

# Part 14, Subpart 14-1 Food Service Establishments

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## Purpose

### Section 14-1.1 Purpose.

The purpose of this code is to protect the public health. Owners and operators of food service establishments are to operate their premises in such a way as to avoid imminent health hazards. Health hazards in operation, when called to their attention by the representative of the permit-issuing official, are to be corrected immediately. Deficiencies, other than imminent health hazards, such as poor sanitary practices, are to be corrected in accordance with a schedule approved by the permit-issuing official.

## Public Health Hazards

### 14-1.10 Definition of imminent health hazard.

- (a) An imminent health hazard is any violation, combination of violations, condition or combination of conditions making it probable that the food or drink served to the public by the establishment or its continued operation can injure the health of the consumer or the public. Imminent health hazards include but are not limited to the conditions listed in subdivisions (b) and (c) of this section.
- (b) Any of the following five violations are imminent health hazards against the public interest which require the permit-issuing official or his designated representative to order the establishment closed and all service of food stopped immediately, if not corrected at the time of the inspection while the permit-issuing official or representative of the permit-issuing official is on the premises:
  - (1) food is present in the establishment from an unapproved or unknown source or which is or may be adulterated, contaminated or otherwise unfit for human consumption;
  - (2) potentially hazardous food is held for a period longer than that necessary for preparation or service at a temperature greater than 45 degrees Fahrenheit (7.2 degrees Celsius) or less than 140 degrees Fahrenheit (60 degrees Celsius);
  - (3) potentially hazardous food exposed to consumer or other contamination is served again;
  - (4) toxic items are improperly labeled, stored or used; or
  - (5) persons with disease or infection which can be transmitted by food or drink are not restricted to prevent food contamination within the food service establishment.
- (c) Any of the following three conditions are violations constituting imminent health hazards which require the permit-issuing official or his designated representative to order the establishment closed and all service of food stopped immediately:
  - (1) if the potable water supply within a food service establishment is not in full conformance with the requirements of Part 5 of this Title, and if it reasonably appears to the permit-issuing official or his designated representative that it can result in an imminent health hazard, and if the operator does not use single-service items and bottled water from an approved source for all potable water uses, the establishment is to be ordered closed and all food service to be stopped immediately;
  - (2) any cross-connection or other fault in the potable water system which may permit contamination of the potable water supply is cause for an order for immediate closure and cessation of food service if it reasonably appears to the permit-issuing official or his designated representative that it can result in an imminent health hazard. In any case, all such cross-connections are to be corrected within a period of time set by the permit-issuing official, and in no case more than 30 days from the date of the inspection. If uncorrected within that time, the permit shall be suspended and the establishment ordered closed and food service stopped until all violations are corrected; or
  - (3) if sewage or liquid waste is not disposed of in an approved and sanitary manner, the permit-issuing official or his designated representative is to order closure and immediate cessation of all food service operations if such sewage or liquid waste contaminates any food, food storage area, food preparation area or area frequented by consumers or employees.

## Food Service Establishment

### 14-1.20 Definitions of food service establishment and caterer.

- (a) A food service establishment is a place where food is prepared and intended for individual portion service and includes the site at which the individual portions are provided, whether consumption occurs on or off the premises. The term excludes food processing establishments, retail food stores, private homes where food is prepared or served for family consumption, and food service operations where a distinct group mutually provides, prepares, serves and consumes the food such as a "covered-dish supper" limited to a congregation, club or fraternal organization.
- (b) A caterer is a person who prepares, furnishes, or prepares and furnishes food intended for individual portion service at the premises of the consumer, whether such premises are temporary or permanent. A caterer is considered a food service establishment operator and is required to operate in conformance with this Subpart.

#### **14-1.21 Definitions of food processing establishment and commissary.**

- (a) A food processing establishment is a commercial establishment operated under license, permit or with the approval of an appropriate regulatory authority, where food is manufactured or packaged for human consumption at another establishment or place.
- (b) A commissary is a place where food is stored, processed or packaged and prepared in individual portions for service at a food service establishment. A commissary supplying vending machines, mobile food service establishments, or owned and operated by an owner operating the food service establishment exclusively served by the commissary, is to be operated under permit and in accordance with this Subpart.

#### **14-1.22 Definition of person.**

A person, as used in this Subpart, is an individual, firm, estate, partnership, company, corporation, trustee, association or any public or private entity.

