a food employee who was restricted as specified in subsection (b)(9) and was exposed to one of the following pathogens as specified in subsection (a)(1)(D) or (E):

(A) Norovirus and one of the following conditions is met:

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(i) More than forty-eight hours have passed since the last day the food employee was potentially exposed; or

(ii) More than forty-eight 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 three calendar days have passed since the last day the food employee was potentially exposed; or

(ii) More than three calendar days have passed since the food employee's household contact became asymptomatic;

(C) S. Typhi and one of the following conditions is met:

(i) More than fourteen calendar days have passed since the last day the food employee was potentially exposed; or

(ii) More than fourteen calendar days have passed since the food employee's household contact became asymptomatic.

(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 thirty calendar days have passed since the last day the food employee was potentially exposed;

(v) More than thirty 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 thirty calendar days after the potential exposure, as specified in subsection (c)(9)(D)(iv)

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and (v), and the food employee receives additional training about hepatitis A symptoms and preventing the transmission of infection, proper handwashing procedures, and protecting ready-to-eat food from contamination introduced by bare hand contact. [Eff FEB 24 2014] (Auth: HRS §321-11) (Imp: HRS §321-11)

§11-50-22 Personal cleanliness. (a) Food employees shall keep their hands and exposed portions of their arms clean.

(b) Cleaning procedure.

(1) Except as specified in paragraph (4), food employees shall clean their hands and exposed portions of their arms, including surrogate prosthetic devices for hands or arms for at least twenty seconds, using a cleaning compound in a handwashing sink that is equipped as specified in sections 11-50-61(c) and 11-50-72(a) to (f);

(2) Food employees shall use the following cleaning procedure in the order stated to clean their hands and exposed portions of their arms, including surrogate prosthetic devices for hands and arms:

(A) Rinse under clean, running water;

(B) Apply an amount of cleaning compound recommended by the cleaning compound manufacturer;

(C) Rub together vigorously for at least ten to fifteen seconds while:

(i) Paying particular attention to removing soil from underneath the fingernails during the cleaning procedure;

(ii) Creating friction on the surfaces of the hands and arms or surrogate prosthetic devices for hands and arms, finger tips, and areas between the fingers;

(D) Thoroughly rinse under clean, running water; and

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(E) Immediately follow the cleaning procedure with thorough drying using a method as specified in section 11-50-72(c);

(3) To avoid recontaminating their hands or surrogate prosthetic devices, food employees may use disposable paper towels or similar clean barriers when touching surfaces such as manually operated faucet handles on a handwashing sink or the handle of a restroom door;

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

(c) Food employees shall clean their hands and exposed portions of their arms as specified in section 11-50-22(b) immediately before engaging in food preparation including working with exposed food, clean equipment and utensils, and unwrapped single-service and single-use articles and:

(1) After touching bare human body parts other than clean hands and clean, exposed portions of arms;

(2) After using the toilet room;

(3) After caring for or handling service animals or aquatic animals as specified in section 11-50-23(d)(2);

(4) Except as specified in section 11-50-23(a)(2), after coughing, sneezing, using a handkerchief or disposable tissue, using tobacco, eating, or drinking;

(5) After handling soiled equipment or utensils;

(6) During food preparation, as often as necessary to remove soil and contamination and to prevent cross contamination when changing tasks;

(7) When switching between working with raw food and working with ready-to-eat food;

(8) Before donning gloves for working with food; and

(9) After engaging in other activities that contaminate the hands.

(d) 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.

(e) Hand antiseptics.

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

(A) Comply with one of the following:

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

(ii) Have active antimicrobial ingredients that are listed in the FDA monograph for OTC Health-Care Antiseptic Drug Products as an antiseptic handwash;

(B) Comply with one of the following:

(i) Have components that are exempted from the requirement of being listed in federal food additive regulations as specified in 21 CFR 170.39, entitled "Threshold of regulation for substances used in food-contact articles";

(ii) Comply with and be listed in 21 CFR 178, entitled "Indirect food additives: adjuvants, production aids, and sanitizers" as regulated for use as a food additive with conditions of safe use; or

(iii) Comply with and be listed in 21 CFR 182, entitled "Substances generally recognized as safe", 21 CFR 184, entitled "Direct food substances affirmed as generally recognized as safe", or 21 CFR 186, entitled "Indirect food substances affirmed as generally recognized as safe", for use in contact with food; and

(C) Be applied only to hands that are cleaned as specified in subsection (b);

(2) If a hand antiseptic or a hand antiseptic solution used as a hand dip does not meet the criteria specified in paragraph (1)(B), use shall be:

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

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

(3) A hand antiseptic solution used as a hand dip shall be maintained clean and at a strength equivalent to at least one hundred milligrams per liter of chlorine.

(f) Fingernails maintenance.

(1) Food employees shall keep their fingernails trimmed, filed, and maintained so the edges and surfaces are cleanable and not rough;

(2) Unless wearing intact gloves in good repair, a food employee may not wear fingernail polish or artificial fingernails when working with exposed food.

(g) Except for a plain ring such as a wedding band, while preparing food, food employees may not wear jewelry including medical information jewelry on their arms and hands.

(h) Food employees shall wear clean outer clothing to prevent contamination of food, equipment, utensils, linens, and single-service and single-use articles. [Eff FEB 24 2014] (Auth: HRS §321-11) (Imp: HRS §321-11)

§11-50-23 Hygienic practices. (a) Eating, drinking, or using tobacco.

(1) Except as specified in paragraph (2), 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;

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

(A) The employee's hands;

(B) The container; and

(C) Exposed food, clean equipment, utensils, linens, unwrapped single-service, and single-use articles.

(b) 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.

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(c) Hair restraints effectiveness.

(1) Except as provided in paragraph (2), food employees may be required to 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;

(2) 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.

(d) Animals handling prohibition.

(1) Except as specified in paragraph (2), 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 section 11-50-74(o)(2)(B) to (E);

(2) 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 in section 11-50-22(b) and (c)(3). [Eff FEB 24 2014] (Auth: HRS §321-11) (Imp: HRS §321-11)

§§11-50-24 to 11-50-29 (Reserved).

SUBCHAPTER 3

FOOD

§11-50-30 Characteristics. Food shall be safe, unadulterated, and, as specified in section 11-50-35(b), honestly presented. [Eff FEB 24 2014] (Auth: HRS §321-11) (Imp: HRS §321-11)

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§11-50-31 Source, specifications for receiving, original containers and records. (a) Compliance with food law.

(1) Food shall be obtained from sources that comply with law;

(2) Food prepared in a private home may not be used or offered for human consumption in a food establishment;

(3) Packaged food shall be labeled as specified in law, including 21 CFR 101, entitled "Food labeling"; 9 CFR 317, entitled "Labeling, marking devices, and containers", and 9 CFR 381 Subpart N entitled "Labeling and containers", and as specified in subsections (n) and (o);

(4) Fish, other than those specified in section 11-50-33(e)(2), that are intended for consumption in raw or undercooked form and allowed as specified in section 11-50-33(a)(4), may be offered for sale or service if they are obtained from a supplier that freezes the fish as specified in section 11-50-33(e); or if they are frozen on the premises as specified in section 11-50-33(e) and records are retained as specified in section 11-50-33(f);

(5) Whole-muscle, intact beef steaks that are intended for consumption in an undercooked form without a consumer advisory as specified in section 11-50-33(a)(3) shall be:

(A) 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

(B) Deemed acceptable by the director 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

(C) If individually cut in a food establishment:

(i) Cut from whole-muscle intact beef that is labeled by a food processing plant as specified in subparagraph (A) or identified as specified in subparagraph (B);

(ii) Prepared so they remain intact; and

(iii) If packaged for undercooking in a food establishment, labeled as specified in subparagraph (A) or identified as specified in subparagraph (B).

(6) 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(l) and 9 CFR 381.125(b);

(7) 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).

(b) Food in a hermetically sealed container shall be obtained from a food processing plant that is regulated by the food regulatory agency that has jurisdiction over the plant.

(c) Fluid milk and milk products shall be obtained from sources that comply with Grade A Standards as specified in law.

(d) Fish.

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

(A) Commercially and legally caught or harvested; or

(B) Approved for sale or service;

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

(e) Molluscan shellfish.

(1) Molluscan shellfish shall be obtained from sources according to law or 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;

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

(f) Wild mushrooms.

(1) Except as specified in paragraph (2), mushroom species picked in the wild shall be obtained from sources where each mushroom is individually

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inspected and found to be safe by an approved mushroom identification expert;

(2) This section does not apply to:

(A) Cultivated wild mushroom species that are grown, harvested, and processed in an operation that is regulated by the food regulatory agency that has jurisdiction over the operation; or

(B) Wild mushroom species if they are in packaged form and are the product of a food processing plant that is regulated by the food regulatory agency that has jurisdiction over the plant.

(g) Game animals. If game animals are received for sale or service they shall be:

(1) Commercially raised for food and:

(A) Raised, slaughtered, and processed under a voluntary inspection program that is conducted by the agency that has animal health jurisdiction; or

(B) Under a routine inspection program conducted by a regulatory agency other than the agency that has animal health jurisdiction; and

(C) Raised, slaughtered, and processed according to:

(i) Laws governing meat and poultry as determined by the agency that has animal health jurisdiction and the agency that conducts the inspection program; and

(ii) Requirements which are developed by the agency that has animal health jurisdiction and the agency that conducts the inspection program with consideration of factors such as the need for antemortem and postmortem examination by an approved veterinarian or veterinarian's designee;

(2) Under a voluntary inspection program administered by 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, entitled "Exotic animals and horses; voluntary inspection"

or rabbits that are "inspected and certified" in accordance with 9 CFR 354, entitled "Voluntary inspection of rabbits and edible products thereof";

(3) As allowed by law, for wild game animals that are live caught:

(A) Under a routine inspection program conducted by a regulatory agency such as the agency that has animal health jurisdiction; and

(B) Slaughtered and processed according to:

(i) Laws governing meat and poultry as determined by the agency that has animal health jurisdiction and the agency that conducts the inspection program; and

(ii) Requirements which are developed by the agency that has animal health jurisdiction and the agency that conducts the inspection program with consideration of factors such as the need for antemortem and postmortem examination by an approved veterinarian or veterinarian's designee; or

(4) As allowed by law, for field-dressed wild game animals under a routine inspection program that ensures the animals:

(A) Receive a postmortem examination by an approved veterinarian or veterinarian's designee; or

(B) Are field-dressed and transported according to requirements specified by the agency that has animal health jurisdiction and the agency that conducts the inspection program; and

(C) Are processed according to laws governing meat and poultry as determined by the agency that has animal health jurisdiction and the agency that conducts the inspection program.

(h) Temperature when received.

(1) Except as specified in paragraph (2), refrigerated, potentially hazardous food (time/temperature control for safety food) shall

be at a temperature of forty-one degrees Fahrenheit or below when received;

(2) If a temperature other than forty-one degrees Fahrenheit for a potentially hazardous food (time/temperature control for safety 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;

(3) Raw eggs shall be received in refrigerated equipment that maintains an ambient air temperature of forty-five degrees Fahrenheit or less;

(4) Potentially hazardous food (time/temperature control for safety food) that is cooked to a temperature and for a time specified in section 11-50-33(a) to (c) and received hot shall be at a temperature of one hundred thirty-five degrees Fahrenheit or above;

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

(6) Upon receipt, potentially hazardous food (time/temperature control for safety food) shall be free of evidence of previous temperature abuse.

(i) Food may not contain unapproved food additives or additives that:

(1) Exceed amounts specified in 21 CFR 170-180 relating to food additives;

(2) Generally recognized as safe or prior sanctioned substances that exceed amounts specified in 21 CFR 181-186;

(3) Substances that exceed amounts specified in 9 CFR Subpart C Section 424.21(b), entitled "Food ingredients and sources of radiation"; or

(4) Pesticide residues that exceed provisions specified in 40 CFR 180, entitled "Tolerances and exceptions for pesticide chemical residues in food".

(j) Eggs shall be received clean and sound and may not exceed the restricted egg tolerances for U.S. Consumer Grade B as specified in United States Standards, Grades, and Weight Classes for Shell Eggs, AMS 56.200 et seq., administered by the Agricultural Marketing Service of USDA.

(k) Eggs and milk products, pasteurized.

(1) Egg products shall be obtained pasteurized;
(2) Fluid and dry milk and milk products shall:
(A) Be obtained pasteurized; and
(B) Comply with Grade A Standards as specified in law;
(3) Frozen milk products, such as ice cream, shall be obtained pasteurized as specified in 21 CFR 135, entitled "Frozen desserts".
(4) Cheese shall be obtained pasteurized unless alternative procedures to pasteurization are specified in the CFR, such as 21 CFR 133, entitled "Cheeses and related cheese products", for curing certain cheese varieties.

(l) 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.

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

(n) Shucked shellfish, packaging and identification.
(1) Raw shucked shellfish shall be obtained in nonreturnable packages which bear a legible label that identifies the:
(A) Name, address, and certification number of the shucker, packer, or repacker of the molluscan shellfish; and
(B) The "sell by" or "best if used by" date for packages with a capacity of less than one-half gallon or the date shucked for packages with a capacity of one-half gallon or more;
(2) 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 in paragraph (1) shall be subject to a hold order, as allowed by law, or seizure and destruction.

(o) Shellstock identification.
(1) Shellstock shall be obtained in containers bearing legible source identification tags or labels that are affixed by the harvester or dealer that depurates, ships, or reships the shellstock, as specified in state rules or the National Shellfish Sanitation Program Guide for the Control of Molluscan Shellfish, and:
(A) Except as specified in paragraph (3), the harvester's tag or label shall list the

following information in the following order:

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

(ii) The date of harvesting;

(iii) 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;

(iv) The type and quantity of shellfish; and

(v) 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 90 days"; and

(B) Except as specified in paragraph (4), each dealer's tag or label shall list the following information in the following order:

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

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

(iii) The same information as specified for a harvester's tag in subparagraph (A)(ii) to (iv); and

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

(2) 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 in paragraph (1) shall be subject to a hold

order, as allowed by law, or seizure and destruction in accordance with 21 CFR Subpart D, entitled "Specific administrative decisions regarding interstate shipments", Section 1240.60(d);

(3) If a space 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;

(4) If the harvester's tag or label is designed to accommodate each dealer's identification as specified in paragraph (1)(B)(i) and (ii), individual dealer tags or labels need not be provided.

(p) When received by a food 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.

(q) Juice treated. Pre-packaged juice shall:

(1) Be obtained from a processor with a HACCP system as specified in 21 CFR Part 120, entitled "Hazard analysis and critical control (HACCP) systems"; and

(2) Be obtained pasteurized or otherwise treated to attain a five-log reduction of the most resistant microorganism of public health significance as specified in 21 CFR Part 120.24, entitled "Process Controls".

(r) Molluscan shellfish, original container.

(1) Except as specified in paragraphs (2) to (4), molluscan shellfish may not be removed from the container in which they are received other than immediately before sale or preparation for service;

(2) 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:

(A) The source of the shellstock on display is identified as specified in subsection (o) and recorded as specified in subsection (s); and

(B) The shellstock are protected from contamination;

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(3) 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:
  (A) The labeling information for the shellfish on display as specified in subsection (n) is retained and correlated to the date when, or dates during which, the shellfish are sold or served; and
  (B) The shellfish are protected from contamination;

(4) 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:
  (A) The labeling information for the shellfish is on each consumer self service container as specified in subsection (n) and section 11-50-35(c)(1) and (2)(A) to (E);
  (B) The labeling information as specified in subsection (n) is retained and correlated with the date when, or dates during which, the shellfish are sold or served;
  (C) The labeling information and dates specified in subparagraph (B) are maintained for ninety days; and
  (D) The shellfish are protected from contamination.

(s) Shellstock, maintaining identification.

(1) Except as specified in paragraph (3)(B), shellstock tags or labels shall remain attached to the container in which the shellstock are received until the container is empty;

(2) The date when the last shellstock from the container is sold or served shall be recorded on the tag or label;

(3) The identity of the source of shellstock that are sold or served shall be maintained by retaining shellstock tags or labels for ninety calendar days from the date that is recorded on the tag or label, as specified in paragraph (2), by:
  (A) Using an approved record keeping system that keeps the tags or labels in chronological order correlated to the date

that is recorded on the tag or label, as specified in paragraph (2); and

(B) If shellstock are removed from its tagged or labeled container:

(i) Preserving source identification by using a record keeping system as specified in subparagraph (A); and

(ii) Ensuring 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. [Eff FEB 24 2014] (Auth: HRS §321-11) (Imp: HRS §321-11)

§11-50-32 Protection from contamination after receiving. (a) Preventing contamination from hands.

(1) Food employees shall wash their hands as specified in section 11-50-22(b);

(2) Except when washing fruits and vegetables as specified in subsection (g) or as specified in paragraph (4), food employees may not contact exposed, ready-to-eat food with their bare hands and shall use suitable utensils such as deli tissue, spatulas, tongs, single-use gloves, or dispensing equipment;

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

(4) Food employees not serving a highly susceptible population may contact exposed, ready-to-eat food with their bare hands if:

(A) The permit holder obtains prior approval from the department;

(B) Written procedures are maintained in the food establishment and made available to the department upon request that include:

(i) For each bare hand contact procedure, a listing of the specific ready-to-eat foods that are touched by bare hands;

(ii) Diagrams and other information showing that handwashing facilities,

installed, located, equipped, and maintained as specified in sections 11-50-61(g), (l), (o) and 11-50-72(b), (c), and (e), are in an easily accessible location and in close proximity to the work station where the bare hand contact procedure is conducted;

(C) A written employee health policy that details how the food establishment complies with section 11-50-21(a), (b), and (c) including:

(i) Documentation that food employees and conditional employees acknowledge that they are informed to report information about their health and activities as they relate to gastrointestinal symptoms and diseases that are transmittable through food as specified in section 11-50-21(a)(1);

(ii) Documentation that food employees and conditional employees acknowledge their responsibilities as specified in section 11-50-21(a)(5); and

(iii) Documentation that the person in charge acknowledges the responsibilities as specified in section 11-50-21(a)(2) to (4), (b), and (c);

(D) Documentation that food employees acknowledge that they have received training in:

(i) The risks of contacting the specific ready-to-eat foods with bare hands;

(ii) Proper handwashing as specified in section 11-50-22(b);

(iii) When to wash their hands as specified in section 11-50-22(c);

(iv) Where to wash their hands as specified in section 11-50 22(d);

(v) Proper fingernail maintenance as specified in section 11-50-22(f);

(vi) Prohibition of jewelry as specified in section 11-50-22(g); and

(vii) Good hygienic practices as specified in section 11-50-23(a) and (b);

(E) Documentation that hands are washed before food preparation and as necessary to prevent cross contamination by food employees as specified in section 11-50-22(a), (b), (c), and (d) during all hours of operation when the specific ready-to-eat foods are prepared;

(F) Documentation that food employees contacting ready-to-eat food with bare hands use two or more of the following control measures to provide additional safeguards to hazards associated with bare hand contact:

(i) Double handwashing;

(ii) Nail brushes;

(iii) A hand antiseptic after handwashing as specified in section 11-50-22(e);

(iv) Incentive programs such as paid sick leave that assist or encourage food employees not to work when they are ill; or

(v) Other control measures approved by the department; and

(G) Documentation that corrective action is taken when subparagraphs (A) to (F) are not followed.

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

(c) Packaged and unpackaged food - separation, packaging, and segregation.

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

(A) Except as specified in clause (iii), separating raw animal foods during storage, preparation, holding, and display from:

(i) 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 fruits and vegetables; and

(ii) Cooked ready-to-eat food;

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

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(B) Except when combined as ingredients, separating types of raw animal foods from each other such as beef, fish, lamb, pork, and poultry during storage, preparation, holding, and display by:
(i) Using separate equipment for each type;
(ii) Arranging each type of food in equipment so that cross contamination of one type with another is prevented; or
(iii) Preparing each type of food at different times or in separate areas;
(C) Cleaning equipment and utensils as specified in section 11-50-50(b)(1) and sanitizing as specified in section 11-50-51(c);
(D) Except as specified in section 11-50-34(e)(2)(B)and in paragraph (2), storing the food in packages, covered containers, or wrappings;
(E) Cleaning hermetically sealed containers of food of visible soil before opening;
(F) Protecting food containers that are received packaged together in a case or overwrap from cuts when the case or overwrap is opened;
(G) Storing damaged, spoiled, or recalled food being held in the food establishment as specified in section 11-50-73 (c); and
(H) Separating fruits and vegetables, before they are washed as specified in subsection (g) from ready-to-eat food;

(2) Paragraph (1)(D) does not apply to:
(A) Whole, uncut, raw fruits and vegetables and nuts in the shell, that requires peeling or hulling before consumption;
(B) Primal cuts, quarters, or sides of raw meat or slab bacon that are hung on clean, sanitized hooks or placed on clean, sanitized racks;
(C) Whole, uncut, processed meats such as country hams, and smoked or cured sausages that are placed on clean, sanitized racks;
(D) Food being cooled as specified in section 11-50-34(e)(2)(B); or

(E) Shellstock.

(d) Except for containers holding food that can be readily and unmistakably recognized, such as dry pasta, working containers holding food or food ingredients that are removed from their original packages for use in the food establishment, such as cooking oils, flour, herbs, potato flakes, salt, spices, and sugar shall be identified with the common name of the food.

(e) Pasteurized eggs or egg products shall be substituted for raw eggs in the preparation of foods such as Caesar salad, hollandaise or Béarnaise sauce, mayonnaise, meringue, eggnog, ice cream, and egg-fortified beverages that are not:

(1) Cooked as specified in section 11-50-33(a)(1)(A) or (B); or

(2) Included in section 11-50-33(a)(4).

(f) Protection from unapproved additives.

(1) Food shall be protected from contamination that may result from the addition of, as specified in section 11-50-31(i):

(A) Unsafe or unapproved food or color additives; and

(B) Unsafe or unapproved levels of approved food and color additives;

(2) A food employee may not:

(A) 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

(B) Except for grapes, serve or sell food specified in subparagraph (A) that is treated with sulfiting agents before receipt by the food establishment.

(g) Washing fruits and vegetables.

(1) Except as specified in paragraph (2) and except for whole, raw fruits and vegetables that are intended for washing by the consumer before consumption, 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;

(2) Fruits and vegetables may be washed by using chemicals as specified in section 11-50-81(f).

(h) 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.

(i) Storage or display of food in contact with water or ice.

(1) Packaged food may 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;

(2) Except as specified in paragraphs (3) and (4), unpackaged food may not be stored in direct contact with undrained ice;

(3) 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;

(4) Raw poultry 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.

(j) Food shall only contact surfaces of:

(1) Equipment and utensils that are cleaned as specified in section 11-50-50 and sanitized as specified in section 11-50-51; or

(2) Single-service and single-use articles.

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

(1) Except as specified in paragraph (2), in the food with their handles above the top of the food and the container;

(2) In food that is not potentially hazardous (time/temperature control for safety food) 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;

(3) 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 are cleaned and sanitized at a frequency specified in sections 11-50-50(b) and 11-50-51(b);

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

(5) In a clean, protected location if the utensils, such as ice scoops, are used only with a food that is not potentially hazardous (time/temperature control for safety food);

(6) In a container of water if the water is maintained at a temperature of at least one hundred thirty-five degrees Fahrenheit and the container is cleaned at a frequency specified in section 11-50-50(b)(4)(G); or

(7) In any other manner approved by the department.

(l) 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.

(m) Wiping cloths, use limitation.

(1) Cloths in-use for wiping food spills from tableware and carry-out containers that occur as food is being served shall be:

(A) Maintained dry; and

(B) Used for no other purpose;

(2) Cloths in-use for wiping counters and other equipment surfaces shall be:

(A) Held between uses in a chemical sanitizer solution at a concentration specified in section 11-50-49(m); and

(B) Laundered daily as specified in section 11-50-52(b)(4);

(3) Cloths in-use for wiping surfaces in contact with raw animal foods shall be kept separate from cloths used for other purposes;

(4) Dry wiping cloths and the chemical sanitizing solutions specified in paragraph (2)(A) in which wet wiping cloths are held between uses shall be free of food debris and visible soil;

(5) Containers of chemical sanitizing solutions specified in paragraph (2)(A) in which wet wiping cloths are held between uses shall be stored off the floor and used in a manner that prevents contamination of food, equipment, utensils, linens, single-service, or single-use articles;

(6) Single-use disposable sanitizer wipes shall be used in accordance with EPA approved manufacturer's label use instructions.

(n) Gloves, use limitation.

(1) If used, single-use gloves shall be used for only one task such as working with ready-to-eat food

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or with raw animal food, used for no other purpose, and discarded when damaged or soiled, or when interruptions occur in the operation;

(2) Except as specified in paragraph (3), 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 in section 11-50-33 such as frozen food or a primal cut of meat;

(3) 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;

(4) Cloth gloves may not be used in direct contact with food unless the food is subsequently cooked as required in section 11-50-33 such as frozen food or a primal cut of meat.

(o) Using clean tableware for second portions and refills.

(1) 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;

(2) Except as specified in paragraph (3), 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;

(3) Drinking cups and containers may be reused by self-service consumers if refilling is a contamination-free process as specified in section 11-50-46(p)(1), (2), and (4).

(p) Refilling returnables.

(1) A take-home food container returned to a food establishment may not be refilled at a food establishment with a potentially hazardous food (time/temperature control for safety food);

(2) Except as specified in paragraph (3), a take-home food container refilled with food that is not

potentially hazardous (time/temperature control for safety food) shall be cleaned as specified in section 11-50-50(k)(2);

(3) 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 in section 11-50-46(p)(1), (2), and (4).

(q) Food storage.

(1) Except as specified in paragraphs (2) and (3), food shall be protected from contamination by storing the food:

(A) In a clean, dry location;

(B) Where it is not exposed to splash, dust, or other contamination; and

(C) At least six inches above the floor;

(2) Food in packages and working containers may be stored less than six inches above the floor on case lot handling equipment as specified in section 11-50-46(ii);

(3) 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.

(r) Food may not be stored:

(1) In locker rooms;

(2) In toilet rooms;

(3) In dressing rooms;

(4) In garbage rooms;

(5) In mechanical rooms;

(6) Under sewer lines that are not shielded to intercept potential drips;

(7) Under leaking water lines, including leaking automatic fire sprinkler heads, or under lines on which water has condensed;

(8) Under open stairwells; or

(9) Under other sources of contamination.

(s) Potentially hazardous food (time/temperature control for safety food) dispensed through a vending machine shall be in the package in which it was placed at the food establishment or food processing plant at which it was prepared.

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

(u) 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.

(v) Condiments, protection.

(1) 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;

(2) Condiments at a vending machine location shall be in individual packages or provided in dispensers that are filled at an approved location, such as the food establishment that provides food to the vending machine location, a food processing plant that is regulated by the agency that has jurisdiction over the operation, or a properly equipped facility that is located on the site of the vending machine location.

(w) Consumer self-service operations.

(1) 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:

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

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

(C) Raw, shell-on shrimp, or crustacean; or

(D) Raw, whole, unprocessed fish that are naturally protected from contamination by a shell or skin;

(2) Consumer self-service operations shall be provided with suitable utensils or effective dispensing methods that protect the food from contamination;

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

(x) When food sample demonstrations and food promotions are authorized in the establishment, the person in charge shall ensure that those activities comply with the applicable sanitation provisions of this chapter.

(y) Returned food and re-service of food.

(1) Except as specified in paragraph (2), 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;

(2) Except as specified in section 11-50-37(a)(7), a container of food that is not potentially hazardous (time/temperature control for safety food) may be re-served from one consumer to another if:

(A) 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

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

(z) Food shall be protected from contamination that may result from a factor or source not specified in subsections (a) to (y). [Eff FEB 24 2014] (Auth: HRS §321-11) (Imp: HRS §321-11)

§11-50-33 Destruction of organisms of public health concern. (a) Cooking raw animal foods.

(1) Except as specified in paragraphs (2), (3) and (4), 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:

(A) One hundred forty-five degrees Fahrenheit or above for fifteen seconds for:

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

(ii) Except as specified in subparagraphs (B) and (C) and paragraphs (2) and (3), fish and meat including game animals commercially raised for food as specified in section 11-50-31(g)(1)(A) and game animals under a voluntary inspection program as specified in section 11-50-31(g)(1)(B);

(B) One hundred fifty-five degrees Fahrenheit for fifteen seconds or the temperature specified in Table 33-1 that corresponds to the holding time for ratites, mechanically tenderized, and injected meats; the following if they are comminuted: fish, meat, game animals commercially raised for food as specified in section 11-50-31(g)(1)(A), and game animals in a voluntary inspection program as specified in section 11-50-31(g)(1)(B); and raw eggs that are not prepared as specified in subparagraph (A)(i):

Table 33-1

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

; or

(C) One hundred sixty-five degrees Fahrenheit or above for fifteen seconds for poultry, baluts, wild game animals as specified in section 11-50-31(g)(1)(C), stuffed fish, stuffed meat, stuffed pasta, stuffed poultry, stuffed ratites, or stuffing containing fish, meat, poultry, or ratites;

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

(A) In an oven that is preheated to the temperature specified for the roast's weight in Table 33-2 and that is held at that temperature:

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Table 33-2

Oven Type	Oven Temperature Based on Roast Weight	
	Less than 10 lbs	10 lbs or More
Still Dry	350°F or more	250°F or more
Convection	325°F or more	250°F or more
High Humidity[1]	250°F or less	250°F or less

[1]Relative humidity greater than ninety per cent for at least one hour as measured in the cooking chamber or exit of the oven; or in a moisture-impermeable bag that provides one hundred per cent humidity.

; and

(B) As specified in Table 33-3, to heat all parts of the food to a temperature and for the holding time that corresponds to that temperature:

Table 33-3

Temperature	Time[1] in Minutes	Temperature	Time[1] in Seconds
130°F	112	147°F	134
131°F	89	149°F	85
133°F	56	151°F	54
135°F	36	153°F	34
136°F	28	155°F	22
138°F	18	157°F	14
140°F	12	158°F	0
142°F	8	-	-
144°F	5	-	-
145°F	4	-	-

[1]Holding time may include post-oven heat rise.

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

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

(B) The steak is labeled to indicate that it meets the definition of "whole-muscle, intact beef" as specified in section 11-50-31(a)(5); and

(C) The steak is cooked on both the top and bottom to a surface temperature of one

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hundred forty-five degrees Fahrenheit or above and a cooked color change is achieved on all external surfaces;

(4) 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 paragraph (3), may be served or offered for sale upon consumer request or selection in a ready-to-eat form if:

(A) As specified in section 11-50-37(a)(3)(A) and (B), the food establishment serves a population that is not a highly susceptible population;

(B) The food, if served or offered for service by consumer selection from a children's menu, does not contain comminuted meat; and

(C) The consumer is informed as specified in section 11-50-35(e) that to ensure its safety, the food should be cooked as specified in paragraph (1) or (2); or

(D) The department grants a variance from paragraph (1) or (2) as specified in section 11-50-13(a) based on a HACCP plan that:

(i) Is submitted by the permit holder and approved as specified in section 11-50-13(b);

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

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

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

(1) Rotated or stirred throughout or midway during cooking to compensate for uneven distribution of heat;

(2) Covered to retain surface moisture;

(3) Heated to a temperature of at least one hundred sixty-five degrees Fahrenheit in all parts of the food; and

(4) Allowed to stand covered for two minutes after cooking to obtain temperature equilibrium.

(c) Fruits and vegetables that are cooked for hot holding shall be cooked to a temperature of one hundred thirty-five degrees Fahrenheit.

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

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

(2) Immediately after initial heating, cooled according to the time and temperature parameters specified for cooked potentially hazardous food (time/temperature control for safety food) in section 11-50-34(d)(1);

(3) After cooling, held frozen or cold, as specified for potentially hazardous food (time/temperature control for safety food) in section 11-50-34(f)(1)(B);

(4) Prior to sale or service, cooked using a process that heats all parts of the food to a temperature of at least one hundred sixty-five degrees Fahrenheit for fifteen seconds;

(5) Cooled according to the time and temperature parameters specified for cooked potentially hazardous food (time/temperature control for safety food) in section 11-50-34(d)(1) if not either hot held as specified in section 11-50-34(f)(1), served immediately, or held using time as a public health control as specified in section 11-50-34(i) after complete cooking; and

(6) Prepared and stored according to written procedures that:

(A) Have obtained prior approval from the department;

(B) Are maintained in the food establishment and are available to the department upon request;

(C) Describe how the requirements specified in paragraphs (1) to (5) are to be monitored and documented by the permit holder and the corrective actions to be taken if the requirements are not met;

(D) Describe how the foods, after initial heating, but prior to complete cooking, are to be marked or otherwise identified as foods that must be cooked as specified in paragraph (4) prior to being offered for sale or service; and

(E) Describe how the foods, after initial heating but prior to cooking as specified in paragraph (4), are to be separated from ready-to-eat foods as specified in section 11-50-32(c)(1).

(e) Parasite destruction.

(1) Except as specified in paragraph (2), before service or sale in ready-to-eat form, raw, raw-marinated, partially cooked, or marinated-partially cooked fish shall be:

(A) Frozen and stored at a temperature of minus four degrees Fahrenheit or below for a minimum of one hundred sixty-eight hours (seven days) in a freezer;

(B) Frozen at minus thirty-one degrees Fahrenheit or below until solid and stored at minus thirty-one degrees Fahrenheit or below for a minimum of fifteen hours; or

(C) Frozen at minus thirty-one degrees Fahrenheit or below until solid and stored at minus four degrees Fahrenheit or below for a minimum of twenty-four hours;

(2) Paragraph (1) does not apply to:

(A) Molluscan shellfish;

(B) Tuna of the species Thunnus alalunga (Albacore tuna), Thunnus albacares (Yellowfin tuna), Thunnus atlanticus (Blackfin tuna), Thunnus maccoyii (Bluefin tuna, Southern), Thunnus obesus (Bigeye tuna), Thunnus thynnus (Bluefin tuna, Northern), Katsuwonus Pelamis (Skipjack tuna), Makaira nigricans (Pacific blue marlin), Tetrapturus audax (Striped marlin); or

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

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

(ii) Are raised in land-based operations such as ponds or tanks; and

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

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

(E) Non-anadromous open ocean fish commonly eaten raw such as tuna, marlin, and snapper, if the required consumer advisory clearly states that consuming raw or undercooked fish that have not been adequately frozen may increase the risk of infection or injury from parasitic worms.

(f) Records, creation and retention.

(1) Except as specified in subsection (e)(2) and paragraph (2), if raw, 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 of the food establishment for ninety calendar days beyond the time of service or sale of the fish;

(2) 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 in subsection (e) may substitute for the records specified in paragraph (1).

(3) 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 subsection (e)(2)(C), a written agreement or statement from the supplier or aquaculturist stipulating that the fish were raised and fed as specified in subsection (e)(2)(C) shall be obtained by the person in charge and retained in the records of the food establishment for ninety calendar days beyond the time of service or sale of the fish;

(g) 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.

(h) Reheating for hot holding.

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(1) Except as specified in paragraphs (2), (3), and (5), potentially hazardous food (time/temperature control for safety 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 one hundred sixty-five degrees Fahrenheit for fifteen seconds;

(2) Except as specified in paragraph (3), potentially hazardous food (time/temperature control for safety 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 one hundred sixty-five degrees Fahrenheit and the food is rotated or stirred, covered, and allowed to stand covered for two minutes after reheating;

(3) Ready-to-eat food taken from a commercially processed, hermetically sealed container, or from an intact package from a food processing plant that is inspected by the food regulatory authority that has jurisdiction over the plant, shall be heated to a temperature of at least one hundred thirty-five degrees Fahrenheit for hot holding;

(4) Reheating for hot holding as specified in paragraphs (1) to (3) shall be done rapidly and the time the food is between forty-one degrees Fahrenheit and the temperatures specified in paragraphs (1) to (3) may not exceed two hours;

(5) Remaining unsliced portions of meat roasts that are cooked as specified in subsection (a)(2) may be reheated for hot holding using the oven parameters and minimum time and temperature conditions specified in subsection (a)(2).

(i) Juice packaged in a food establishment shall be:

(1) Treated under a HACCP plan as specified in section 11-50-4(j)(2)(B) and (E) to attain a five-log reduction, which is equal to a 99.999 per cent reduction, of the most resistant microorganism of public health significance; or

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

(A) As specified in section 11-50-35(c); and

(B) As specified in 21 CFR 101.17(g), juices that have not been specifically processed to prevent, reduce, or eliminate the

presence of pathogens with the following, "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". [Eff FEB 24 2014] (Auth: HRS §321-11) (Imp: HRS §321-11)

§11-50-34 Limitation of growth of organisms of public health concern. (a) Stored frozen foods shall be maintained frozen.

(b) Frozen potentially hazardous food (time/temperature control for safety food) that is slacked to moderate the temperature shall be held:

(1) Under refrigeration that maintains the food temperature at forty-one degrees Fahrenheit or less;

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

(c) Potentially hazardous food (time/temperature control for safety food) shall be thawed:

(1) Under refrigeration that maintains the food temperature at forty-one degrees Fahrenheit or less; or

(2) Completely submerged under running water:

(A) At a water temperature of seventy degrees Fahrenheit or below;

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

(C) For a period of time that does not allow thawed portions of ready-to-eat food to rise above forty-one degrees Fahrenheit; or

(D) For a period of time that does not allow thawed portions of a raw animal food requiring cooking as specified in section 11-50-33(a)(1) or (2) to be above forty-one degrees Fahrenheit, for more than four 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 forty-one degrees Fahrenheit;

(3) As part of a cooking process if the food that is frozen is:
  (A) Cooked as specified in section 11-50-33(a)(1), (2) or (b); or
  (B) Thawed in a microwave oven and immediately transferred to conventional cooking equipment, with no interruption in the process;
(4) 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; or
(5) Using any procedure that ensures the surface temperature does not exceed forty-one degrees Fahrenheit during thawing.

(d) Cooling.