#### **14-1.23 Definition of law.**

Law means and includes Federal, State and local statutes, ordinances and regulations.

#### **14-1.24 Definition of frozen desserts.**

- (a) "Frozen desserts" are ice cream, frozen custard, French ice cream, French custard ice cream, artificially sweetened ice cream, ice milk, artificially sweetened ice milk, fruit sherbet, non-fruit sherbet, water ices, non-fruit water ices, confection frozen without stirring, dairy confection frozen without stirring, manufactured dessert mix, frozen confection, melloream frozen dessert, parevine, frozen yogurt, freezer made shakes, freezer made milk shakes, dietary frozen dessert, whipped cream confection and bisque tortoni, as all such products are commonly known, together with any mix used in making such frozen desserts, and any products which are similar in appearance, odor or taste to such products, or are prepared or frozen as frozen desserts are customarily prepared and frozen, whether made with dairy products or non-dairy products.

Any operation producing chips or flakes of ice made from water with or without additives, served to the customer with or without flavorings added by the operator or consumer, is included as a retail frozen dessert within this definition. This operation is commonly known as a slush operation.

- (b) Retail frozen desserts are to be manufactured from ingredients and are to be identified in conformance with the applicable requirements of Part 39 of the rules and regulations of the State Department of Agriculture and Markets (1 NYCRR Part 39).

### **14-1.25 Definition of adequate.**

Adequate shall mean sufficient to accomplish the purposes for which something is intended, and to such a degree that no unreasonable risk to health or safety is presented. An item installed, maintained, designed and assembled, an activity conducted or act performed, in accordance with generally accepted standards, principles or practices applicable to a particular trade, business, occupation or profession, is adequate within the meaning of this Subpart.

## **Food Supplies**

### **14-1.30 Definition of food.**

Food is any edible substance, ice, beverage or ingredient used or intended for use or for sale in whole or in part for human consumption.

### **14-1.31 Food; Definitions of contamination and potentially hazardous food; food sources; hermetically sealed foods.**

- (a) Food is to be free from adulteration, spoilage, filth or other contamination, and suitable for human consumption.
- (b) "Contamination" means exposing food to filth, toxic substances, manual contact during service or preparation if such food will not be subsequently cooked prior to service, rodent or insect contact or infestation, or any condition which permits introduction of pathogenic microorganisms or foreign matter. Potentially hazardous foods held at temperatures between 45 degrees Fahrenheit (7.2 degrees Celsius) and 140 degrees Fahrenheit (60 degrees Celsius) either for a period of time exceeding that reasonably required for preparation or for more than two hours, the allowed service time, are considered to be contaminated. Contaminated food is considered adulterated.
- (c) "Potentially hazardous food" is any food that consists in whole or in part of milk or milk products, eggs, meat, poultry, fish, shellfish, edible crustacea, cooked potato, cooked rice or other ingredients, including synthetic ingredients, in a form capable of supporting: (1) rapid and progressive growth of infectious, or toxigenic microorganisms; or (2) the slower growth of *C. botulinum*. The term does not include foods with a water activity ( $A_w$ ) value of 0.85 or less, or a hydrogen ion concentration (pH) level of 4.6 or below.
- (d) Food is to be obtained from approved sources that comply with all laws relating to food and food labeling. The use of food prepared in any place that is not operated under jurisdiction of an appropriate regulatory agency and having a current permit or license to operate, if required, from that agency is prohibited.
- (e) Hermetically sealed foods are to have been processed in commercial food processing establishments meeting requirements of section 14-1.21 of this Subpart. The use of home-canned foods in food service establishments is prohibited.

### **14-1.32 Definition of hermetically sealed container.**

A "hermetically sealed container" is a container which is designed and intended to be secure against the entry of microorganisms and to maintain the safety and quality of its contents after processing.

### **14-1.33 Milk and milk products and substitutions; fresh and frozen shellfish; eggs; pasteurization, packaging and labeling.**

- (a) When fluid and dry milk, fluid and dry milk products, and fluid or dry milk substitutes are used or served, they are to be pasteurized and are to meet the standards established by law.
- (b) When fresh and frozen shellfish or shucked shellfish (oysters, clams, or mussels) are used, they must be identified with the name and address of the original shell-stock processor, shucker-packer, or repacker, and the foreign, intrastate, and interstate certification number issued according to law. Tags are to be retained for 90 days after use of shellfish.
- (c) Only clean, whole eggs, with shell intact and free from cracks or checks, or pasteurized liquid, frozen or dry eggs or pasteurized dry egg products are to be used. All containers in which shell eggs are received in a food service establishment must identify the source.