(1) Cooked potentially hazardous food (time/temperature control for safety food) shall be cooled:
  (A) Within two hours from one hundred thirty-five degrees Fahrenheit to seventy degrees Fahrenheit; and
  (B) Within a total of six hours from one hundred thirty-five degrees Fahrenheit to forty-one degrees Fahrenheit or less;
(2) Potentially hazardous food (time/temperature control for safety food) shall be cooled within four hours to forty-one degrees Fahrenheit or less if prepared from ingredients at ambient temperature, such as reconstituted foods and canned tuna;
(3) Except as specified in paragraph (4), a potentially hazardous food (time/temperature control for safety food) received in compliance with laws allowing a temperature above forty-one degrees Fahrenheit during shipment from the supplier as specified in section 11-50-31(h)(2), shall be cooled within four hours to forty-one degrees Fahrenheit or less.
(4) Raw eggs shall be received as specified in section 11-50-31(h)(3) and immediately placed in refrigerated equipment that maintains an ambient air temperature of forty-five degrees Fahrenheit or less;

(e) Cooling methods.

(1) Cooling shall be accomplished in accordance with the time and temperature criteria specified in subsection (d) by using one or more of the following methods based on the type of food being cooled:
(A) Placing the food in shallow pans;
(B) Separating the food into smaller or thinner portions;
(C) Using rapid cooling equipment;
(D) Stirring the food in a container placed in an ice water bath;
(E) Using containers (such as metal and stainless steel) that facilitate heat transfer;
(F) Adding ice as an ingredient; or
(G) Other effective methods;

(2) When placed in cooling or cold holding equipment, food containers in which food is being cooled shall be:
(A) Arranged in the equipment to provide maximum heat transfer through the container walls; and
(B) Loosely covered, or uncovered if protected from overhead contamination as specified in section 11-50-32(q)(1)(B), during the cooling period to facilitate heat transfer from the surface of the food.

(f) Potentially hazardous food (time/temperature control for safety food), hot and cold holding.

(1) Except during preparation, cooking, or cooling, or when time is used as the public health control as specified in subsection (i), and except as specified in paragraphs (2) and (3), potentially hazardous food (time/temperature control for safety food) shall be maintained:
(A) At one hundred thirty-five degrees Fahrenheit or above, except that roasts cooked to a temperature and for a time specified in section 11-50-33(a)(2) or reheated as specified in section 11-50-33(h)(5) may be held at a temperature of one hundred thirty degrees Fahrenheit or above; or
(B) At forty-one degrees Fahrenheit or less;

(2) Eggs that have not been treated to destroy all viable Salmonellae shall be stored in

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refrigerated equipment that maintains an ambient air temperature of forty-five degrees Fahrenheit or less;

(3) Potentially hazardous food (time/temperature control for safety food) in a homogenous liquid form may be maintained outside of the temperature control requirements, as specified in paragraph (1), while contained within specially designed equipment that complies with the design and construction requirements as specified in section 11-50-46(p)(5).

(g) Ready-to-eat, potentially hazardous food (time/temperature control for safety food), date marking.

(1) Except when packaging food using a reduced oxygen packaging method as specified in subsection (1), and except as specified in paragraphs (4) and (5), refrigerated, ready-to-eat, potentially hazardous food (time/temperature control for safety food) prepared and held in a food establishment for more than twenty-four hours shall be clearly marked to indicate the date or day by which the food shall be consumed on the premises, sold, or discarded when held at a temperature of forty-one degrees Fahrenheit or less for a maximum of seven days;

(2) Except as specified in paragraphs (4) to (6), refrigerated, ready-to-eat, potentially hazardous food (time/temperature control for safety food) prepared and packaged by a food processing plant shall be clearly marked, at the time the original container is opened in a food establishment and if the food is held for more than twenty-four hours, 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 paragraph (1) and:

(A) The day the original container is opened in the food establishment shall be counted as day one; and

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

(3) 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;

(4) A date marking system that meets the criteria stated in paragraphs (1) and (2) may include:

(A) Using a method approved by the department for refrigerated, ready-to-eat potentially hazardous food (time/temperature control for safety food) that is frequently rewrapped, such as lunchmeat or a roast, or for which date marking is impractical, such as soft serve mix or milk in a dispensing machine;

(B) Marking the date or day of preparation, 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 paragraph (1);

(C) 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 paragraph (2); or

(D) Using calendar dates, days of the week, color-coded marks, or other effective marking methods, provided that the marking system is disclosed to the director upon request;

(5) Paragraphs (1) and (2) do not apply to individual meal portions served or repackaged for sale from a bulk container upon a consumer's request;

(6) Paragraph (2) does not apply to the following foods prepared and packaged by a food processing plant inspected by a regulatory authority:

(A) 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, entitled "Current good manufacturing

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practice in manufacturing, packing, or holding human food";

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

(C) Semi-soft cheeses containing more than thirty-nine per cent moisture, but not more than fifty per cent moisture, as defined in 21 CFR 133, entitled "Cheeses and related cheese products", such as blue, edam, gorgonzola, gouda, and Monterey jack;

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

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

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

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

(h) Ready-to-eat, potentially hazardous food (time/temperature control for safety food), disposition.

(1) A food specified in subsection (g)(1) or (2) shall be discarded if it:

(A) Exceeds the temperature and time combination specified in subsection (g)(1), except time that the product is frozen;

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

(C) Is appropriately marked with a date or day that exceeds a temperature and time combination as specified in subsection (g)(1);

(2) Refrigerated, ready-to-eat, potentially hazardous food (time/temperature control for safety food)

prepared in a food establishment and dispensed through a vending machine with an automatic shutoff control shall be discarded if it exceeds a temperature and time combination as specified in subsection (g)(1);

(i) Time as a public health control.

(1) Except as specified in paragraph (4), if time without temperature control is used as the public health control for a working supply of potentially hazardous food (time/temperature control for safety food) before cooking, or for ready-to-eat potentially hazardous food (time/temperature control for safety food) that is displayed or held for sale or service:

(A) Written procedures shall be prepared in advance, maintained in the food establishment and made available to the department upon request that specify:

(i) Methods of compliance with paragraph (2)(A) to (C) or (3)(A) to (E); and

(ii) Methods of compliance with subsection (d) for food that is prepared, cooked, and refrigerated before time is used as a public health control;

(2) If time temperature control is used as the public health control up to a maximum of four hours:

(A) The food shall have an initial temperature of forty-one degrees Fahrenheit or less when removed from cold holding temperature control or one hundred thirty-one degrees Fahrenheit or greater when removed from hot holding temperature control;

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

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

(D) The food in unmarked containers or packages, or marked to exceed a four-hour limit shall be discarded;

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(3) If time without temperature control is used as the public health control up to a maximum of six hours:

(A) The food shall have an initial temperature of forty-one degrees Fahrenheit or less when removed from temperature control and the food temperature may not exceed seventy degrees Fahrenheit within a maximum time period of six hours;

(B) The food shall be monitored to ensure the warmest portion of the food does not exceed seventy degrees Fahrenheit during the six-hour period, unless an ambient air temperature is maintained that ensures the food does not exceed seventy degrees Fahrenheit during the six-hour holding period;

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

(i) The time when the food is removed from forty-one degrees Fahrenheit or less cold holding temperature control; and

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

(D) The food shall be:

(i) Discarded if the temperature of the food exceeds seventy degrees Fahrenheit; or

(ii) Cooked and served, served at any temperature if ready-to-eat, or discarded within a maximum of six hours from the point in time when the food is removed from forty-one degrees Fahrenheit or less cold holding temperature control; and

(E) The food in unmarked containers or packages, or marked with a time that exceeds the six-hour limit shall be discarded;

(4) A food establishment that serves a highly susceptible population may not use time as specified in paragraphs (1), (2) or (3) as the public health control for raw eggs.

(j) A food establishment shall obtain a variance from the department as specified in section 11-50-13(a) and (b) before:

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

(2) Curing food;

(3) 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 (time/temperature control for safety food);

(4) Packaging food using a reduced oxygen packaging method except where the growth of and toxin formation by Clostridium botulinum and the growth of Listeria monocytogenes are controlled as specified in subsection (l);

(5) Operating a molluscan shellfish life-support system display tank used to store or display shellfish that are offered for human consumption;

(6) Custom processing animals that are for personal use as food and not for sale or service in a food establishment;

(7) Preparing food by another method that is determined by the department to require a variance; or

(8) Sprouting seeds or beans.

(k) A food processing plant may be exempt from this variance requirement.

(1) Reduced oxygen packaging without a variance, criteria.

(1) Except for a food establishment that obtains a variance as specified in subsection (j), a food establishment that packages potentially hazardous food (time/temperature control for safety food) using a reduced oxygen packaging method shall control the growth and toxin formation of Clostridium botulinum and the growth of Listeria monocytogenes;

(2) A food establishment that packages potentially hazardous food (time/temperature control for safety food) using a reduced oxygen packaging method shall have a HACCP plan that contains the information specified in section 11-50-4(j)(2)(D) and that:

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(A) Identifies the food to be packaged;

(B) Except as specified in paragraphs (3) to (5), requires that the packaged food shall be maintained at forty-one degrees Fahrenheit or less and meet at least one of the following criteria:

(i) Has an A_w of 0.91 or less;

(ii) Has a pH of 4.6 or less;

(iii) Is a meat or poultry product cured at a food processing plant regulated by the USDA using substances specified in 9 CFR 424.21, entitled "Use of food ingredients and sources of radiation," and is received in an intact package; or

(iv) Is a food with a high level of competing organisms such as raw meat, raw poultry, or raw vegetables;

(C) Describes how the package shall be prominently and conspicuously labeled on the principal display panel in bold type on a contrasting background, with instructions to:

(i) Maintain the food at forty-one degrees Fahrenheit or below; and

(ii) Discard the food if within fourteen calendar days of its packaging it is not served for on-premises consumption, or consumed if served or sold for off-premises consumption;

(D) Limits the refrigerated shelf life to no more than fourteen 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;

(E) Includes operational procedures that:

(i) Prohibit contacting ready-to-eat food with bare hands as specified in section 11-50-32(a)(2);

(ii) Identify a designated work area and the method by which physical barriers or methods of separation of raw foods and ready-to-eat foods minimize cross contamination. Access to the processing equipment is limited to

trained personnel familiar with the potential hazards of the operation; and

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

(F) Describes the training program that ensures that the individual responsible for the reduced oxygen packaging operation understands the:

(i) Concepts required for a safe operation;

(ii) Equipment and facilities; and

(iii) Procedures specified in subparagraph (E) and section 11-50-4(j)(2)(D);

(3) Except for fish that is frozen before, during, and after packaging, a food establishment may not package fish using a reduced oxygen packaging method;

(4) Except as specified in paragraph (3), a food establishment that packages food using a cook-chill or sous vide process shall:

(A) Implement a HACCP plan that contains the information as specified in section 11-50-4(j)(2)(D);

(B) Ensure the food is:

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

(ii) Cooked to heat all parts of the food to a temperature and for a time as specified in section 11-50-33(a);

(iii) Protected from contamination before and after cooking as specified in sections 11-50-32 and 11-50-33;

(iv) Placed in a package with an oxygen barrier and sealed before cooking, or placed in a package and sealed immediately after cooking and before reaching a temperature below one hundred thirty-five degrees Fahrenheit;

(v) Cooled to forty-one degrees Fahrenheit in the sealed package or bag as specified in subsection (d) and subsequently cooled to thirty-four degrees Fahrenheit within forty-eight hours of reaching forty-one degrees Fahrenheit and held at that temperature until consumed or discarded within thirty days after the date of packaging;

(vi) Cooled to forty-one degrees Fahrenheit in the sealed package or bag as specified in subsection (d) and subsequently cooled to thirty-four degrees Fahrenheit within forty-eight hours of reaching forty-one degrees Fahrenheit, removed from refrigeration equipment that maintains a thirty-four degrees Fahrenheit food temperature and then held at forty-one degrees Fahrenheit or less for no more than seventy-two hours, at which time the food must be consumed or discarded;

(vii) Cooled to forty-one degrees Fahrenheit in the sealed package or bag as specified in subsection (d) and subsequently cooled to thirty-eight degrees Fahrenheit or less within twenty-four hours of reaching forty-one degrees Fahrenheit and held there for no more than seventy-two hours from packaging, at which time the food must be consumed or discarded; or

(viii) Cooled to forty-one degrees Fahrenheit in the sealed package or bag as specified in subsection (d) and subsequently held frozen with no shelf life restriction while frozen until consumed or used;

(ix) 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;

(x) 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

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

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

(i) Make such records available to the director upon request; and

(ii) Hold such records for at least six months; and

(D) Implement written operational procedures as specified in paragraph (2)(E) and a training program as specified in paragraph (2)(F);

(5) A food establishment that packages cheese using a reduced oxygen packaging method shall:

(A) Limit 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, entitled "Hard cheeses", 21 CFR 133.169, entitled "Pasteurized process cheese" or 21 CFR 133.187, entitled "Semisoft cheeses";

(B) Have a HACCP plan that contains the information specified in section 11-50-4(j)(2)(D) and as specified in paragraphs (1)(2)(A), (C)(i), (E), and (F);

(C) Labels the package on the principal display panel with a "use by" date that does not exceed thirty calendar days from its packaging or the original manufacturer's "sell by" or "use by" date, whichever occurs first; and

(D) Discards the reduced oxygen packaged cheese if it is not sold for off-premises consumption or consumed within thirty calendar days of its packaging. [Eff FEB 24 2014] (Auth: HRS §321-11) (Imp: HRS §321-11)

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§11-50-35 Food identity, presentation, and on-premises labeling. (a) Packaged food shall comply with standard of identity requirements in 21 CFR 131-169 and 9 CFR 319 entitled "Definitions and standards of identity or composition", and the general requirements in 21 CFR 130, entitled "Food standards: General" and 9 CFR 319 Subpart A entitled "General".

(b) Honestly presented.

(1) Food shall be offered for human consumption in a way that does not mislead or misinform the consumer;

(2) Food or color additives, colored overwraps, or lights may not be used to misrepresent the true appearance, color, or quality of a food.

(c) Food labels.

(1) Food packaged in a food establishment, shall be labeled as specified in law, including 21 CFR 101, entitled "Food labeling", and 9 CFR 317 entitled "Labeling, marking devices, and containers".

(2) The director may waive the packaged food labeling requirement for, but not limited to:

(A) Foods manufactured in food establishments such as restaurants, bakeries, and markets, and sold only in those food establishments;

(B) Foods of no nutritional significance such as coffee;

(C) Bulk food for further processing; and

(D) Raw fruits, vegetables, and fish;

(3) Label information shall include:

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

(B) If made from two 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;

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

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

(E) 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;

(F) Except as exempted in the Federal Food, Drug, and Cosmetic Act section 403(Q)(3) to (5), nutrition labeling as specified in 21 CFR 101, entitled "Food labeling" and 9 CFR 317 Subpart B entitled "Nutrition labeling";

(G) 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;

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

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

(B) A card, sign, or other method of notification that includes the information specified in paragraph(2)(A) and (B);

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

(A) A health, nutrient content or other claim is not made;

(B) There are no state or local laws requiring labeling; and

(C) The food is manufactured or prepared on the premises of the food establishment or at another food establishment or a food processing plant that is owned by the same person and is regulated by the food regulatory agency that has jurisdiction.

(d) Other forms of information.

(1) If required by law, consumer warnings shall be provided;

(2) Food establishment or manufacturers' dating information on foods may not be concealed or altered.

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(e) Consumption of animal foods that are raw, undercooked, or not otherwise processed to eliminate pathogens.

(1) Except as specified in sections 11-50-33(a)(3) and (4)(D) and 11-50-37(a)(3), if an animal food such as beef, eggs, fish, lamb, pork, poultry, or shellfish is served or sold raw, undercooked, or without otherwise being processed to eliminate pathogens, either in ready-to-eat form or as an ingredient in another ready-to-eat food, the permit holder shall inform consumers of the significantly increased risk of consuming such foods by way of a disclosure and reminder, as specified in paragraphs (2) and (3) using brochures, deli case or menu advisories, label statements, table tents, placards, or other effective written means;

(2) Disclosure shall include:

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

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

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

(A) Regarding the safety of these items, written information is available upon request;

(B) Consuming raw or undercooked meats, poultry, seafood, shellfish, or eggs may increase your risk of foodborne illness; or

(C) Consuming raw or undercooked meats, poultry, seafood, shellfish, or eggs may increase the risk of foodborne illness especially in consumers with certain medical conditions. [Eff FEB 24 2014] (Auth: HRS §321-11) (Imp: HRS §321-11)

§11-50-36 Contaminated food. Discarding or reconditioning unsafe, adulterated, or contaminated food.

(1) A food that is unsafe, adulterated, or not honestly presented as specified in section 11-50-30 shall be discarded or reconditioned according to an approved procedure;
(2) Food that is not from an approved source as specified in section 11-50-31(a) to (g) shall be discarded;
(3) Ready-to-eat food that may have been contaminated by an employee who has been restricted or excluded as specified in section 11-50-21(b) shall be discarded;
(4) 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. [Eff FEB 24 2014] (Auth: HRS §321-11) (Imp: HRS §321-11)

§11-50-37 Special requirements for highly susceptible populations. (a) Foods served to a highly susceptible population:

(1) The following criteria apply to juice:
(A) For the purposes of this paragraph only, children who are age nine 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 101.17(g), juices that have not been specifically processed to prevent, reduce, or eliminate the presence of pathogens, or a packaged juice or beverage containing juice, that bears a warning label as specified in section 11-50-33(i)(2) 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 in section 11-50-4(j)(2)(D) to (E) and as specified in 21 CFR Part 120, entitled "Hazard Analysis and Critical

Control Point (HACCP) Systems", Subpart B entitled "Pathogen reduction", 120.24 entitled "Process controls";

(2) 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; and
  (B) Except as specified in paragraph (6), recipes in which more than one egg is broken and the eggs are combined;

(3) 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;

(4) Food employees may not contact ready-to-eat food as specified in section 11-50-32(a)(2) and (4);

(5) Time only, as the public health control as specified in section 11-50-34(i)(4), may not be used for raw eggs;

(6) Paragraph (2)(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 section 11-50-33(a)(1)(A), 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 Salmonella Enteritidis growth is controlled before and after

cooking, and is destroyed by cooking the eggs according to the temperature and time specified in section 11-50-33(a)(1)(B);

(iv) Contains the information specified in section 11-50-4(j)(2)(D) including procedures that control cross contamination of ready-to-eat food with raw eggs, and 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;

(7) Except as specified in paragraph (8), food may be re-served as specified in section 11-50-32(y)(2)(A) and (B);

(8) Food may not be re-served under the following conditions:

(A) Any food served to patients or clients who are under contact precautions in medical isolation or quarantine, or protective environment isolation may not be re-served to others outside;

(B) Packages of food from any patients, clients, or other consumers should not be re-served to persons in protective environment isolation. [Eff FEB 24 2014] (Auth: HRS §321-11) (Imp: HRS §321-11)

§§11-50-38 to 11-50-44 (Reserved).

SUBCHAPTER 4

EQUIPMENT, UTENSILS, AND LINENS

§11-50-45 Materials for construction and repair. (a) Materials that are used in the construction of utensils and food-contact surfaces of equipment may not allow the migration of deleterious substances or impart colors,

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odors, or tastes to food and under normal use conditions shall be:

(1) Safe;
(2) Durable, corrosion-resistant, and nonabsorbent;
(3) Sufficient in weight and thickness to withstand repeated warewashing;
(4) Finished to have a smooth, easily cleanable surface; and
(5) Resistant to pitting, chipping, crazing, scratching, scoring, distortion, and decomposition.

(b) Cast iron, use limitation.

(1) Except as specified in paragraphs (2) and (3), cast iron may not be used for utensils or food-contact surfaces of equipment;
(2) Cast iron may be used as a surface for cooking;
(3) Cast iron may be used in utensils for serving food if the utensils are used only as part of an uninterrupted process from cooking through service.

(c) Lead, use limitation.

(1) Ceramic, china, and crystal utensils, and decorative utensils such as hand painted ceramic or china that are used in contact with food shall be lead-free or contain levels of lead not exceeding the limits of the utensil categories in Table 45-1:

Table 45-1

Utensil Category	Ceramic Article Description	Maximum Lead mg/L
Beverage mugs, cups, pitchers	Coffee mugs	0.5
Large hollowware (excluding pitchers)	Bowls > 1.16 quart	1
Small hollowware (excluding cups and mugs)	Bowls < 1.16 quart	2.0
Flat tableware	Plates, saucers	3.0

(2) Pewter alloys containing lead in excess of 0.05 per cent may not be used as a food-contact surface;

(3) Solder and flux containing lead in excess of 0.2 per cent may not be used as a food-contact surface.

(d) Copper, use limitation.

(1) Except as specified in paragraph (2), copper and copper alloys such as brass may not be used in contact with a food that has a pH below six such as vinegar, fruit juice, or wine or for a fitting or tubing installed between a backflow prevention device and a carbonator;

(2) Copper and copper alloys may be used in contact with beer brewing ingredients that have a pH below six in the prefermentation and fermentation steps of a beer brewing operation such as a brewpub or microbrewery.

(e) Galvanized metal may not be used for utensils or food-contact surfaces of equipment that are used in contact with acidic food.

(f) Sponges may not be used in contact with cleaned and sanitized or in-use food-contact surfaces.

(g) Wood, use limitation.

(1) Except as specified in paragraphs (2), (3), and (4), wood and wood wicker may not be used as a food-contact surface;

(2) Hard maple or an equivalently hard, close-grained wood may be used for:

(A) Cutting boards, cutting blocks, bakers' tables, and utensils such as rolling pins, doughnut dowels, salad bowls, and chopsticks; and

(B) Wooden paddles used in confectionery operations for pressure scraping kettles when manually preparing confections at a temperature of two hundred thirty degrees Fahrenheit or above;

(3) Whole, uncut, raw fruits and vegetables, and nuts in the shell may be kept in the wood shipping containers in which they were received, until the fruits, vegetables, or nuts are used;

(4) If the nature of the food requires removal of rinds, peels, husks, or shells before consumption, the whole, uncut, raw food may be kept in:

(A) Untreated wood containers; or

(B) Treated wood containers if the containers are treated with a preservative that meets

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the requirements specified in 21 CFR 178.3800, entitled "Preservatives for wood".

(h) Multiuse kitchenware such as frying pans, griddles, sauce pans, cookie sheets, and waffle bakers that have a perfluorocarbon resin coating shall be used with nonscoring or nonscratching utensils and cleaning aids.

(i) Nonfood-contact surfaces of equipment that are exposed to splash, spillage, or other food soiling or that require frequent cleaning shall be constructed of a corrosion-resistant, nonabsorbent, and smooth material.

(j) Materials that are used to make single-service and single-use articles:

(1) May not:

(A) Allow the migration of deleterious substances; or

(B) Impart colors, odors, or tastes to food; and

(2) Shall be:

(A) Safe; and

(B) Clean. [Eff FEB 24 2014] (Auth: HRS §321-11) (Imp: HRS §321-11)

§11-50-46 Design and construction. (a) Equipment and utensils shall be designed and constructed to be durable and to retain their characteristic qualities under normal use conditions.

(b) Food temperature measuring devices may not have sensors or stems constructed of glass, except that thermometers with glass sensors or stems that are encased in a shatterproof coating such as candy thermometers may be used.

(c) Food-contact surfaces.

(1) Multiuse food-contact surfaces shall be:

(A) Smooth;

(B) Free of breaks, open seams, cracks, chips, inclusions, pits, and similar imperfections;

(C) Free of sharp internal angles, corners, and crevices;

(D) Finished to have smooth welds and joints; and

(E) Except as specified in paragraph (2), accessible for cleaning and inspection by one of the following methods:

(i) Without being disassembled;
(ii) By disassembling without the use of tools; or
(iii) By easy disassembling with the use of handheld tools commonly available to maintenance and cleaning personnel such as screwdrivers, pliers, open-end wrenches, and Allen wrenches;

(2) Paragraph (1)(E) does not apply to cooking oil storage tanks, distribution lines for cooking oils, or beverage syrup lines or tubes.

(d) CIP equipment.

(1) CIP equipment shall meet the characteristics specified in subsection (c) and shall be designed and constructed so that:
(A) Cleaning and sanitizing solutions circulate throughout a fixed system and contact all interior food-contact surfaces; and
(B) The system is self-draining or capable of being completely drained of cleaning and sanitizing solutions; and

(2) CIP equipment that is not designed to be disassembled for cleaning shall be designed with inspection access points to ensure that all interior food-contact surfaces throughout the fixed system are being effectively cleaned.

(e) Except for hot oil cooking or filtering equipment, "V" type threads may not be used on food-contact surfaces.

(f) Hot oil filtering equipment shall meet the characteristics specified in subsection (c) or (d) and shall be readily accessible for filter replacement and cleaning of the filter.

(g) Cutting or piercing parts of can openers shall be readily removable for cleaning and for replacement.

(h) Nonfood-contact surfaces shall be free of unnecessary ledges, projections, and crevices, and designed and constructed to allow easy cleaning and to facilitate maintenance.

(i) Kick plates shall be designed so that the areas behind them are accessible for inspection and cleaning by being:

(1) Removable by one of the methods specified in subsection (c)(1)(E) or capable of being rotated open; and

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(2) Removable or capable of being rotated open without unlocking equipment doors.

(j) Filters or other grease extracting equipment shall be designed to be readily removable for cleaning and replacement if not designed to be cleaned in place.

(k) Accuracy of temperature measuring devices, food.

(1) Food temperature measuring devices that are scaled only in Celsius or dually scaled in Celsius and Fahrenheit shall be accurate to plus or minus one degree Celsius in the intended range of use;

(2) Food temperature measuring devices that are scaled only in Fahrenheit shall be accurate to plus or minus two degrees Fahrenheit in the intended range of use.

(l) Temperature measuring devices, ambient air and water.

(1) Ambient air and water temperature measuring devices that are scaled in Celsius or dually scaled in Celsius and Fahrenheit shall be designed to be easily readable and accurate to plus or minus one and one-half degrees Celsius in the intended range of use.

(2) Ambient air and water temperature measuring devices that are scaled only in Fahrenheit shall be accurate to plus or minus three degrees Fahrenheit in the intended range of use.

(m) Pressure measuring devices that display the pressures in the water supply line for the fresh hot water sanitizing rinse shall have increments of one pound per square inch or smaller and shall be accurate to plus or minus two pounds per square inch) in the range indicated on the manufacturer's data plate.

(n) Exhaust ventilation hood systems in food preparation and warewashing areas including components such as hoods, fans, guards, and ducting shall be designed to prevent grease or condensation from draining or dripping onto food, equipment, utensils, linens, and single-service and single-use articles.

(o) Equipment openings, closures and deflectors.

(1) A cover or lid for equipment shall overlap the opening and be sloped to drain;

(2) An opening located within the top of a unit of equipment that is designed for use with a cover or lid shall be flanged upward at least two-tenths of an inch;

(3) Except as specified in paragraph (4), fixed piping, temperature measuring devices, rotary shafts, and other parts extending into equipment shall be provided with a watertight joint at the point where the item enters the equipment.

(4) If a watertight joint is not provided:

(A) The piping, temperature measuring devices, rotary shafts, and other parts extending through the openings shall be equipped with an apron designed to deflect condensation, drips, and dust from openings into the food; and

(B) The opening shall be flanged as specified in paragraph (2).

(p) In equipment that dispenses or vends liquid food or ice in unpackaged form:

(1) The delivery tube, chute, orifice, and splash surfaces directly above the container receiving the food shall be designed in a manner, such as with barriers, baffles, or drip aprons, so that drips from condensation and splash are diverted from the opening of the container receiving the food;

(2) The delivery tube, chute, and orifice shall be protected from manual contact such as by being recessed;

(3) The delivery tube or chute and orifice of equipment used to vend liquid food or ice in unpackaged form to self-service consumers shall be designed so that the delivery tube or chute and orifice are protected from dust, insects, rodents, and other contamination by a self-closing door if the equipment is:

(A) Located in an outside area that does not otherwise afford the protection of an enclosure against the rain, windblown debris, insects, rodents, and other contaminants that are present in the environment; or

(B) Available for self-service during hours when it is not under the full-time supervision of a food employee; and

(4) The dispensing equipment actuating lever or mechanism and filling device of beverage dispensing equipment shall be designed to prevent

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contact with the lip-contact surface of glasses or cups that are refilled;

(5) Dispensing equipment in which potentially hazardous food (time/temperature control for safety food) in a homogenous liquid form is maintained outside of the temperature control requirements as specified in section 11-50-34(f)(1) shall:

(A) Be specifically designed and equipped to maintain the commercial sterility of aseptically packaged food in a homogenous liquid form for a specified duration from the time of opening the packaging within the equipment; and

(B) Conform to the requirements for this equipment as specified in NSF/ANSI 18-2006-Manual Food and Beverage Dispensing Equipment.

(q) The dispensing compartment of a vending machine including a machine that is designed to vend prepackaged snack food that is not potentially hazardous (time/temperature control for safety food) such as chips, party mixes, and pretzels shall be equipped with a self-closing door or cover if the machine is:

(1) Located in an outside area that does not otherwise afford the protection of an enclosure against the rain, windblown debris, insects, rodents, and other contaminants that are present in the environment; or

(2) Available for self-service during hours when it is not under the full-time supervision of a food employee.

(r) Equipment containing bearings and gears that require lubricants shall be designed and constructed so that the lubricant cannot leak, drip, or be forced into food or onto food-contact surfaces.

(s) Except for cold plates that are constructed integrally with an ice storage bin, beverage tubing and cold-plate beverage cooling devices may not be installed in contact with stored ice.

(t) Liquid waste drain lines may not pass through an ice machine or ice storage bin.

(u) If a condenser unit is an integral component of equipment, the condenser unit shall be separated from the food and food storage space by a dustproof barrier.

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(v) Cutting or piercing parts of can openers on vending machines shall be protected from manual contact, dust, insects, rodents, and other contamination.

(w) Molluscan shellfish tanks.

(1) Except as specified in paragraph (2), molluscan shellfish life support system display tanks may not be used to store or display shellfish that are offered for human consumption and shall be conspicuously marked so that it is obvious to the consumer that the shellfish are for display only;

(2) Molluscan shellfish life-support system display tanks that are used to store or display shellfish that are offered for human consumption shall be operated and maintained in accordance with a variance granted by the department as specified in section 11-50-13(a) and a HACCP plan that:

(A) Is submitted by the permit holder and approved as specified in section 11-50-13(b); and

(B) Ensures that:

(i) Water used with fish other than molluscan shellfish does not flow into the molluscan tank;

(ii) The safety and quality of the shellfish as they were received are not compromised by the use of the tank; and

(iii) The identity of the source of the shellstock is retained as specified in section 11-50-31(s).

(x) Vending machines, automatic shutoff.

(1) A machine vending potentially hazardous food (time/temperature control for safety food) shall have an automatic control that prevents the machine from vending food:

(A) If there is a power failure, mechanical failure, or other condition that results in an internal machine temperature that cannot maintain food temperatures as specified in subchapter 3; and

(B) If a condition specified in paragraph (1)(A) occurs, until the machine is serviced and restocked with food that has been maintained at temperatures specified in subchapter 3;

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(2) When the automatic shutoff within a machine vending potentially hazardous food (time/temperature control for safety food) is activated:

(A) In a refrigerated vending machine, the ambient air temperature may not exceed forty-one degrees Fahrenheit for more than thirty minutes immediately after the machine is filled, serviced, or restocked; or

(B) In a hot holding vending machine, the ambient air temperature may not be less than one hundred thirty-five degrees Fahrenheit for more than one hundred twenty minutes immediately after the machine is filled, serviced, or restocked.

(y) Temperature measuring devices.

(1) In a mechanically refrigerated or hot food storage unit, the sensor of a temperature measuring device shall be located to measure the air temperature or a simulated product temperature in the warmest part of a mechanically refrigerated unit and in the coolest part of a hot food storage unit;

(2) Except as specified in paragraph (3), cold or hot holding equipment used for potentially hazardous food (time/temperature control for safety food) shall be designed to include and shall be equipped with at least one integral or permanently affixed temperature measuring device that is located to allow easy viewing of the device's temperature display;

(3) Paragraph (2) does not apply to equipment for which the placement of a temperature measuring device is not a practical means for measuring the ambient air surrounding the food because of the design, type, and use of the equipment, such as calrod units, heat lamps, cold plates, bainmaries, steam tables, insulated food transport containers, and salad bars;

(4) Temperature measuring devices shall be designed to be easily readable;

(5) Food temperature measuring devices and water temperature measuring devices on warewashing machines shall have a numerical scale, printed record, or digital readout in increments no

greater than two degrees Fahrenheit in the intended range of use.

(z) A warewashing machine shall be provided with an easily accessible and readable data plate affixed to the machine by the manufacturer that indicates the machine's design and operation specifications including the:

(1) Temperatures required for washing, rinsing, and sanitizing;

(2) Pressure required for the fresh water sanitizing rinse unless the machine is designed to use only a pumped sanitizing rinse; and

(3) Conveyor speed for conveyor machines or cycle time for stationary rack machines.

(aa) Warewashing machine wash and rinse tanks shall be equipped with baffles, curtains, or other means to minimize internal cross contamination of the solutions in wash and rinse tanks.

(bb) A warewashing machine shall be equipped with a temperature measuring device that indicates the temperature of the water:

(1) In each wash and rinse tank; and

(2) As the water enters the hot water sanitizing final rinse manifold or in the chemical sanitizing solution tank.

(cc) If hot water is used for sanitization in manual warewashing operations, the sanitizing compartment of the sink shall be:

(1) Designed with an integral heating device that is capable of maintaining water at a temperature not less than one hundred seventy-one degrees Fahrenheit; and

(2) Provided with a rack or basket to allow complete immersion of equipment and utensils into the hot water.

(dd) A warewashing machine that is installed shall be equipped to:

(1) Automatically dispense detergents and sanitizers; and

(2) Incorporate a visual means to verify that detergents and sanitizers are delivered or a visual or audible alarm to signal if the detergents and sanitizers are not delivered to the respective washing and sanitizing cycles.

(ee) Warewashing machines, flow pressure device.

(1) Warewashing machines that provide a fresh hot water sanitizing rinse shall be equipped with a

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pressure gauge or similar device such as a transducer that measures and displays the water pressure in the supply line immediately before entering the warewashing machine; and

(2) If the flow pressure measuring device is upstream of the fresh hot water sanitizing rinse control valve, the device shall be mounted in a one-fourth inch Iron Pipe Size (IPS) valve;

(3) Paragraphs (1) and (2) do not apply to a machine that uses only a pumped or recirculated sanitizing rinse.

(ff) Sinks and drainboards of warewashing sinks and machines shall be self-draining.

(gg) Equipment compartments that are subject to accumulation of moisture due to conditions such as condensation, food or beverage drip, or water from melting ice shall be sloped to an outlet that allows complete draining.

(hh) Vending machines, liquid waste products.

(1) Vending machines designed to store beverages that are packaged in containers made from paper products shall be equipped with diversion devices and retention pans or drains for container leakage;

(2) Vending machines that dispense liquid food in bulk shall be:

(A) Provided with an internally mounted waste receptacle for the collection of drip, spillage, overflow, or other internal wastes; and

(B) Equipped with an automatic shutoff device that will place the machine out of operation before the waste receptacle overflows;

(3) Shutoff devices specified in paragraph (2)(B) shall prevent water or liquid food from continuously running if there is a failure of a flow control device in the water or liquid food system or waste accumulation that could lead to overflow of the waste receptacle.

(ii) Vending machine, doors and openings.

(1) Vending machine doors and access opening covers to food and container storage spaces shall be tight-fitting so that the space along the entire interface between the doors or covers and the cabinet of the machine, if the doors or covers

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are in a closed position, is no greater than one-sixteenth inch by:

(A) Being covered with louvers, screens, or materials that provide an equivalent opening of not greater than one-sixteenth inch. Screening of sixteen mesh to one inch meets this requirement;

(B) Being effectively gasketed;

(C) Having interface surfaces that are at least one-half inch wide; or

(D) Jambs or surfaces used to form an L-shaped entry path to the interface;

(2) Vending machine service connection openings through an exterior wall of a machine shall be closed by sealants, clamps, or grommets so that the openings are no larger than 1.5 millimeters or one-sixteenth inch.

(jj) Food equipment that is certified or classified for sanitation by an American National Standards Institute (ANSI)-accredited certification program is deemed to comply with sections 11-50-45 and 11-50-46. [Eff FEB 24 2014] (Auth: HRS §321-11) (Imp: HRS §321-11)

§11-50-47 Numbers and 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 in subchapter 3.

(b) Manual warewashing, sink compartment requirements.

(1) Except as specified in paragraph (3), a sink with at least three compartments shall be provided for manually washing, rinsing, and sanitizing equipment and utensils;

(2) Sink compartments shall be large enough to accommodate immersion of the largest equipment and utensils. If equipment or utensils are too large for the warewashing sink, a warewashing machine or alternative equipment as specified in paragraph (3) shall be used;

(3) Alternative manual warewashing equipment may be used when there are special cleaning needs or constraints and its use is approved by the director. Alternative manual warewashing equipment may include:

(A) High-pressure detergent sprayers;

(B) Low- or line-pressure spray detergent foamers;
(C) Other task-specific cleaning equipment;
(D) Brushes or other implements;
(E) One or two-compartment sinks if only a limited number of utensils need to be washed; or
(F) Receptacles that substitute for the compartments of a multi-compartment sink.

(c) Drainboards, utensil racks, or tables large enough to accommodate all soiled and cleaned items that may accumulate during hours of operation shall be provided for necessary utensil holding before cleaning and after sanitizing.

(d) If required by law, ventilation hood systems and devices shall be sufficient in number and capacity to prevent grease or condensation from collecting on walls and ceilings.

(e) Clothes washers and dryers.
(1) Except as specified in paragraph (2), if work clothes or linens are laundered on the premises, a mechanical clothes washer and dryer shall be provided and used;
(2) If on-premises laundering is limited to wiping cloths intended to be used moist, or wiping cloths are air-dried as specified in section 11-50-53(b), a mechanical clothes washer and dryer need not be provided.