### **14-1.34 Microbiological standards; potentially hazardous foods.**

- (a) The State Commissioner of Health may designate, by administrative order, the names and types of foods which are potentially hazardous and subject to microbiological standards established by him.
- (b) No person is to manufacture, produce, pack, possess, sell, offer for sale, deliver or give away any potentially hazardous food of the name or type designated pursuant to subdivision (a) of this section, if such food contains any fecal coliform, salmonella, shigella or other pathogenic microorganisms or their toxic products.

### **14-1.35 Packaging of smoked fish and smoked fish products.**

No person shall package, distribute, sell, offer for sale or deliver smoked fish or smoked fish products packaged so that oxygen is excluded, unless the product has been heat processed after packaging at a temperature and for a time sufficient to destroy all spores of Clostridium botulinum and is packaged in such a fashion that subsequent bacterial contamination is prevented. If not packaged so that oxygen is excluded or if not heat processed to destroy Clostridium botulinum spores and packaged so as to prevent subsequent bacterial contamination, the smoked fish or smoked fish product shall be immediately refrigerated and maintained at a temperature of 38 degrees Fahrenheit or less without interruption until sold to the ultimate consumer.

## **Food Protection**

### **14-1.40 Food protection, potentially hazardous food, temperature and refrigeration requirements.**

- (a) Food is to be protected from contamination during storage, preparation, display, service and transportation. The temperature of potentially hazardous food is to be 45

degrees Fahrenheit (7.2 degrees Celsius) or below, or 140 degrees Fahrenheit (60 degrees Celsius) or above at all times, except during necessary times of preparation or during a limited period of time while being held for service which may not exceed two hours. Intact shell egg temperatures shall be considered acceptable if the ambient storage temperature is 45 degrees Fahrenheit (7.2 degrees Celsius) or less.

- (b) Potentially hazardous food requiring refrigeration is to be cooled by an adequate method so that every part of the product is reduced from 120 degrees Fahrenheit (48.9 degrees Celsius) to 70 degrees Fahrenheit (21.1 degrees Celsius) within two hours and to 45 degrees Fahrenheit (7.2 degrees Celsius) or below within four additional hours.
- (c) Intact shell eggs shall be stored at an ambient temperature of 45 degrees Fahrenheit (7.2 degrees Celsius) or below.

#### **14-1.41 Reservice of unused potentially hazardous food and unused, unprotected food prohibited.**

- (a) Unused potentially hazardous food which has been served may not be served again.
- (b) Unused, unprotected food which has been served may not be served again.
- (c) Food is considered served when it has been offered without protection to the consumer.

#### **14-1.42 Storage of food removed from original containers or packages.**

Food removed from the original container or package is to be protected from contamination by storing in clean, covered, sanitized containers maintained at safe temperatures.

#### **14-1.43 Storage of food; general requirements.**

- (a) Containers of food are to be stored a minimum of six inches (14.24 centimeters) above the floor to protect the food from splash and other contamination, and at a height to permit easy cleaning of storage area.
- (b) Food and containers of food and food wrapping materials are not to be stored under exposed or unprotected sewer lines. The storage of same in toilet rooms is prohibited.
- (c) Food not subject to further washing or cooking is to be stored and protected against cross-contamination from food requiring washing and cooking.
- (d) Packaged food is not to be stored in contact with water or undrained ice. Ice intended for human consumption is not to be used as a medium for cooling stored food, food containers or food utensils.
- (e) Food which is not readily identifiable is to be stored in properly labeled original product containers or in containers labeled to identify the food by common name.

#### **14-1.44 Refrigerated storage.**

Enough conveniently located refrigeration facilities or effectively insulated facilities are to be provided and used to maintain potentially hazardous food at required temperatures during storage. Each facility storing potentially hazardous food is to have a numerically scaled indicating thermometer accurate to plus or minus two degrees Fahrenheit (1.1 degrees Celsius), which measures air temperature in the warmest part of the unit. Recording thermometers may be used in lieu of indicating thermometers.

### **14-1.45 Hot storage.**

Enough conveniently located hot food storage facilities are to be provided and used to maintain potentially hazardous food at the required temperature during storage. Each potentially hazardous food storage facility is to have a numerically scaled indicating thermometer, accurate to plus or minus two degrees Fahrenheit (1.1 degrees Celsius) available and used to measure the temperature of food stored in the facility or installed to measure the air temperature in the coldest part of the facility.

## **Transportation**

### **14-1.50 Transportation.**

During transportation, including transportation to another location for service or catering operations, food is to meet the requirements of this Subpart relating to food protection, temperature, handling and storage. Food, utensils, equipment and tableware are to be protected from contamination during transportation by use of covered containers, complete wrappings or packaging. Original individual packages do not need to be overwrapped or covered if the original package has not been torn or broken.

## **Toxic Materials**

### **14-1.60 Poisonous and toxic materials; restrictions; labeling and storage.**

Poisonous and toxic materials are restricted to those required to maintain sanitary conditions, which include pest control and sanitization, and when so used in food establishments are to be prominently labeled and lawfully permitted under State and Federal regulations, and are to be used in accordance with label directions.

- (a) Poisonous and toxic materials are to be stored in areas designated for such use and for no other purpose, or in a storage area outside the food, equipment and utensil storage area. Bactericides and cleaning compounds are not to be stored with insecticides, rodenticides or other poisonous materials. Insecticides and rodenticides are to be kept in their original containers. Insecticide spraying is prohibited in food preparation and service areas while food is being processed, prepared or served, or where unprotected food, clean utensils or containers are displayed or stored.
- (b) Bactericides, cleaning compounds or other compounds used on food-contact surfaces are not to leave toxic residues on such surfaces.
- (c) Phenolic compounds may not be used for sanitizing food-contact surfaces.
- (d) First-aid supplies and personal medications are restricted to designated locations.
- (e) The use of unprotected bait stations in food storage, service and preparation areas and in utensil washing and storage areas is forbidden.

## **Personnel**

### **14-1.70 Employee Health.**

No person is to work in a food service establishment:

- (a) in a capacity which can result in contamination of food or food-contact surfaces with disease-causing organisms;
- (b) while infected with a disease in a communicable form capable of transmission by food;
- (c) who is otherwise a carrier of organisms that cause such disease; or
- (d) while afflicted with a boil or infected wound.

#### **14-1.71 Employee cleanliness.**

Employees are to maintain a high degree of personal cleanliness and are to conform with good hygienic practices when working in food service establishments. Employees are to wash their hands and exposed area of arms thoroughly with soap and warm water before starting work, and as often as may be necessary to remove soil and contamination.

Thereafter, employees are to wash hands thoroughly after using the toilet, smoking, sneezing, coughing, eating, drinking or otherwise soiling their hands before returning to work. Employees are to keep their fingernails clean and neatly trimmed.

#### **14-1.72 Employee consumption of food and use of tobacco, hair restraints.**

- (a) Employees are to consume food only in designated dining areas where it will not result in contamination of other food, equipment, utensils or other items needing protection.
- (b) Tobacco in any form is not to be used by employees while engaged in food preparation or service, or while washing equipment or utensils, or where its use will result in contamination of food, equipment or utensils.
- (c) All persons within a food service establishment who work in areas where food is prepared are to use hats, caps or hair nets as restraints which minimize hair contact with hands, food and food-contact surfaces.

#### **14-1.73 Personnel training.**

The permit-issuing official may establish and conduct or designate training programs and require that owners and/or operators of food service establishments attend them.

### **Food Preparation and Service**

#### **14-1.80 Food Preparation and Service.**

- (a) Food is to be prepared and served with no bare hand contact unless the food will be subsequently heated to at least the minimum temperature required under Section 14-1.82 of this Subpart or to 165 degrees Fahrenheit (73.9 degrees Celsius) or greater for foods that are being heated for a second or subsequent time.
- (b) Convenient and suitable utensils and/or sanitary gloves are to be provided and used to prepare or serve food to eliminate bare hand contact and prevent contamination. Waxed paper, napkins or equivalent barrier to prevent hand contact can also be used to serve food.

#### **14-1.81 Washing of fruits and vegetables.**

Raw fruits and raw vegetables are to be thoroughly washed with potable water before serving.