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

(g) Food temperature measuring devices.
(1) Food temperature measuring devices shall be provided and readily accessible for use in ensuring attainment and maintenance of food temperatures as specified in subchapter 3;
(2) 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.

(h) In manual warewashing operations, a temperature measuring device shall be provided and readily accessible for frequently measuring the washing and sanitizing temperatures. A test kit or other device that accurately

measures the concentration in parts per million of sanitizing solutions shall be provided. [Eff FEB 24 2014] (Auth: HRS §321-11) (Imp: HRS §321-11)

§11-50-48 Location and installation. (a) Equipment, clothes washers and dryers, and storage cabinets, contamination prevention.

(1) Except as specified in paragraph (2), equipment, a cabinet used for the storage of food, or a cabinet that is used to store cleaned and sanitized equipment, utensils, laundered linens, and single-service and single-use articles may not be located:
  (A) In locker rooms;
  (B) In toilet rooms;
  (C) In garbage rooms;
  (D) In mechanical rooms;
  (E) Under sewer lines that are not shielded to intercept potential drips;
  (F) Under leaking water lines including leaking automatic fire sprinkler heads or under lines on which water has condensed;
  (G) Under open stairwells; or
  (H) Under other sources of contamination;

(2) A storage cabinet used for linens or single-service or single-use articles may be stored in a locker room;

(3) If a mechanical clothes washer or dryer is provided, the washer or dryer shall be located so that it is protected from contamination and only where there is no exposed food; clean equipment, utensils, and linens; and unwrapped single-service and single-use articles.

(b) Fixed equipment, spacing or sealing.

(1) Equipment that is fixed because it is not easily movable shall be installed so that it is:
  (A) Spaced to allow access for cleaning along the sides, behind, and above the equipment;
  (B) Spaced from adjoining equipment, walls, and ceilings a distance of not more than one millimeter or one thirty-second inch; or
  (C) Sealed to adjoining equipment or walls, if the equipment is exposed to spillage or seepage;

(2) Counter-mounted equipment that is not easily movable shall be installed to allow cleaning of the equipment and areas underneath and around the equipment by being:
(A) Sealed; or
(B) Elevated on legs as specified in subsection (c)(4).

(c) Fixed equipment, elevation or sealing.
(1) Except as specified in paragraphs (2) and (3), floor-mounted equipment that is not easily movable shall be sealed to the floor or elevated on legs that provide at least a six inch clearance between the floor and the equipment;
(2) If no part of the floor under the floor-mounted equipment is more than six inches from the point of cleaning access, the clearance space may be only four inches;
(3) This section does not apply to display shelving units, display refrigeration units, and display freezer units located in the consumer shopping areas of a retail food store, if the floor under the units is maintained clean;
(4) Except as specified in paragraph (5), counter-mounted equipment that is not easily movable shall be elevated on legs that provide at least a four inch clearance between the table and the equipment;
(5) The clearance space between the table and counter-mounted equipment may be:
(A) Three inches if the horizontal distance of the table top under the equipment is no more than twenty inches from the point of access for cleaning; or
(B) Two inches if the horizontal distance of the table top under the equipment is no more than three inches from the point of access for cleaning. [Eff FEB 24 2014] (Auth: HRS §321-11) (Imp: HRS §321-11)

§11-50-49 Maintenance and operation. (a) Good repair and proper adjustment.
(1) Equipment shall be maintained in a state of repair and condition that meets the requirements specified in sections 11-50-45 and 11-50-46;

(2) Equipment components such as doors, seals, hinges, fasteners, and kick plates shall be kept intact, tight, and adjusted in accordance with manufacturer's specifications;

(3) Cutting or piercing parts of can openers shall be kept sharp to minimize the creation of metal fragments that can contaminate food when the container is opened.

(b) Surfaces such as cutting blocks and boards that are subject to scratching and scoring shall be resurfaced if they can no longer be effectively cleaned and sanitized, or discarded if they are not capable of being resurfaced.

(c) A warewashing machine; the compartments of sinks, basins, or other receptacles used for washing and rinsing equipment, utensils, or raw foods, or laundering wiping cloths; and drainboards or other equipment used to substitute for drainboards as specified in section 11-50-47(c) shall be cleaned:

(1) Before use;

(2) Throughout the day at a frequency necessary to prevent recontamination of equipment and utensils and to ensure that the equipment performs its intended function; and

(3) If used, at least every twenty-four hours.

(d) Warewashing machines, manufacturers' operating instructions.

(1) A warewashing machine and its auxiliary components shall be operated in accordance with the machine's data plate and other manufacturer's instructions;

(2) A warewashing machine's conveyor speed or automatic cycle times shall be maintained accurately timed in accordance with manufacturer's specifications.

(e) Warewashing sinks, use limitation.

(1) A warewashing sink may not be used for handwashing as specified in section 11-50-22(d);

(2) If a warewashing sink is used to wash wiping cloths, wash produce, or thaw food, the sink shall be cleaned as specified in subsection (c) before and after each time it is used to wash wiping cloths or wash produce or thaw food. Sinks used to wash or thaw food shall be sanitized as specified in section 11-50-51 before and after using the sink to wash produce or thaw food.

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(f) When used for warewashing, the wash compartment of a sink, mechanical warewasher, or wash receptacle of alternative manual warewashing equipment as specified in section 11-50-47(b)(3), shall contain a wash solution of soap, detergent, acid cleaner, alkaline cleaner, degreaser, abrasive cleaner, or other cleaning agent according to the cleaning agent manufacturer's label instructions.

(g) The wash, rinse, and sanitize solutions shall be maintained clean.

(h) The temperature of the wash solution in manual warewashing equipment shall be maintained at not less than one hundred ten degrees Fahrenheit or the temperature specified on the cleaning agent manufacturer's label instructions.

(i) Mechanical warewashing equipment, wash solution temperature.

(1) The temperature of the wash solution in spray type warewashers that use hot water to sanitize may not be less than:

(A) For a stationary rack, single temperature machine, one hundred sixty-five degrees Fahrenheit;

(B) For a stationary rack, dual temperature machine, one hundred fifty degrees Fahrenheit;

(C) For a single tank, conveyor, dual temperature machine, one hundred sixty degrees Fahrenheit; or

(D) For a multitank, conveyor, multitemperature machine, one hundred fifty degrees Fahrenheit;

(2) The temperature of the wash solution in spray-type warewashers that use chemicals to sanitize may not be less than one hundred twenty degrees Fahrenheit.

(j) If immersion in hot water is used for sanitizing in a manual operation, the temperature of the water shall be maintained at one hundred seventy-one degrees Fahrenheit or above.

(k) Mechanical warewashing equipment, hot water sanitization temperatures.

(1) Except as specified in paragraph (2), in a mechanical operation, the temperature of the fresh hot water sanitizing rinse as it enters the manifold may not be more than one hundred ninety-four degrees Fahrenheit, or less than:

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(A) For a stationary rack, single temperature machine, one hundred sixty-five degrees Fahrenheit; or

(B) For all other machines, one hundred eighty degrees Fahrenheit;

(2) The maximum temperature specified in paragraph (1), does not apply to the high pressure and temperature systems with wand-type, hand-held, spraying devices used for the in-place cleaning and sanitizing of equipment such as meat saws.

(l) The flow pressure of the fresh hot water sanitizing rinse in a warewashing machine, as measured in the water line immediately downstream or upstream from the fresh hot water sanitizing rinse control value, shall be within the range specified on the machine manufacturer's data plate and may not be less than five pounds per square inch or more than thirty pounds per square inch.

(m) A chemical sanitizer used in a sanitizing solution for a manual or mechanical operation at contact times specified in section 11-50-51(c)(3) shall meet the criteria specified in section 11-50-81(e), shall be used in accordance with the EPA registered label use instructions, and shall be used as follows:

(1) A chlorine solution shall have a minimum temperature based on the concentration and pH of the solution as listed in Table 49-1;

Table 49-1

Concentration Range mg/L	Minimum Temperature	
	pH 10 or less °F	pH 8 or less °F
25 to 49	120	120
50 to 99	100	75
100	55	55

(2) An iodine solution shall have a:

(A) Minimum temperature of sixty-eight degrees Fahrenheit;

(B) pH of 5.0 or less or a pH no higher than the level for which the manufacturer specifies the solution is effective; and

(C) Concentration between 12.5 milligram per liter and twenty-five milligram per liter;

(3) A quaternary ammonium compound solution shall:

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(A) Have a minimum temperature of seventy-five degrees Fahrenheit;

(B) Have a concentration as specified in section 11-50-81(e) and as indicated by the manufacturer's use directions included in the labeling; and

(C) Be used only in water with five hundred milligram per liter hardness or less or in water having a hardness no greater than specified by the EPA-registered label use instructions;

(4) If another solution of a chemical specified in paragraphs (1) to (3) is used, the permit holder shall demonstrate to the director that the solution achieves sanitization and the use of the solution shall be approved; or

(5) If a chemical sanitizer other than chlorine, iodine, or a quaternary ammonium compound is used, it shall be applied in accordance with the EPA-registered label use instructions.

(n) If a detergent-sanitizer is used to sanitize in a cleaning and sanitizing procedure where there is no distinct water rinse between the washing and sanitizing steps, the agent applied in the sanitizing step shall be the same detergent-sanitizer that is used in the washing step.

(o) Concentration of the sanitizing solution shall be accurately determined by using a test kit or other device.

(p) Good repair and calibration.

(1) Utensils shall be maintained in a state of repair or condition that complies with the requirements specified in sections 11-50-45 and 11-50-46 or shall be discarded;

(2) Food temperature measuring devices shall be calibrated in accordance with manufacturer's specifications as necessary to ensure their accuracy;

(3) Ambient air temperature, water pressure, and water temperature measuring devices shall be maintained in good repair and be accurate within the intended range of use.

(q) A food establishment without facilities specified in sections 11-50-50 and 11-50-51 for cleaning and sanitizing kitchenware and tableware shall provide only single-use kitchenware, single-service articles, and

single-use articles for use by food employees and single-service articles for use by consumers.

(r) Single-service and single-use articles, use limitation.

(1) Single-service and single-use articles may not be reused, except that the director may approve the reuse of single-use articles that meet the materials, durability, strength, and cleanability specifications in sections 11-50-45(a) and 11-50-46(a) and (c) for multiuse utensils;

(2) The bulk milk container dispensing tube shall be cut on the diagonal leaving no more than one inch protruding from the chilled dispensing head.

(s) Mollusk and crustacea shells may not be used more than once as serving containers. [Eff FEB 24 2014] (Auth: HRS §321-11) (Imp: HRS §321-11)

§11-50-50 Cleaning of equipment and utensils. (a) Equipment, food-contact surfaces, nonfood-contact surfaces, and utensils-objective.

(1) Equipment food-contact surfaces and utensils shall be clean to sight and touch;

(2) The food-contact surfaces of cooking equipment and pans shall be kept free of encrusted grease deposits and other soil accumulations;

(3) Nonfood-contact surfaces of equipment shall be kept free of an accumulation of dust, dirt, food residue, and other debris.

(b) Equipment food-contact surfaces and utensils-frequency.

(1) Equipment food-contact surfaces and utensils shall be cleaned:

(A) Except as specified in paragraph (2), before each use with a different type of raw animal food such as beef, fish, lamb, pork, or poultry;

(B) Each time there is a change from working with raw foods to working with ready-to-eat foods;

(C) Between uses with raw fruits and vegetables and with potentially hazardous food (time/temperature control for safety food);

(D) Before using or storing a food temperature measuring device; and

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(E) At any time during the operation when contamination may have occurred;

(2) Paragraph (1)(A) does not apply if the food-contact surface or utensil is in contact with a succession of different raw animal foods each requiring a higher cooking temperature as specified in section 11-50-33(a) than the previous food, such as preparing raw fish followed by cutting raw poultry on the same cutting board;

(3) Except as specified in paragraph (4), if used with potentially hazardous food (time/temperature control for safety food), equipment food-contact surfaces and utensils shall be cleaned throughout the day at least every four hours;

(4) Surfaces of utensils and equipment contacting potentially hazardous food (time/temperature control for safety food) may be cleaned less frequently than every four hours if:

(A) In storage, containers of potentially hazardous food (time/temperature control for safety food) and their contents are maintained at temperatures specified in subchapter 3 and the containers are cleaned when they are empty;

(B) Utensils and equipment are used to prepare food in a refrigerated room or area that is maintained at one of the temperatures in Table 50-1 and:

(i) The utensils and equipment are cleaned at the frequency in the following chart that corresponds to the temperature; and

Table 50-1

Temperature	Cleaning Frequency
41°F or less	24 hours
>41°F to 45°F	20 hours
>45°F to 50°F	16 hours
>50°F to 55°F	10 hours

(ii) The cleaning frequency based on the ambient temperature of the refrigerated room or area is documented in the food establishment;

(C) Containers in serving situations such as salad bars, delis, and cafeteria lines hold ready-to-eat potentially hazardous food (time/temperature control for safety food) that is maintained at the temperatures specified in subchapter 3, are intermittently combined with additional supplies of the same food that is at the required temperature, and the containers are cleaned at least every twenty-four hours;

(D) Temperature measuring devices are maintained in contact with food, such as when left in a container of deli food or in a roast, held at temperatures specified in subchapter 3;

(E) Equipment is used for storage of packaged or unpackaged food such as a reach-in refrigerator and the equipment is cleaned at a frequency necessary to preclude accumulation of soil residues;

(F) The cleaning schedule is approved based on consideration of:

(i) Characteristics of the equipment and its use;

(ii) The type of food involved;

(iii) The amount of food residue accumulation; and

(iv) The temperature at which the food is maintained during the operation and the potential for the rapid and progressive multiplication of pathogenic or toxigenic microorganisms that are capable of causing foodborne disease; or

(G) In-use utensils are intermittently stored in a container of water in which the water is maintained at one hundred thirty-five degrees Fahrenheit or more and the utensils and container are cleaned at least every twenty-four hours or at a frequency necessary to preclude accumulation of soil residues;

(5) Except when dry cleaning methods are used as specified in subsection (e), surfaces of utensils and equipment contacting food that is not

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potentially hazardous (time/temperature control for safety food) shall be cleaned:

(A) At any time when contamination may have occurred;

(B) At least every twenty-four hours for iced tea dispensers and consumer self-service utensils such as tongs, scoops, or ladles;

(C) Before restocking consumer self-service equipment and utensils such as condiment dispensers and display containers; and

(D) In equipment such as ice bins and beverage dispensing nozzles and enclosed components of equipment such as ice makers, cooking oil storage tanks and distribution lines, beverage and syrup dispensing lines or tubes, coffee bean grinders, and water vending equipment:

(i) At a frequency specified by the manufacturer; or

(ii) Absent manufacturer specifications, at a frequency necessary to preclude accumulation of soil or mold.

(c) Cooking and baking equipment.

(1) The food-contact surfaces of cooking and baking equipment shall be cleaned at least every twenty-four hours. This section does not apply to hot oil cooking and filtering equipment if it is cleaned as specified in subsection (b)(4)(F);

(2) The cavities and door seals of microwave ovens shall be cleaned at least every twenty-four hours by using the manufacturer's recommended cleaning procedure.

(d) Nonfood-contact surfaces of equipment shall be cleaned at a frequency necessary to preclude accumulation of soil residues.

(e) Dry cleaning.

(1) If used, dry cleaning methods such as brushing, scraping, and vacuuming shall contact only surfaces that are soiled with dry food residues that are not potentially hazardous (time/temperature control for safety food);

(2) Cleaning equipment used in dry cleaning food-contact surfaces may not be used for any other purpose.

(f) Precleaning.

(1) Food debris on equipment and utensils shall be scrapped over a waste disposal unit or garbage receptacle or shall be removed in a warewashing machine with a prewash cycle;

(2) If necessary for effective cleaning, utensils and equipment shall be preflushed, presoaked, or scrubbed with abrasives.

(g) Soiled items to be cleaned in a warewashing machine shall be loaded into racks, trays, or baskets or onto conveyors in a position that:

(1) Exposes the items to the unobstructed spray from all cycles; and

(2) Allows the items to drain.

(h) Wet cleaning.

(1) Equipment food-contact surfaces and utensils shall be effectively washed to remove or completely loosen soils by using the manual or mechanical means necessary such as the application of detergents containing wetting agents and emulsifiers; acid, alkaline, or abrasive cleaners; hot water; brushes; scouring pads; high-pressure sprays; or ultrasonic devices;

(2) The washing procedures selected shall be based on the type and purpose of the equipment or utensil, and on the type of soil to be removed.

(i) If washing in sink compartments or a warewashing machine is impractical such as when the equipment is fixed or the utensils are too large, washing shall be done by using alternative manual warewashing equipment as specified in section 11-50-47(b)(3) in accordance with the following procedures:

(1) Equipment shall be disassembled as necessary to allow access of the detergent solution to all parts;

(2) Equipment components and utensils shall be scrapped or rough cleaned to remove food particle accumulation; and

(3) Equipment and utensils shall be washed as specified in subsection (h)(1).

(j) Washed utensils and equipment shall be rinsed so that abrasives are removed and cleaning chemicals are removed or diluted through the use of water or a detergent-sanitizer solution by using one of the following procedures:

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(1) Use of a distinct, separate water rinse after washing and before sanitizing if using:
  (A) A three-compartment sink;
  (B) Alternative manual warewashing equipment equivalent to a three-compartment sink as specified in section 11-50-47(b)(3); or
  (C) A three-step washing, rinsing, and sanitizing procedure in a warewashing system for CIP equipment;

(2) Use of a detergent-sanitizer as specified in section 11-50-49(n) if using:
  (A) Alternative warewashing equipment as specified in section 11-50-47(b)(3) that is approved for use with a detergent sanitizer; or
  (B) A warewashing system for CIP equipment;

(3) Use of a nondistinct water rinse that is integrated in the hot water sanitization immersion step of a two-compartment sink operation;

(4) If using a warewashing machine that does not recycle the sanitizing solution as specified in paragraph (5), or alternative manual warewashing equipment such as sprayers, use of a nondistinct water rinse that is:
  (A) Integrated in the application of the sanitizing solution; and
  (B) Wasted immediately after each application; or

(5) If using a warewashing machine that recycles the sanitizing solution for use in the next wash cycle, use of a nondistinct water rinse that is integrated in the application of the sanitizing solution.

(k) Returnables, cleaning for refilling.

(1) Except as specified in paragraphs (2) and (3), returned empty containers intended for cleaning and refilling with food shall be cleaned and refilled in a regulated food processing plant;

(2) A food-specific container for beverages may be refilled at a food establishment if:
  (A) Only a beverage that is not a potentially hazardous food (time/temperature control for safety food) is used as specified in section 11-50-32(p)(1);

(B) The design of the container and of the rinsing equipment and the nature of the beverage, when considered together, allow effective cleaning at home or in the food establishment;

(C) Facilities for rinsing before refilling returned containers with fresh, hot water that is under pressure and not recirculated are provided as part of the dispensing system;

(D) The consumer-owned container returned to the food establishment for refilling is refilled for sale or service only to the same consumer; and

(E) The container is refilled by:

(i) An employee of the food establishment; or

(ii) The owner of the container if the beverage system includes a contamination-free transfer process that cannot be bypassed by the container owner;

(3) Consumer-owned containers that are not food-specific may be filled at a water vending machine or system. [Eff FEB 24 2014] (Auth: HRS §321-11) (Imp: HRS §321-11)

§11-50-51 Sanitization of equipment and utensils. (a) Equipment food-contact surfaces and utensils shall be sanitized.