### **14-1.82 Cooking of potentially hazardous foods.**

All parts of potentially hazardous foods requiring cooking are to be heated to at least 140 degrees Fahrenheit (60 degrees Celsius), except:

- (a) poultry, poultry stuffing, stuffed meats and stuffing containing meat are to be heated so all parts are at least 165 degrees Fahrenheit (73.9 degrees Celsius) with no interruption of the cooking process;
- (b) pork and food containing pork is to be heated so all parts of the food are at least 150 degrees Fahrenheit (65.6 degrees Celsius); and
- (c) rare roast beef and/or rare beef steaks are to be heated to an internal temperature of 130 degrees Fahrenheit (54.4 degrees Celsius), unless otherwise ordered by the consumer. When meat or fish is served raw, the consumer is to be notified.
- (d) Shell eggs or foods containing shell eggs are to be heated to 145 degrees Fahrenheit (62.8 degrees Celsius) or greater unless an individual consumer requests preparation of a shell egg or food containing shell eggs in a style such as raw, poached or fried which must be prepared at a temperature less than 145 degrees Fahrenheit in order to comply with the request.
- (e) Every part of ground meat or food containing ground meat are to be heated to at least 158 degrees Fahrenheit (69.4 degrees Celsius), unless a consumer requests preparation of a single order of ground meat or food containing ground meat which must be prepared at a temperature less than 158 degrees Fahrenheit in order to comply with the request.

### **14-1.83 Reheating.**

- (a) The entire mass of all precooked, refrigerated potentially hazardous food that is to be reheated must be heated to 165 degrees Fahrenheit (73.9 degrees Celsius) or above within two hours and held above 140 degrees Fahrenheit (60 degrees Celsius) until served.
- (b) Precooked potentially hazardous foods from commercially processed hermetically sealed containers and precooked potentially hazardous foods in intact packages from commercial food processing establishments that are to be heated for the first time within the food service establishment must be heated to 140 degrees Fahrenheit (60 degrees Celsius) within two hours and held above 140 degrees Fahrenheit (60 degrees Celsius) until served.

### **14-1.84 Dry milk and dry milk products.**

Dry milk and dry milk products, if used, must be reconstituted in the establishment.

### **14-1.85 Product thermometers.**

Metal stem-type, numerically scaled, indicating thermometers accurate to plus or minus two degrees Fahrenheit (1.1 degrees Celsius) are to be provided and used to determine that proper internal cooking, holding or refrigeration temperatures of all potentially hazardous foods are obtained and maintained.

### **14-1.86 Thawing of potentially hazardous foods.**

Potentially hazardous foods are to be thawed:

- (a) In refrigerated facilities at a temperature not to exceed 45 degrees Fahrenheit (7.2 degrees Celsius); or
- (b) Under potable running water at a temperature of 70 degrees Fahrenheit (21.1 degrees Celsius) or below, with sufficient water velocity to agitate and float off loose particles into the overflow; or
- (c) In a microwave oven when the food will be immediately transferred to conventional cooking facilities as part of a continuous cooking process, or when the entire uninterrupted cooking process takes place in a microwave oven; or
- (d) As part of the conventional cooking process. Whole frozen poultry or poultry breasts, other than a single portion, must be completely thawed prior to conventional cooking, except for a single portion intended for service to an individual consumer.

### **14-1.87 Service of milk and milk products, dairy or non-dairy creaming and whitening agents, condiments and ice; dispensing utensils use and storage.**

- (a) Milk and milk products served to the consumer are to be in a commercially filled package or drawn from a commercially filled dispensing container in a refrigerated bulk milk dispenser.
- (b) Dairy or non-dairy creaming or whitening agents are to be provided in an individual service container, protected pour-type pitcher or drawn from a refrigerated dispenser designed for such purpose.
- (c) Condiments, seasoning and dressings are to be provided in individual packages, from protected dispensers or containers or in the original container or pour-type dispenser. Sugar for consumer usage is to be provided in individual packages or pour-type dispensers.
- (d) Ice for consumer use is to be dispensed by using scoops, tongs or other ice-dispensing utensils or through automatic self-service ice-dispensing equipment. Ice-dispensing utensils are to be stored on a clean surface or in the ice with the dispensing utensil's handle extended out of the ice.
- (e) Suitable dispensing utensils are to be used by employees or provided to the consumers who serve themselves. Between uses the utensils are to be:
  - (1) stored in the food with the dispensing utensil's handle extended out of the food;
  - (2) stored clean and dry; or
  - (3) stored in running water dipper well.

### **14-1.88 Display and service of food.**

- (a) Food placed on display is to be protected against contamination. Easily cleanable counter-protector devices, cabinets, display cases, containers or other similar protective equipment are to be used. Self-service openings in counter guards are required to protect food from unnecessary manual contact by consumers. The quantity of food displayed is to be appropriate to meet immediate needs.
- (b) The requirements for counter-protector devices required in subdivision (a) of this section are waived when the food displayed is at a catered party or occasion where the consumers are limited to a single group, not the general public, and where the food will

be on display for no more than two hours. All leftover food not protected while displayed must be discarded.

- (c) All artificial lighting fixtures located over, by or within food storage, preparation, service or display facilities, and facilities where utensils and equipment are cleaned and stored, are to be protected to prevent broken glass from falling into food or onto food-contact surfaces. This requirement does not include decorative lighting fixtures in areas used exclusively for dining.
- (d) Infrared or other heat lamps are to be protected against breakage by shielding surrounding and extending beyond the bulb, leaving only the face of the bulb exposed.

## Equipment and Utensils

### 14-1.90 Construction.

Equipment and utensils are to be constructed of safe materials which will not contaminate or otherwise affect food. Such materials are to be resistant to denting, buckling, pitting, chipping, distortion, cracking and crazing, smooth, easily cleanable and free from breaks, open seams, cracks, chips, pits and similar imperfections. Equipment and utensils are to be free from difficult-to-clean internal corners and crevices. Food-contact surfaces are to be readily accessible for cleaning.

### 14-1.91 Equipment and utensils; materials permitted and prohibited.

- (a) Materials, including food-grade plastics used in the construction and repair of equipment and utensils are to be nontoxic, not affected by foods, cleaning compounds, or such other substances which may be found in the use environment, non-absorbent and durable under normal use. They are not to impart odor, color or taste nor contribute to the contamination of food, and are to maintain their original properties under repeated use. Painted food-contact surfaces are prohibited.
- (b) Hard maple or other equivalent nonabsorbent material meeting the above criteria may be used for cutting blocks and cutting boards, baker's tables and work surfaces, and are to be maintained in a smooth, clean condition.
- (c) Canvas, cloth and other porous material, other than for single-service use, are prohibited as a food-contact surface.
- (d) Materials are to be of sufficient weight and thickness to permit cleaning and sanitizing.
- (e) Tubing conveying beverages or beverage ingredients is to be fabricated from food-grade materials.

### 14-1.92 Equipment lubrication.

Equipment containing bearings and gears requiring lubricants is to be designed and constructed so that the lubricant cannot leak, drip or be forced into the food or onto food-contact surfaces. Food-grade lubricants are to be used on or within food-contact surfaces.

### 14-1.93 Equipment construction; cleanability.

Equipment is to be constructed to be cleanable:

- (a) without being disassembled;
- (b) by disassembling without the use of tools; or
- (c) by easy disassembling with the use of only simple tools, such as a mallet, a screwdriver or an open-end wrench kept available near the equipment, unless designed for in-place cleaning.

#### **14-1.94 Equipment construction; in-place cleaning.**

Equipment intended for in-place cleaning is to be constructed so that:

- (a) cleaning and sanitizing solutions can be circulated throughout a fixed system using an effective cleaning and sanitizing regimen;
- (b) cleaning and sanitizing solutions contact all interior food-contact surfaces; and
- (c) the system is self-draining or can be completely evacuated.

#### **14-1.95 Equipment acceptable.**

Equipment installed in existing food service establishments is acceptable in that establishment provided that it is in good repair, maintained in a sanitary condition, the food-contact surfaces are nontoxic and it performs its intended function in a satisfactory manner without contaminating food by normal use.