(b) Utensils and food-contact surfaces of equipment shall be sanitized before use after cleaning.

(c) After being cleaned, equipment food-contact surfaces and utensils shall be sanitized in:

(1) Hot water manual operations by immersion for at least thirty seconds and as specified in section 11-50-49(j);

(2) Hot water mechanical operations by being cycled through equipment that is set up as specified in section 11-50-49(d), (k), and (l) and achieving a utensil surface temperature of one hundred sixty degrees Fahrenheit as measured by an irreversible registering temperature indicator; or

(3) Chemical manual or mechanical operations, including the application of sanitizing chemicals

by immersion, manual swabbing, brushing, or pressure spraying methods, using a solution as specified in section 11-50-49(m). Contact times shall be consistent with those on EPA-registered label use instructions by providing:

(A) Except as specified in subparagraph (B), a contact time of at least ten seconds for a chlorine solution specified in section 11-50-49(m)(1);

(B) A contact time of at least seven seconds for a chlorine solution of fifty mg/L that has a pH of ten or less and a temperature of at least one hundred degrees Fahrenheit or a pH of 8.0 or less and a temperature of at least seventy-five degrees Fahrenheit;

(C) A contact time of at least thirty seconds for other chemical sanitizing solutions; or

(D) A contact time used in relationship with a combination of temperature, concentration, and pH that, when evaluated for efficacy, yields sanitization as defined in section 11-50-2. [Eff FEB 24 2014] (Auth: HRS §321-11) (Imp: HRS §321-11)

§11-50-52 Laundering. (a) Clean linens shall be free from food residues and other soiling matter.

(b) Specifications.

(1) Linens that do not come in direct contact with food shall be laundered between operations if they become wet, sticky, or visibly soiled;

(2) Cloth gloves used as specified in section 11-50-32(n)(4) shall be laundered before being used with a different type of raw animal food such as beef, fish, lamb, pork or poultry;

(3) Linens and napkins that are used as specified in section 11-50-32(l) and cloth napkins shall be laundered between each use;

(4) Wet wiping cloths shall be laundered daily;

(5) Dry wiping cloths shall be laundered as necessary to prevent contamination of food and clean serving utensils.

(c) Soiled linens shall be kept in clean, nonabsorbent receptacles or clean, washable laundry bags and stored and transported to prevent contamination of

food, clean equipment, clean utensils, and single-service and single-use articles.

(d) Mechanical washing.

(1) Except as specified in paragraph (2), linens shall be mechanically washed;

(2) In food establishments in which only wiping cloths are laundered as specified in section 11-50-47(e)(2), the wiping cloths may be laundered in a mechanical washer, sink designated only for laundering wiping cloths, or a warewashing or food preparation sink that is cleaned as specified in section 11-50-49(c).

(e) Use of laundry facilities.

(1) Except as specified in paragraph (2), laundry facilities on the premises of a food establishment shall be used only for the washing and drying of items used in the operation of the establishment;

(2) Separate laundry facilities located on the premises for the purpose of general laundering such as for institutions providing boarding and lodging may also be used for laundering food establishment items. [Eff FEB 24 2014] (Auth: HRS §321-11) (Imp: HRS §321-11)

§11-50-53 Protection of clean items. (a) After cleaning and sanitizing, equipment and utensils:

(1) Shall be air-dried or used after adequate draining as specified in the first paragraph of 40 CFR 180.940, entitled "Tolerance exemptions for active and inert ingredients for use in antimicrobial formulations (food-contact surface sanitizing solutions)", before contact with food; and

(2) May not be cloth dried except that utensils that have been air-dried may be polished with cloths that are maintained clean and dry.

(b) Wiping cloths laundered in a food establishment that does not have a mechanical clothes dryer as specified in section 11-50-47(e)(2) shall be air-dried in a location and in a manner that prevents contamination of food, equipment, utensils, linens, and single-service and single-use articles and the wiping cloths. This section does not apply if wiping cloths are stored after laundering in a sanitizing solution as specified in section 11-50-49(m).

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(c) Lubricants as specified in section 11-50-81(i) shall be applied to food-contact surfaces that require lubrication in a manner that does not contaminate food-contact surfaces.

(d) Equipment shall be reassembled so that food-contact surfaces are not contaminated.

(e) Equipment, utensils, linens, and single-service and single-use articles.

(1) Except as specified in paragraph (4), cleaned equipment and utensils, laundered linens, and single-service and single-use articles shall be stored:
  (A) In a clean, dry location;
  (B) Where they are not exposed to splash, dust, or other contamination; and
  (C) At least six inches above the floor;

(2) Clean equipment and utensils shall be stored as specified in paragraph (1) and shall be stored:
  (A) In a self-draining position that allows air drying; and
  (B) Covered or inverted;

(3) Single-service and single-use articles shall be stored as specified in paragraph (1) and shall be kept in the original protective package or stored by using other means that afford protection from contamination until used;

(4) Items that are kept in closed packages may be stored less than six inches above the floor on dollies, pallets, racks, and skids that are designed as specified in section 11-50-46(ii).

(f) Prohibitions.

(1) Except as specified in paragraph (2), cleaned and sanitized equipment, utensils, laundered linens, and single-service and single-use articles may not be stored:
  (A) In locker rooms;
  (B) In toilet rooms;
  (C) In garbage rooms;
  (D) In mechanical rooms;
  (E) Under sewer lines that are not shielded to intercept potential drips;
  (F) Under leaking water lines including leaking automatic fire sprinkler heads or under lines on which water has condensed;
  (G) Under open stairwells; or
  (H) Under other sources of contamination;

(2) Laundered linens and single-service and single-use articles that are packaged or in a facility such as a cabinet may be stored in a locker room.

(g) Kitchenware and tableware.

(1) Single-service and single-use articles and cleaned and sanitized utensils shall be handled, displayed, and dispensed so that contamination of food- and lip-contact surfaces is prevented;

(2) Knives, forks, and spoons that are not prewrapped shall be presented so that only the handles are touched by employees and by consumers if consumer self-service is provided;

(3) Except as specified in paragraph (2), single-service articles that are intended for food- or lip-contact shall be furnished for consumer self-service with the original individual wrapper intact or from an approved dispenser.

(h) Soiled tableware shall be removed from consumer eating and drinking areas and handled so that clean tableware is not contaminated.

(i) Preset tableware.

(1) Except as specified in paragraph (2), tableware that is preset shall be protected from contamination by being wrapped, covered, or inverted;

(2) Preset tableware may be exposed if:

(A) Unused settings are removed when a consumer is seated; or

(B) Settings not removed when a consumer is seated are cleaned and sanitized before further use.

(j) After being cleaned and sanitized, equipment and utensils shall not be rinsed before air drying or use unless:

(1) The rinse is applied directly from a potable water supply by a warewashing machine that is maintained and operated as specified in sections 11-50-46(n) to (jj)and 11-50-49(a) to (o); and

(2) The rinse is applied only after the equipment and utensils have been sanitized by the application of hot water or by the application of a chemical sanitizer solution whose EPA registered label use instructions call for rinsing off the sanitizer after it is applied in a commercial warewashing machine. [Eff FEB 24 2014] (Auth: HRS §321-11) (Imp: HRS §321-11)

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§§11-50-54 to 11-50-59 (Reserved).

SUBCHAPTER 5

WATER, PLUMBING, AND WASTE

§11-50-60 Water. (a) Drinking water shall be obtained from an approved source that is:

(1) A public water system; or

(2) A nonpublic water system that is constructed, maintained, and operated according to law.

(b) A drinking water system shall be flushed and disinfected before being placed in service, after construction, repair, or modification and after an emergency situation, such as a flood, that may introduce contaminants to the system.

(c) Bottled drinking water used or sold in a food establishment shall be obtained from approved sources in accordance with 21 CFR 129, entitled "Processing and bottling of bottled drinking water".

(d) Standards. Except as specified in subsection (e):

(1) Water from a public water system shall meet 40 CFR 141, entitled "National primary drinking water regulations" and state drinking water quality standards; and

(2) Water from a nonpublic water system shall meet state drinking water quality standards.

(e) Nondrinking water.

(1) A nondrinking water supply shall be used only if its use is approved;

(2) Nondrinking water shall be used only for nonculinary purposes such as air conditioning, nonfood equipment cooling, and fire protection.

(f) Except when used as specified in subsection (e), water from a nonpublic water system shall be sampled and tested as required by the department.

(g) The most recent sample report for the nonpublic water system shall be retained on file in the food establishment or the report shall be maintained as specified by state water quality regulations.

(h) Capacity.

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(1) The water source and system shall be of sufficient capacity to meet the peak water demands of the food establishment;

(2) Hot water generation and distribution systems shall be sufficient to meet the peak hot water demands throughout the food establishment.

(i) Water under pressure shall be provided to all fixtures, equipment, and nonfood equipment that are required to use water except that water supplied as specified in subsection (k)(1)and (2) to a temporary food establishment or in response to a temporary interruption of a water supply need not be under pressure.

(j) Water shall be received from the source through the use of:

(1) An approved public water main; or

(2) One or more of the following that shall be constructed, maintained, and operated according to law:

(A) Nonpublic water main, water pumps, pipes, hoses, connections, and other appurtenances;

(B) Water transport vehicles or other approved water transport delivery system; or

(C) Water containers.

(k) Water meeting the requirements specified in subsections (a) to (i) shall be made available for a mobile facility, for a temporary food establishment without a permanent water supply, and for a food establishment with a temporary interruption of its water supply through:

(1) A supply of containers of commercially bottled drinking water;

(2) One or more closed portable water containers;

(3) An enclosed vehicular water tank; or

(4) An on-premises water storage tank.

[Eff FEB 2 4 2014] (Auth: HRS §321-11) (Imp: HRS §321-11)

§11-50-61 Plumbing system. (a) Approved.

(1) A plumbing system and hoses conveying water shall be constructed and repaired with approved materials according to law;

(2) A water filter shall be made of safe materials.

(b) Approved system and cleanable fixtures.

(1) A plumbing system shall be designed, constructed, and installed according to law;

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(2) A plumbing fixture such as a handwashing sink, toilet, or urinal shall be easily cleanable.

(c) Handwashing sink, installation.

(1) A handwashing sink if provided with hot water shall be equipped with a mixing valve or combination faucet;

(2) A steam mixing valve may not be used at a handwashing sink;

(3) A self-closing, slow-closing, or metering faucet shall provide a flow of water for at least fifteen seconds without the need to reactivate the faucet;

(4) An automatic handwashing facility shall be installed in accordance with manufacturer's instructions;

(5) Faucets shall provide a sufficient flow of water to permit proper washing and rinsing of hands.

(d) An air gap between the water supply inlet and the flood level rim of the plumbing fixture, equipment, or nonfood equipment shall be at least twice the diameter of the water supply inlet and may not be less than one inch.

(e) A backflow or backsiphonage prevention device installed on a water supply system shall meet American Society of Sanitary Engineering (A.S.S.E.) standards for construction, installation, maintenance, inspection, and testing for that specific application and type of device.

(f) A water filter, screen, and other water conditioning device installed on water lines shall be designed to facilitate disassembly for periodic servicing and cleaning. A water filter element shall be of the replaceable type.

(g) Handwashing sinks.

(1) Except as specified in paragraph (2), at least one handwashing sink, a number of handwashing sinks necessary for their convenient use by employees in areas specified in subsection (1), and not fewer than the number of handwashing sinks required by law shall be provided;

(2) If approved and capable of removing the types of soils encountered in the food operations involved, automatic handwashing facilities may be substituted for handwashing sinks in a food establishment that has at least one handwashing sink.

(h) At least one toilet and not fewer than the toilets required by law shall be provided.

(i) Facilities for disposal of mop water and similar liquid waste shall be provided. At least one service sink or one curbed cleaning facility equipped with a floor drain shall be provided and conveniently located for the cleaning of mops or similar wet floor cleaning tools and for the disposal of mop water and similar liquid waste for newly constructed or extensively remodeled establishments; except that the director may waive this requirement if an alternative liquid waste disposal facility is readily available.

(j) A plumbing system shall be installed to preclude backflow of a solid, liquid, or gas contaminant into the water supply system at each point of use at the food establishment, including on a hose bibb if a hose is attached or on a hose bibb if a hose is not attached and backflow prevention is required by law, by:

(1) Providing an air gap as specified in subsection (d); or

(2) Installing an approved backflow prevention device as specified in subsection (e).

(k) Backflow prevention device, carbonator.

(1) If not provided with an air gap as specified in subsection (d), a dual check valve with an intermediate vent preceded by a screen of not less than one hundred mesh to one inch shall be installed upstream from a carbonating device and downstream from any copper in the water supply line;

(2) A dual check valve attached to the carbonator need not be of the vented type if an air gap or vented backflow prevention device has been otherwise provided as specified in paragraph (1).

(l) A handwashing sink shall be located:

(1) To allow convenient use by employees in food preparation, food dispensing, and warewashing areas; and

(2) In, or immediately adjacent to, toilet rooms.

(m) A backflow prevention device shall be located so that it may be serviced and maintained.

(n) A water filter, screen, and other water conditioning device installed on water lines shall be located to facilitate disassembly for periodic servicing and cleaning.

(o) Using a handwashing sink.

(1) A handwashing sink shall be maintained so that it is accessible at all times for employee use;

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(2) A handwashing sink may not be used for purposes other than handwashing;
(3) An automatic handwashing facility shall be used in accordance with manufacturer's instructions.
(p) Prohibiting a cross connection.
(1) A person may not create a cross connection by connecting a pipe or conduit between the drinking water system and a nondrinking water system or a water system of unknown quality;
(2) The piping of a nondrinking water system shall be durably identified so that it is readily distinguishable from piping that carries drinking water.
(q) Water reservoir of fogging devices, cleaning.
(1) A reservoir that is used to supply water to a device such as a produce fogger shall be:
  (A) Maintained in accordance with manufacturer's specifications; and
  (B) Cleaned in accordance with manufacturer's specifications or according to the procedures specified in paragraph (2), whichever is more stringent;
(2) Cleaning procedures shall include at least the following steps and shall be conducted at least once a week:
  (A) Draining and complete disassembly of the water and aerosol contact parts;
  (B) Brush-cleaning the reservoir, aerosol tubing, and discharge nozzles with a suitable detergent solution;
  (C) Flushing the complete system with water to remove the detergent solution and particulate accumulation; and
  (D) Rinsing by immersing, spraying, or swabbing the reservoir, aerosol tubing, and discharge nozzles with at least fifty mg/L hypochlorite solution.
(r) A plumbing system shall be:
(1) Repaired according to law; and
(2) Maintained in good repair. [Eff FEB 24 2014] (Auth: HRS §321-11) (Imp: HRS §321-11)

§11-50-62 Mobile water tank and mobile food establishment water tank. (a) Materials that are used in

the construction of a mobile water tank, mobile food establishment water tank, and appurtenances shall be:

(1) Safe;

(2) Durable, corrosion-resistant, and nonabsorbent; and

(3) Finished to have a smooth, easily cleanable surface.

(b) A mobile water tank shall be:

(1) Enclosed from the filling inlet to the discharge outlet; and

(2) Sloped to an outlet that allows complete drainage of the tank.

(c) If a water tank is designed with an access port for inspection and cleaning, the opening shall be in the top of the tank and:

(1) Flanged upward at least 0.5 inch; and

(2) Equipped with a port cover assembly that is:

(A) Provided with a gasket and a device for securing the cover in place; and

(B) Flanged to overlap the opening and sloped to drain.

(d) A fitting with "V" type threads on a water tank inlet or outlet shall be allowed only when a hose is permanently attached.

(e) If provided, a water tank vent shall terminate in a downward direction and shall be covered with:

(1) Sixteen mesh to one inch screen or equivalent when the vent is in a protected area; or

(2) A protective filter when the vent is in an area that is not protected from windblown dirt and debris.

(f) Inlet and outlet, sloped to drain.

(1) A water tank and its inlet and outlet shall be sloped to drain;

(2) A water tank inlet shall be positioned so that it is protected from contaminants such as waste discharge, road dust, oil, or grease.

(g) A hose used for conveying drinking water from a water tank shall be:

(1) Safe;

(2) Durable, corrosion-resistant, and nonaborbent;

(3) Resistant to pitting, chipping, crazing, scratching, scoring, distortion, and decomposition;

(4) Finished with a smooth interior surface; and

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(5) Clearly and durably identified as to its use if not permanently attached.

(h) A filter that does not pass oil or oil vapors shall be installed in the air supply line between the compressor and drinking water system when compressed air is used to pressurize the water tank system.

(i) A cap and keeper chain, closed cabinet, closed storage tube, or other approved protective cover or device shall be provided for a water inlet, outlet, and hose.

(j) A water tank, pump, and hoses shall be flushed and sanitized before being placed in service after construction, repair, modification, and periods of nonuse.

(k) A person shall operate a water tank, pump, and hoses so that backflow and other contamination of the water supply are prevented.

(l) If not in use, a water tank and hose inlet and outlet fitting shall be protected using a cover or device as specified in subsection (i).

(m) Tank, pump, and hoses, dedication.

(1) Except as specified in paragraph (2), a water tank, pump, and hoses used for conveying drinking water shall be used for no other purpose;

(2) Water tanks, pumps, and hoses approved for liquid foods may be used for conveying drinking water if they are cleaned and sanitized before they are used to convey water. [Eff FEB 24 2014] (Auth: HRS §321-11) (Imp: HRS §321-11)

§11-50-63 Sewage, other liquid waste, and rainwater. (a) A sewage holding tank in a mobile food establishment shall be:

(1) Sized fifteen per cent larger in capacity than the water supply tank; and

(2) Provided with a tank bottom that is sloped down to an outlet with a shut-off valve to permit complete drainage of the tank, except for those tanks that are readily removable.

(b) Food establishment drainage systems, including grease traps, that convey sewage shall be designed and installed as specified in section 11-50-61(b)(1).

(c) Backflow prevention.

(1) Except as specified in paragraphs (2), (3) and (4), a direct connection may not exist between the sewage system and a drain originating from

equipment in which food, portable equipment, or utensils are placed;

(2) Paragraph (1) does not apply to floor drains that originate in refrigerated spaces that are constructed as an integral part of the building;

(3) If allowed by law, a warewashing machine may have a direct connection between its waste outlet and a floor drain when the machine is located within five feet of a trapped floor drain and the machine outlet is connected to the inlet side of a properly vented floor drain trap;

(4) If allowed by law, a warewashing or culinary sink may have a direct connection.

(d) If used, a grease trap shall be located to be easily accessible for cleaning.

(e) Sewage shall be conveyed to the point of disposal through an approved sanitary sewage system or other system, including use of sewage transport vehicles, waste retention tanks, pumps, pipes, hoses, and connections that are constructed, maintained, and operated according to law.