#### **14-1.96 Definitions relating to equipment and utensils.**

- (a) Approved means acceptable under conditions of use to the permit-issuing official, based on the determination of conformance to appropriate standards and good public health practice.
- (b) Easily cleanable means readily accessible and of material and finish fabricated so that residues may be completely removed by normal cleaning methods.
- (c) Equipment is all stoves, ranges, hoods, meatblocks, tables, counters, refrigerators, sinks, dishwashing machines, steamtables and similar items, other than utensils, used in the operation of a food establishment.
- (d) Food-contact surfaces are the surfaces of equipment, utensils, kitchenware and tableware which are normally contacted by food, or which food may contact and drain back into food or onto food-contact surfaces.
- (e) Kitchenware is all multi-use utensils other than tableware used in the storage, preparation, transfer, conveyance or service of food.
- (f) Non-food-contact surfaces are surfaces other than food-contact surfaces.
- (g) Single-service articles are items intended by the manufacturer to be discarded after using item once for eating, drinking or as a container.
- (h) Tableware is all multi-use eating and drinking utensils.
- (i) Utensil is any tableware and kitchenware used in the storage, preparation, transfer or service of food.

#### **14-1.97 Single-service articles; when required.**

Single-service articles are to be furnished to consumers at all food service establishments which do not have effective facilities for cleaning and sanitizing tableware. Single-service articles are to be discarded after one use.

## Equipment Installation and Location

### 14-1.100 Supplies and equipment; location.

Supplies and equipment, including ice makers and ice storage equipment, are not to be located under exposed or unprotected sewer lines, open stairwells or other sources of contamination. This requirement does not apply to location under automatic fire protection sprinkler heads that may be required by law.

### 14-1.101 Equipment installation.

- (a) Equipment, unless easily movable, is to be:
  - (1) sealed to the floor;
  - (2) installed on a raised platform of concrete or other smooth masonry, in a way that meets all the requirements for sealing or floor clearance; or
  - (3) elevated on legs to provide at least a six-inch (15.2-centimeter) clearance between the floor and the equipment.
- (b) Equipment is easily movable if it is mounted on wheels or casters; has no utility connection or has a utility connection that disconnects quickly, or has a flexible utility line of sufficient length to permit the equipment to be moved for easy cleaning.
- (c) Equipment is to be sealed to adjoining equipment or adjacent walls and ceilings unless sufficient space is provided for easy cleaning between, behind and above each unit of fixed equipment.

### 14-1.102 Aisles and working spaces.

Unobstructed aisles and working spaces are to be provided of sufficient width to permit employees to perform their duties readily without contamination of food or food-contact surfaces by clothing or personal contact. Easily movable storage equipment, such as pallets, racks and dollies, is to be positioned to provide accessibility to working areas.

## Equipment and Utensil Cleaning and Sanitation

### 14-1.110 Cleaning frequency.

- (a) Tableware is to be washed, rinsed and sanitized after each use and whenever subjected to contamination.
- (b) Food-contact surfaces are to be washed, rinsed and sanitized after each use and following any interruption of operations when contamination may have occurred. When eggs are processed in a blender or similar mixing machinery, the food container shall be disassembled, cleaned, rinsed, and sanitized after each use.
- (c) Equipment and utensils used for the preparation of potentially hazardous foods on a continuous or production-line basis are to be washed, rinsed and sanitized at intervals throughout the day on a schedule based on food temperature, type of food, and the amount of food particle accumulation. The food-contact surfaces of grills, griddles and

similar cooking devices and the cavities and door seals of microwave ovens are to be cleaned at least once a day. This does not apply to hot oil cooking equipment and hot oil filtering systems. Food-contact surfaces of all cooking equipment are to be kept free of encrusted grease deposits and other accumulated soil.

- (d) Non-food-contact surfaces of equipment are to be cleaned as often as necessary to keep the equipment free of accumulations of dust, dirt, food particles and other debris.
- (e) Clean and sanitized equipment and utensils, including single-service articles, are to be handled, transported and stored so they are protected from contamination.

#### **14-1.111 Manual facilities.**

An acceptable manual method of cleaning and sanitizing equipment, utensils and tableware is to use a three-compartment sink; to wash in the first compartment with hot water and a detergent; rinse in clean hot water in the second compartment; and sanitize in the third compartment, using an accepted procedure. Other methods acceptable to the permit-issuing official may be used. The procedure must clean and sanitize the article so as to produce an average plate count of not more than 100 colonies on the surface of the utensils examined, with no coliform bacteria.

#### **14-1.112 Definition of sanitization; general requirements.**

Sanitization is effective bactericidal treatment by heat or chemical means, acceptable to the permit-issuing official, which destroys pathogens on surfaces treated.