(f) Sewage and other liquid wastes shall be removed from a mobile food establishment at an approved waste servicing area or by a sewage transport vehicle in such a way that a public health hazard or nuisance is not created.

(g) A tank for liquid waste retention shall be thoroughly flushed and drained in a sanitary manner during the servicing operation.

(h) Sewage shall be disposed through an approved facility that is:

(1) A public sewage treatment plant; or

(2) An individual sewage disposal system that is sized, constructed, maintained, and operated according to law.

(i) Condensate drainage and other nonsewage liquids and rainwater shall be drained from point of discharge to disposal according to law. [Eff FEB 24 2014] (Auth: HRS §321-11) (Imp: HRS §321-11)

§11-50-64 Refuse, recyclables, and returnables. (a) If located within the food establishment, a storage area for refuse, recyclables, and returnables shall meet the requirements specified in sections 11-50-70 and 11-50-71(a) to (h), (m), and (n).

(b) An outdoor storage surface for refuse, recyclables, and returnables shall be constructed of

nonabsorbent material such as concrete or asphalt and shall be smooth, durable, and sloped to drain.

(c) If used, an outdoor enclosure for refuse, recyclables, and returnables shall be constructed of durable and cleanable materials.

(d) Receptacles.

(1) Except as specified in paragraph (2), receptacles and waste handling units for refuse, recyclables, and returnables and for use with materials containing food residue shall be durable, cleanable, insect- and rodent-resistant, leakproof, and nonabsorbent;

(2) Plastic bags and wet strength paper bags may be used to line receptacles for storage inside the food establishment, or within closed outside receptacles.

(e) Except for a receptacle for beverage bottle crown closures, a refuse receptacle may not be located within a vending machine.

(f) Outside receptacles.

(1) Receptacles and waste handling units for refuse, recyclables, and returnables used with materials containing food residue and used outside the food establishment shall be designed and constructed to have tight-fitting lids, doors, or covers;

(2) Receptacles and waste handling units for refuse and recyclables such as an on-site compactor shall be installed so that accumulation of debris and insect and rodent attraction and harborage are minimized and effective cleaning is facilitated around and, if the unit is not installed flush with the base pad, under the unit.

(g) Storage areas, rooms, and receptacles, capacity and availability.

(1) An inside storage room and area and outside storage area and enclosure, and receptacles shall be of sufficient capacity to hold refuse, recyclables, and returnables that accumulate;

(2) A receptacle shall be provided in each area of the food establishment or premises where refuse is generated or commonly discarded, or where recyclables or returnables are placed;

(3) If disposable towels are used at handwashing lavatories, a waste receptacle shall be located at each lavatory or group of adjacent lavatories.

(h) A toilet room used by females shall be provided with a covered receptacle for sanitary napkins.

(i) Cleaning implements and supplies.

(1) Except as specified in paragraph (2), suitable cleaning implements and supplies such as high pressure pumps, hot water, steam, and detergent shall be provided as necessary for effective cleaning of receptacles and waste handling units for refuse, recyclables, and returnables;

(2) If approved, off-premises-based cleaning services may be used if on-premises cleaning implements and supplies are not provided.

(j) Storage areas, redeeming machines, receptacles and waste handling units, location.

(1) An area designated for refuse, recyclables, returnables, and, except as specified in paragraph (2), a redeeming machine for recyclables or returnables shall be located so that it is separate from food, equipment, utensils, linens, and single-service and single-use articles and a public health hazard or nuisance is not created;

(2) A redeeming machine may be located in the packaged food storage area or consumer area of a food establishment if food, equipment, utensils, linens, and single-service and single-use articles are not subject to contamination from the machines and a public health hazard or nuisance is not created;

(3) The location of receptacles and waste handling units for refuse, recyclables, and returnables may not create a public health hazard or nuisance or interfere with the cleaning of adjacent space.

(k) Refuse, recyclables, and returnables shall be stored in receptacles or waste handling units so that they are inaccessible to insects and rodents.

(l) Storage areas, enclosures, and receptacles for refuse, recyclables, and returnables shall be maintained in good repair.

(m) Outside storage prohibitions.

(1) Except as specified in paragraph (2), refuse receptacles not meeting the requirements specified in subsection (d)(1) such as receptacles that are not rodent-resistant, unprotected plastic bags and paper bags, or baled

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units that contain materials with food residue may not be stored outside;

(2) Cardboard or other packaging material that does not contain food residues and that is awaiting regularly scheduled delivery to a recycling or disposal site may be stored outside without being in a covered receptacle if it is stored so that it does not create a rodent harborage problem.

(n) Receptacles and waste handling units for refuse, recyclables, and returnables shall be kept covered:

(1) Inside the food establishment if the receptacles and units:

(A) Contain food residue and are not in continuous use; or

(B) After they are filled; and

(2) With tight-fitting lids or doors if kept outside the food establishment.

(o) Drains in receptacles and waste handling units for refuse, recyclables, and returnables shall have drain plugs in place.

(p) A storage area and enclosure for refuse, recyclables, or returnables shall be maintained free of unnecessary items, as specified in section 11-50-74(n), and clean.

(q) Cleaning receptacles.

(1) Receptacles and waste handling units for refuse, recyclables, and returnables shall be thoroughly cleaned in a way that does not contaminate food, equipment, utensils, linens, or single-service and single-use articles, and waste water shall be disposed of as specified in section 11-50-63(e);

(2) Soiled receptacles and waste handling units for refuse, recyclables, and returnables shall be cleaned at a frequency necessary to prevent them from developing a buildup of soil or becoming attractants for insects and rodents.

(r) Refuse, recyclables, and returnables shall be removed from the premises at a frequency that will minimize the development of objectionable odors and other conditions that attract or harbor insects and rodents.

(s) Refuse, recyclables, and returnables shall be removed from the premises by way of:

(1) Portable receptacles that are constructed and maintained according to law; or

(2) A transport vehicle that is constructed, maintained, and operated according to law.

(t) Solid waste not disposed of through the sewage system such as through grinders and pulpers shall be recycled or disposed of in an approved public or private community recycling or refuse facility; or solid waste shall be disposed of in an individual refuse facility such as a landfill or incinerator which is sized, constructed, maintained, and operated according to law. [Eff FEB 24 2014] (Auth: HRS §321-11) (Imp: HRS §321-11)

§§11-50-65 to 11-50-69 (Reserved).

SUBCHAPTER 6

PHYSICAL FACILITIES

§11-50-70 Materials for construction and repair. Materials for indoor floor, wall, and ceiling surfaces under conditions of normal use shall be:

(1) Smooth, durable, and easily cleanable for areas where food establishment operations are conducted;
(2) Closely woven and easily cleanable carpet for carpeted areas; and
(3) Nonabsorbent for areas subject to moisture such as food preparation areas, walk-in refrigerators, warewashing areas, toilet rooms, mobile food establishment servicing areas, and areas subject to flushing or spray cleaning methods. [Eff FEB 24 2014] (Auth: HRS §321-11) (Imp: HRS §321-11)

§11-50-71 Design, construction, and installation. (a) Except as specified in subsection (d) and except for antislip floor coverings or applications that may be used for safety reasons, floors, floor coverings, walls, wall coverings, and ceilings shall be designed, constructed, and installed so they are smooth and easily cleanable.

(b) Floors, walls, and ceilings, utility lines.
(1) Utility service lines and pipes may not be unnecessarily exposed;

(2) Exposed utility service lines and pipes shall be installed so they do not obstruct or prevent cleaning of the floors, walls, or ceilings;

(3) Exposed horizontal utility service lines and pipes may not be installed on the floor.

(c) Floor and wall junctures, coved, and enclosed or sealed.

(1) In food establishments in which cleaning methods other than water flushing are used for cleaning floors, the floor and wall junctures shall be coved or closed to no larger than one thirty-second inch;

(2) The floors in food establishments in which water flush cleaning methods are used shall be provided with drains and be graded to drain, and the floor and wall junctures shall be coved and sealed.

(d) Floor carpeting, restrictions and installation.

(1) A floor covering such as carpeting or similar material may not be installed as a floor covering in food preparation areas, walk-in refrigerators, warewashing areas, toilet room areas where handwashing lavatories, toilets, and urinals are located, refuse storage rooms, or other areas where the floor is subject to moisture, flushing, or spray cleaning methods;

(2) If carpeting is installed as a floor covering in areas other than those specified in paragraph (1), it shall be:

(A) Securely attached to the floor with a durable mastic, by using a stretch and tack method, or by another method; and

(B) Installed tightly against the wall under the coving or installed away from the wall with a space between the carpet and the wall and with the edges of the carpet secured by metal stripping or some other means.

(e) Mats and duckboards shall be designed to be removable and easily cleanable.

(f) Wall and ceiling coverings and coatings.

(1) Wall and ceiling covering materials shall be attached so that they are easily cleanable;

(2) Except in areas used only for dry storage, concrete, porous blocks, or bricks used for indoor wall construction shall be finished and

sealed to provide a smooth, nonabsorbent, easily cleanable surface.

(g) Walls and ceilings, attachments.

(1) Except as specified in paragraph (2), attachments to walls and ceilings such as light fixtures, mechanical room ventilation system components, vent covers, wall mounted fans, decorative items, and other attachments shall be easily cleanable;

(2) In a consumer area, wall and ceiling surfaces and decorative items and attachments that are provided for ambiance need not meet this requirement if they are kept clean.

(h) Except for temporary food establishments, studs, joists, and rafters may not be exposed in areas subject to moisture.

(i) Light bulbs, protective shielding.

(1) Except as specified in paragraph (2), light bulbs shall be shielded, coated, or otherwise shatter-resistant in areas where there is exposed food; clean equipment, utensils, and linens; or unwrapped single-service and single-use articles;

(2) Shielded, coated, or otherwise shatter-resistant bulbs need not be used in areas used only for storing food in unopened packages, if:

(A) The integrity of the packages cannot be affected by broken glass falling onto them; and

(B) The packages are capable of being cleaned of debris from broken bulbs before the packages are opened;

(3) An infrared or other heat lamp shall be protected against breakage by a shield surrounding and extending beyond the bulb so that only the face of the bulb is exposed.

(j) Heating, ventilating, and air conditioning systems shall be designed and installed so that make-up air intake and exhaust vents do not cause contamination of food, food-contact surfaces, equipment, or utensils.

(k) Insect control devices, design and installation.

(1) Insect control devices that are used to electrocute or stun flying insects shall be designed to retain the insect within the device;

(2) Insect control devices shall be installed so that:

(A) The devices are not located over a food preparation area; and

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(B) Dead insects and insect fragments are prevented from being impelled onto or falling on exposed food; clean equipment, utensils, and linens; and unwrapped single-service and single-use articles.

(l) Except where a toilet room is located outside a food establishment and does not open directly into the food establishment such as a toilet room that is provided by the management of a shopping mall, a toilet room located on the premises shall be completely enclosed and provided with a tight-fitting and self-closing door.

(m) Outer openings, protected.

(1) Except as specified in paragraphs (2) to (5), outer openings of a food establishment shall be protected against the entry of insects and rodents by:

(A) Filling or closing holes and other gaps along floors, walls, and ceilings;

(B) Closed, tight-fitting windows; and

(C) Solid, self-closing, tight-fitting doors;

(2) Paragraph (1) does not apply if a food establishment opens into a larger structure, such as a mall, airport, or office building, or into an attached structure, such as a porch, and the outer openings from the larger or attached structure are protected against the entry of insects and rodents;

(3) Exterior doors used as exits need not be self-closing if they are:

(A) Solid and tight-fitting;

(B) Designated for use only when an emergency exists, by the fire protection authority that has jurisdiction over the food establishment; and

(C) Limited-use so they are not used for entrance or exit from the building for purposes other than the designated emergency exit use;

(4) Except as specified in paragraphs (2) and (5), if the windows or doors of a food establishment, or of a larger structure within which a food establishment is located, are kept open for ventilation or other purposes or a temporary food establishment is not provided with windows and doors as specified in paragraph (1), the openings

shall be protected against the entry of insects, rodents and other pests by:

(A) Sixteen mesh to one inch screens;

(B) Properly designed and installed air curtains to control flying insects; or

(C) Other effective means;

(5) Paragraph (4) does not apply if flying insects and other pests are absent due to the location of the establishment, the weather, or other limiting condition;

(6) The requirements of this section may be waived or modified when alternative controls acceptable to the director are utilized to ensure that all food and food-contact surfaces of equipment and utensils are effectively protected against contamination, and no other public health hazards will result from the conduct of the operation.

(n) Perimeter walls and roofs of a food establishment shall effectively protect the establishment from the weather and the entry of insects, rodents, and other animals.

(o) Except for machines that vend canned beverages, if located outside, a machine used to vend food shall be provided with overhead protection.

(p) Except for areas used only for the loading of water or the discharge of sewage and other liquid waste, through the use of a closed system of hoses, servicing areas shall be provided with overhead protection.

(q) Exterior walking and driving surfaces shall be graded to drain.

(r) Outdoor refuse areas shall be constructed in accordance with law and shall be curbed and graded to drain to collect and dispose of liquid waste that result from the refuse and from cleaning the area and waste receptacles.

(s) Establishment operations shall be separated from any living or sleeping quarters by complete partitioning and shall have no direct opening into any living or sleeping quarters, except through a solid, tight-fitting and self-closing door. Entrance into the establishment shall not be through any living or sleeping quarters. [Eff FEB 24 2014] (Auth: HRS §321-11) (Imp: HRS §321-11)

§11-50-72 Numbers and capacities. (a) Handwashing sinks shall be provided as specified in section 11-50-61(g).

(b) Each handwashing sink or group of two adjacent handwashing sinks shall be provided with a supply of hand cleaning liquid, powder, or bar soap.

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

(1) Individual, disposable towels;

(2) A continuous towel system that supplies the user with a clean towel; or

(3) A heated-air hand drying device; or

(4) A hand drying device that employs an air-knife system that delivers high velocity, pressurized air at ambient temperatures.

(d) A sink used for food preparation or utensil washing, or a service sink or curbed cleaning facility used for the disposal of mop water or similar wastes, may not be provided with the handwashing aids and devices required for a handwashing sink as specified in subsections (b) and (c), and section 11-50-64(g)(3).

(e) A sign or poster that notifies food employees to wash their hands shall be provided at all handwashing sinks used by food employees and shall be clearly visible to food employees.

(f) A handwashing sink or group of adjacent handwashing sinks that is provided with disposable towels shall be provided with a waste receptacle as specified in section 11-50-64(g)(3).

(g) Toilets and urinals shall be provided as specified in section 11-50-61(h).

(h) A supply of toilet tissue shall be available at each toilet.

(i) The light intensity shall be:

(1) At least one hundred eight lux (ten footcandles) at a distance of thirty inches above the floor, in walk-in refrigeration units and dry food storage areas and in other areas and rooms during periods of cleaning;

(2) At least two hundred fifteen lux (twenty footcandles):

(A) At a surface where food is provided for consumer self-service such as buffets and salad bars or where fresh produce or packaged foods are sold or offered for consumption;

(B) Inside equipment such as reach-in and under-counter refrigerators; and

(C) At a distance of thirty inches above the floor in areas used for handwashing, warewashing, and equipment and utensil storage, and in toilet rooms; and

(3) At least five hundred forty lux (fifty footcandles) at a surface where a food employee is working with food or working with utensils or equipment such as knives, slicers, grinders, or saws where employee safety is a factor.

(j) Designation.

(1) Dressing rooms or dressing areas shall be designated if employees routinely change their clothes in the establishment;

(2) Lockers or other suitable facilities shall be provided for the orderly storage of employees' clothing and other possessions.

(k) A service sink or curbed cleaning facility shall be provided as specified in section 11-50-61(i). [Eff FEB 24 2014] (Auth: HRS §321-11) (Imp: HRS §321-11)

§11-50-73 Location and placement. (a) Handwashing sinks shall be conveniently located as specified in section 11-50-61(l).

(b) Toilet rooms shall be conveniently located and accessible to employees during all hours of operation

(c) Designated areas.

(1) Areas designated for employees to eat, drink, and use tobacco shall be located so that food, equipment, linens, and single-service and single-use articles are protected from contamination;

(2) Lockers or other suitable facilities shall be located in a designated room or area where contamination of food, equipment, utensils, linens, and single-service and single-use articles cannot occur.

(d) Products that are held by the permit 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.

(e) Units, receptacles, and areas designated for storage of refuse and recyclable and returnable containers shall be located as specified in section 11-50-64(j). [Eff FEB 24 2014] (Auth: HRS §321-11) (Imp: HRS §321-11)

§11-50-74 Maintenance and operation. (a) Physical facilities shall be maintained in good repair.

(b) Cleaning, frequency and restrictions.

(1) Physical facilities shall be cleaned as often as necessary to keep them clean;

(2) Except for cleaning that is necessary due to a spill or other accident, cleaning shall be done during periods when the least amount of food is exposed such as after closing.

(c) Cleaning floors, dustless methods.

(1) Except as specified in paragraph (2), only dustless methods of cleaning shall be used, such as wet cleaning, vacuum cleaning, mopping with treated dust mops, or sweeping using a broom and dust-arresting compounds;

(2) Spills or drippage on floors that occur between normal floor cleaning times may be cleaned:

(A) Without the use of dust-arresting compounds; and

(B) In the case of liquid spills or drippage, with the use of a small amount of absorbent compound such as sawdust or diatomaceous earth applied immediately before spot cleaning.

(d) Intake and exhaust air ducts shall be cleaned and filters changed so they are not a source of contamination by dust, dirt, and other materials.

(e) Food preparation sinks, handwashing sinks, and warewashing equipment may not be used for the cleaning of maintenance tools, the preparation or holding of maintenance materials, or the disposal of mop water and similar liquid wastes.

(f) After use, mops shall be placed in a position that allows them to air-dry without soiling walls, equipment, or supplies.

(g) Except as specified in subsection (c)(2), sawdust, wood shavings, granular salt, baked clay, diatomaceous earth, or similar materials may not be used on floors.

(h) Plumbing fixtures such as handwashing sinks, toilets, and urinals shall be cleaned as often as necessary to keep them clean.

(i) Except during cleaning and maintenance operations, toilet room doors as specified in section 11-50-71(l) shall be kept closed.

(j) Using dressing rooms and lockers.

(1) Dressing rooms shall be used by employees if the employees regularly change their clothes in the establishment;

(2) Lockers or other suitable facilities shall be used for the orderly storage of employee clothing and other possessions.

(k) The premises shall be maintained free of insects, rodents, and other pests. The presence of insects, rodents, and other pests shall be controlled by:

(1) Routinely inspecting incoming shipments of food and supplies;

(2) Routinely inspecting the premises for evidence of pests;

(3) Using methods, if pests are found, such as trapping devices or other means of pest control as specified in section 11-50-81 (c), (k) and (l); and

(4) Eliminating harborage conditions.

(l) Dead or trapped birds, insects, rodents, and other pests shall be removed from control devices and the premises at a frequency that prevents their accumulation, decomposition, or the attraction of pests.

(m) Maintenance tools such as brooms, mops, vacuum cleaners, and similar items shall be:

(1) Stored so they do not contaminate food, equipment, utensils, linens, and single-service and single-use articles; and

(2) Stored in an orderly manner that facilitates cleaning the area used for storing the maintenance tools.

(n) The premises shall be free of:

(1) Items that are unnecessary to the operation or maintenance of the establishment such as equipment that is nonfunctional or no longer used; and

(2) Litter.

(o) Prohibiting animals.

(1) Except as specified in paragraphs (2) and (3), live animals may not be allowed on the premises of a food establishment;

(2) Live animals may be allowed in the following situations if the contamination of food; clean

equipment, utensils, and linens; and unwrapped single-service and single-use articles cannot result:

(A) Edible fish or decorative fish in aquariums, shellfish or crustacea on ice or under refrigeration, and shellfish and crustacea in display tank systems;

(B) Patrol dogs accompanying police or security officers in offices and dining, sales, and storage areas, and sentry dogs running loose in outside fenced areas;

(C) In areas that are not used for food preparation and that are usually open for customers, such as dining and sales areas, service animals that are controlled by the disabled employee or person, if a health or safety hazard will not result from the presence or activities of the service animal;

(D) Pets in the common dining areas of institutional care facilities such as nursing homes, assisted living facilities, group homes, or residential care facilities at times other than during meals if:

(i) Effective partitioning and self-closing doors separate the common dining areas from food storage or food preparation areas;

(ii) Condiments, equipment, and utensils are stored in enclosed cabinets or removed from the common dining areas when pets are present; and

(iii) Dining areas including tables, countertops, and similar surfaces are effectively cleaned before the next meal service; and

(E) In areas that are not used for food preparation, storage, sales, display, or dining, in which there are caged animals or animals that are similarly confined, such as in a variety store that sells pets or a tourist park that displays animals;

(3) Live or dead fish bait may be stored if contamination of food; clean equipment, utensils,

and linens; and unwrapped single-service and single-use articles cannot result. [Eff FEB 24 2014] (Auth: HRS §321-11) (Imp: HRS §321-11)

§§11-50-75 to 11-50-79 (Reserved).

SUBCHAPTER 7

POISONOUS OR TOXIC MATERIALS

§11-50-80 Labeling and identification. (a) Containers of poisonous or toxic materials and personal care items shall bear a legible manufacturer's label.

(b) Working containers used for storing poisonous or toxic materials such as cleaners and sanitizers taken from bulk supplies shall be clearly and individually identified with the common name of the material. [Eff FEB 24 2014] (Auth: HRS §321-11) (Imp: HRS §321-11)

§11-50-81 Operational supplies and applications. (a) Poisonous or toxic materials shall be stored so they cannot contaminate food, equipment, utensils, linens, and single-service and single-use articles by:

(1) Separating the poisonous or toxic materials by spacing or partitioning; and

(2) Locating the poisonous or toxic materials in an area that is not above food, equipment, utensils, linens, and single-service or single-use articles. This paragraph does not apply to equipment and utensil cleaners and sanitizers that are stored in warewashing areas for availability and convenience if the materials are stored to prevent contamination of food, equipment, utensils, linens, and single-service and single-use articles.

(b) Presence and use restriction.

(1) Only those poisonous or toxic materials that are required for the operation and maintenance of a food establishment, such as for the cleaning and sanitizing of equipment and utensils and the

control of insects and rodents, shall be allowed in a food establishment;

(2) Paragraph (1) does not apply to packaged poisonous or toxic materials that are for retail sale.

(c) Poisonous or toxic materials shall be:

(1) Used according to:

(A) This chapter and law;

(B) Manufacturer's use directions included in labeling, and, for a pesticide, manufacturer's label instructions that state that use is allowed in a food establishment;

(C) The conditions of certification, if certification is required, for use of the pest control materials; and

(D) Additional conditions that may be established by the department; and

(2) Applied so that:

(A) A hazard to employees or other persons is not constituted; and

(B) Contamination including toxic residues due to drip, drain, fog, splash, or spray on food, equipment, utensils, linens, and single-service and single-use articles is prevented, and for a restricted use pesticide, this is achieved by:

(i) Removing the items;

(ii) Covering the items with impermeable covers; or

(iii) Taking other appropriate preventive actions; and

(iv) Cleaning and sanitizing equipment and utensils after the application;

(3) A restricted use pesticide shall be applied only by a licensed pest control operator, or a person under the direct supervision of a licensed pest control operator.

(d) A container previously used to store poisonous or toxic materials may not be used to store, transport, or dispense food.

(e) Chemical sanitizers and other chemical antimicrobials applied to food-contact surfaces shall meet the requirements specified in 40 CFR 180.940, entitled "Tolerance exemptions for active and inert ingredients for

use in antimicrobial formulations (food-contact surface sanitizing solutions)".

(f) Chemicals for washing, treatment, storage and processing fruits and vegetables, criteria.

(1) Chemicals used to wash or peel raw, whole fruits and vegetables shall meet the requirements specified in 21 CFR 173.315 entitled "Chemicals used in washing or to assist in the peeling of fruits and vegetables";

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

(g) Chemicals used as boiler water additives shall meet the requirements specified in 21 CFR 173.310, entitled "Boiler water additives".

(h) Drying agents used in conjunction with sanitization shall:

(1) Contain only components that are listed as one of the following:

(A) Generally recognized as safe for use in food as specified in 21 CFR 182, entitled "Substances generally recognized as safe", or 21 CFR 184, entitled "Direct food substances affirmed as generally recognized as safe";

(B) Generally recognized as safe for the intended use as specified in 21 CFR 186, entitled "Indirect food substances affirmed as generally recognized as safe";

(C) Approved for use as a drying agent under a prior sanction specified in 21 CFR 181, entitled "Prior-sanctioned food ingredients";

(D) Specifically regulated as an indirect food additive for use as a drying agent as specified in 21 CFR Parts 175-178; or

(E) Approved for use as a drying agent under the threshold of regulation process established by 21 CFR 170.39, entitled "Threshold of regulation for substances used in food-contact articles"; and

(2) When sanitization is with chemicals, the approval required in paragraph (1)(C) or (E) or the regulation as an indirect food additive required

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in paragraph (1)(D), shall be specifically for use with chemical sanitizing solutions.

(i) Lubricants shall meet the requirements specified in 21 CFR 178.3570, entitled "Lubricants with incidental food contact", if they are used on food-contact surfaces, on bearings and gears located on or within food-contact surfaces, or on bearings and gears that are located so that lubricants may leak, drip, or be forced into food or onto food-contact surfaces.

(j) Restricted use pesticides specified in subsection (c)(3) shall meet the requirements specified in 40 CFR 152 Subpart I, entitled "Classification of Pesticides".

(k) Rodent bait shall be contained in a covered, tamper-resistant bait station.

(l) Tracking powders, pest control and monitoring.

(1) Except as specified in paragraph (2), a tracking powder pesticide may not be used in a food establishment;

(2) If used, a nontoxic tracking powder such as talcum or flour may not contaminate food, equipment, utensils, linens, and single-service and single-use articles.

(m) Medicines restriction and storage.

(1) Except for medicines that are stored or displayed for retail sale, only those medicines that are necessary for the health of employees shall be allowed in a food establishment;

(2) Medicines that are in a food establishment for the employees' use shall be labeled as specified in section 11-50-80(a) and located to prevent the contamination of food, equipment, utensils, linens, and single-service and single-use articles.

(n) Medicines belonging to employees that require refrigeration and are stored in a food refrigerator shall be stored in a package or container and kept inside a covered, leakproof container that is identified as a container for the storage of medicines.

(o) First aid supplies that are in a food establishment for the employees' use shall be:

(1) Labeled as specified in section 11-50-80(a); and

(2) Stored in a kit or a container that is located to prevent the contamination of food, equipment, utensils, and linens, and single-service and single-use articles.

(p) Except as specified in subsections (n) and (o), employees shall store their personal care items in facilities as specified in section 11-50-72(j)(2)). [Eff FEB 24 2014] (Auth: HRS §321-11) (Imp: HRS §321-11)

§11-50-82 Stock and retail sale. Poisonous or toxic materials shall be stored and displayed for retail sale so they cannot contaminate food, equipment, utensils, linens, and single-service and single-use articles by:

(1) Separating the poisonous or toxic materials by spacing or partitioning; and

(2) Locating the poisonous or toxic materials in an area that is not above food, equipment, utensils, linens, and single-service or single-use articles. [Eff FEB 24 2014] (Auth: HRS §321-11) (Imp: HRS §321-11)

§§11-50-83 to 11-50-84 (Reserved).

SUBCHAPTER 8

MOBILE FOOD ESTABLISHMENTS

§11-50-85 General requirements. (a) Mobile food establishments shall comply with the requirements of this chapter, except as otherwise provided in this subchapter.

(b) The department may impose additional requirements to protect against health hazards or nuisances related to the conduct of food establishments as mobile operations.

(c) The department may prohibit the sale of some or all potentially hazardous foods.

(d) When no health hazard will result, the department may waive or modify the requirements of this chapter for mobile food establishments.

(e) A mobile food establishment shall be of a design that allows relocation of the mobile food establishment to an approved establishment as needed. [Eff FEB 24 2014] (Auth: HRS §321-11) (Imp: HRS §321-11)

§11-50-86 Approved food establishment requirements. (a) Mobile food establishments shall operate out of an

approved food establishment and shall return to the approved food establishment for cleaning and servicing.

(b) The approved food establishment shall provide a servicing area that is conveniently accessible for the mobile food establishment cleaning, discharging liquid or solid wastes, refilling water tanks and ice bins, and boarding food.

(c) The approved food establishment shall be used for the following purposes:

(1) Storage. Food, equipment, utensils, and supplies shall be stored in the approved food establishment unless stored on board mobile food establishments;

(2) Food preparation. All food preparation not permitted on board mobile food establishments shall take place at the approved food establishment;

(3) Cleaning. Multi-use equipment and utensils that are not permitted to be cleaned on board mobile food establishments shall be cleaned and sanitized at the approved food establishment at least once each day at the conclusion of the daily operations;

(4) Water supply. The water tank(s) of all mobile food establishments shall be drained and filled daily with potable water at an approved servicing area at the approved food establishment;

(5) Wastewater disposal. Wastewater holding tank(s) of all mobile food establishments shall be drained daily and cleaned at an approved servicing area;

(6) Cooking and reheating. All cooking not permitted on mobile food establishments shall take place at the approved food establishment;

(7) Cooling. Leftover food to be reheated for later service shall be rapidly cooled as specified in section 11-50-34(d).

(d) A mobile food establishment may use more than one approved food establishment. The names and addresses of all sites used as an approved food establishment for a mobile food establishment shall be provided to the department in writing for approval. The director may limit the number of mobile establishments operating out of the same food establishment.

(e) If the owner of the mobile food establishment is not also the owner of the approved food establishment, the following shall apply:

(1) Written documentation detailing the operational agreement between the two parties shall be provided. The documentation required shall include, but not be limited to, the days, times, and specific types of operations to be conducted in the approved food establishment. The written documentation must be submitted annually along with the renewal application and fees;

(2) The approved food establishment shall be provided with a means by which used of the facility can be documented and verified by the director. Acceptable methods are:

(A) The use of time cards stamped by a punch clock sealed by the director;

(B) A tampered-proof electronic log-in;

(C) Log-in sheets listing dates and times of an approved food establishment use shall be maintained on a form provided by the department. Each daily entry shall be initialed or signed by representatives of both the approved food establishment and the mobile food establishment; or

(D) An alternative record keeping method approved by the director if such method adequately documents the usage of the approved food establishment by the mobile food establishment. These records shall be retained at the approved food establishment for at least twelve months and shall be made available to the director upon request;

(3) These records shall be retained at the approved food establishment for at least twelve months and shall be made available to the director upon request.

(4) Separate clearly designated storage areas for food, supplies, and equipment shall be provided in the approved food establishment for use by the mobile food establishment.

(f) A private home kitchen shall not be used as an approved food establishment. [Eff FEB 24 2014] (Auth: HRS §321-11) (Imp: HRS §321-11)

§11-50-87 Food supplies, storage, display and service. (a) Food supplies. A list of all foods offered shall be submitted to the department for approval. Approval shall be based on a determination by the director that the mobile food establishment is provided with the minimum facilities necessary for a safe and sanitary operation.

(b) Food storage. Excess food not carried on the mobile food establishment shall be stored at the approved food establishment.

(c) Food display and service. Self-service of unpackaged potentially hazardous food by customers is prohibited except through self-dispensing units that do not require a separate dispensing utensil such as a scoop or tongs, if approved by the director. [Eff FEB 24 2014] (Auth: HRS §321-11) (Imp: HRS §321-11)

§11-50-88 Single-service restrictions. (a) Food shall be served to customers in, or on, single-service or single-use containers only.

(b) Only single-service utensils shall be provided to customers. [Eff FEB 24 2014] (Auth: HRS §321-11) (Imp: HRS §321-11)

§11-50-89 Water system. (a) Mobile food establishments where exposed or unpackaged foods are handled shall be equipped with an approved self-contained water system that provides sufficient water at the required temperatures to meet the needs of the operation and shall be constructed and operated as specified in section 11-50-62.

(b) The water supply and sink requirements shall be as follows:

(1) Mobile food establishments required to have a water system shall be equipped with a handwashing sink as specified in sections 11-50-60(k) and 11-50-61(c) and (g). The water system shall be of sufficient capacity to furnish the amount of water needed for the hours of operation, but not less than five gallons;

(2) Mobile food establishments that conduct food preparation or warewashing on the mobile unit shall be equipped as specified in sections

11-50-47(b) and 11-50-49(h). In such case the water system shall be of sufficient capacity to furnish the amount of water needed for the hours of operation. The minimum volume of water shall be approved by the director based on operational factors that may include, but not be limited to, the hours of operation, the number of workers involved, the type and amount of food prepared, and extent of food-handling/warewashing conducted on board the mobile food establishment. Water use projections or estimations shall be provided by the applicant. [Eff FEB 24 2014] (Auth: HRS §321-11) (Imp: HRS §321-11)

§11-50-90 Wastewater system. All mobile food establishments equipped with a water system shall be provided with a wastewater holding tank sized at least fifteen per cent larger than the water supply and shall be constructed and operated as specified in section 11-50-63. [Eff FEB 24 2014] (Auth: HRS §321-11) (Imp: HRS §321-11)

§11-50-91 Other requirements. (a) For identification purposes, the permit number of the permit issued by the department shall be permanently and prominently displayed on two sides of the exterior of the mobile food establishment in characters not less than four inches high, of strokes not less than one-fourth inch wide and of a color that contrasts with the background.

(b) All mobile food establishments shall be capable of being moved from their vending site at any time. They shall be moved from the vending site to the approved food establishment for cleaning and servicing.

(c) No utility service lines shall be connected to a mobile food establishment.

(d) All equipment essential to the basic operation of the mobile food establishment shall be physically attached to or located aboard the mobile unit. This includes, but is not limited to, grills, ice chests, storage containers, and generators. [Eff FEB 24 2014] (Auth: HRS §321-11) (Imp: HRS §321-11)

§§11-50-92 to 11-50-94 (Reserved).

SUBCHAPTER 9

TEMPORARY FOOD ESTABLISHMENTS

§11-50-95 General requirements. (a) A temporary food establishment shall comply with the requirements of this chapter, except as otherwise provided in this subchapter.

(b) The department may impose additional requirements to protect against health hazards or nuisances related to the conduct of temporary food establishments.

(c) The department may prohibit the sale of some or all potentially hazardous foods.

(d) When no health hazards will result, the department may waive or modify requirements of this chapter for temporary food establishments. [Eff FEB 24 2014] (Auth: HRS §321-11) (Imp: HRS §321-11)

§11-50-96 Special requirements. (a) All temporary food establishment operational sites shall be approved by the department. Temporary food establishment operational sites shall include the approved food establishment sites, event sites, vending or distribution sites and any other sites where food is prepared, packaged, stored, served, vended, or distributed.

(b) All temporary food establishment menus and schematic plans shall be approved by the department.

(1) The permit applicant may be required to submit to the department in writing, a complete menu and schematic plan of the proposed operation;

(2) This schematic shall clearly detail, step by step, the flow and handling of all foods on the menu from the initial receipt of ingredients, through the processing or preparation of the foods, to the final distribution of the food to the consumer. [Eff FEB 24 2014] (Auth: HRS §321-11) (Imp: HRS §321-11)

§11-50-97 Approved food establishment requirements. An approved food establishment shall be available and used for any food preparation that is not allowed at the event site and to clean and sanitize multi-use utensils and

equipment before the event and at the end of each business day. [Eff FEB 24 2014] (Auth: HRS §321-11) (Imp: HRS §321-11)

§11-50-98 Single-service restrictions. (a) Food shall be served to customers in, or on, single-service or single-use containers only.

(b) Only single-service utensils shall be provided to customers. [Eff FEB 24 2014] (Auth: HRS §321-11) (Imp: HRS §321-11)

§11-50-99 Handwashing facilities. Temporary food establishments where exposed or unpackaged foods are handled shall be provided with at least one handwashing sink as specified in sections 11-50-60(k) and 11-50-61(c) and (g). If an alternative water supply is provided instead of water under pressure, it shall be of sufficient capacity to furnish the amount of water needed for the hours of operation, but not less than five gallons. [Eff FEB 24 2014] (Auth: HRS §321-11) (Imp: HRS §321-11)

§11-50-100 Wastewater disposal. Wastewater shall be disposed of in a manner that does not create a nuisance. [Eff FEB 24 2014] (Auth: HRS §321-11) (Imp: HRS §321-11)

§11-50-101 Other facilities and operations. (a) Temporary food establishments shall be located in a clean, controlled area in which the potential for contamination of food and food contact equipment is minimized.

(b) Garbage and refuse from temporary food establishments shall be stored in tightly covered leakproof containers until removed.

(c) Refuse containers shall be available on the grounds at convenient locations.

(d) All garbage and refuse shall be disposed of at a frequency and in a manner that does not create a nuisance. [Eff FEB 24 2014] (Auth: HRS §321-11) (Imp: HRS §321-11)

§§11-50-102 to 11-50-104 (Reserved).

DEPARTMENT OF HEALTH

The repeal of chapter 11-12 and the adoption of chapter 11-50, Hawaii Administrative Rules, on the summary page dated FEB 24 2014 were adopted on FEB 24 2014 following public hearings held on December 2, 2013 in Hilo, Hawaii; December 3, 2013 in Kona, Hawaii; December 4, 2013 on the island of Oahu; December 5, 2013 on the island of Maui; December 6, 2013 on the island of Kauai; after public notices were given in the Hawaii Tribune-Herald, West Hawaii Today, Honolulu Star Advertiser, The Maui News, The Garden Island on October 14, 2013.

The repeal of chapter 11-12 and the adoption of chapter 11-50 shall take effect ten days after filing with the Office of the Lieutenant Governor.

GARY L. GILL
Acting Director
Department of Health

APPROVED:

NEIL ABERCROMBIE
GOVERNOR
STATE OF HAWAII

Dated: 2-13-14

Filed: _____

APPROVED AS TO FORM:

Deputy Attorney General

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LIEUTENANT GOVERNOR'S OFFICE

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