- (a) The following are acceptable methods of sanitizing:
  - (1) immersion for at least one-half minute in clean hot water at a temperature of not less than 170 degrees Fahrenheit (76.7 degrees Celsius);
  - (2) immersion for at least one minute in a clean solution containing at least 50 parts per million of available chlorine at a temperature of at least 75 degrees Fahrenheit (23.9 degrees Celsius);
  - (3) immersion for at least one minute in a clean solution containing at least 12.5 parts per million of available iodine and having pH not higher than 5.0 and at a temperature of at least 75 degrees Fahrenheit (23.9 degrees Celsius);
  - (4) immersion in a clean solution containing any other chemical sanitizing agent acceptable to the permit-issuing official that will provide the equivalent bactericidal effect of a solution containing at least 50 parts per million of available chlorine as hypochlorite at a temperature of at least 75 degrees Fahrenheit (23.9 degrees Celsius) for one minute;
  - (5) treatment with culinary-quality steam in the case of equipment too large to sanitize by immersion, but in which steam can be confined; or
  - (6) swabbing fixed equipment with a solution of at least twice the strength required for that sanitizing solution when used for immersion.
- (b) When hot water is used for sanitizing, the following is to be provided and used:
  - (1) a heating device or fixture installed in, on or under the sanitizing compartment of the sink capable of maintaining the water at a temperature of at least 170 degrees Fahrenheit (76.7 degrees Celsius);
  - (2) a numerically scaled, indicating thermometer accurate to plus or minus two degrees Fahrenheit (1.1 degrees Celsius) convenient to the sink for frequent checks of water temperature;
  - (3) dish baskets of such size and design to permit complete immersion of the tableware, kitchenware and equipment in the hot water.

- (c) Chemicals used for sanitizing are not to have concentrations which will leave toxic residues on surfaces treated. A test kit or other device is to be provided and used that accurately measures the parts per million concentration of the solution used, and the pH when it affects the performance of the chemical sanitizer.
- (d) Chemicals, heat or other process used for sanitizing is to produce an average plate count per utensil surface examined of not more than 100 colonies, and free from coliform organisms.

#### **14-1.113 Mechanical cleaning and sanitizing.**

- (a) Cleaning and sanitizing may be done by spray type or immersion dishwashing machines or by any other type of machine or device demonstrated to thoroughly clean and sanitize equipment and utensils. These machines and devices are to be installed and maintained in good repair and operated in accordance with manufacturers' instructions. Utensils and equipment placed in the machines are to be exposed to all cycles. Automatic detergent dispensers, wetting agent dispensers, and liquid sanitizer injectors, if any, are to be properly installed and maintained.
- (b) Machines are to have the wash water and the pumped rinse water kept clean. The final rinse water, when used as the sanitizer, is to be maintained at the temperature required by the manufacturer to sanitize under normal conditions of operation.
- (c) All dishwashing machines are to be cleaned at least once a day, or more often when necessary, to maintain them in a satisfactory operating condition.

#### **14-1.114 Drainboards.**

Drainboards of adequate size are to be provided and used for the proper handling of soiled items prior to washing and of clean items following sanitization. Drainboards are to be self-draining and to be located and constructed so that they do not interfere with the proper use of the dishwashing facilities. Use of easily movable tables for the storage of soiled items or the use of easily movable tables for the storage of clean items following sanitization is allowed.

#### **14-1.115 Mechanical dishwashing machines.**

Mechanical dishwashing machines are to be equipped with thermometers to check their operation. Chemical test kits are to be present in the establishment and used to assure adequate chemical concentrations to achieve sanitization in machines using chemicals. One-quarter inch iron pipe size pressure test cocks are to be provided on machines to permit checking flow pressure of the final rinse water where needed. Pressures are to be maintained within the range specified by the manufacturer.

#### **14-1.116 Drying.**

All equipment and utensils are to be air-dried after sanitizing.

#### **14-1.117 Wiping cloths.**

- (a) Clean, dry cloths used for wiping food spills from tableware, plates or bowls served to the consumer are to be used only for this purpose.

- (b) Moist cloths used for wiping food spills on kitchenware and food-contact surfaces of equipment are to be used only for this purpose. These cloths are to be stored in a sanitizing solution between uses.
- (c) Moist cloths used for cleaning non-food-contact surfaces of equipment such as counters, dining table tops and shelves are to be stored in a sanitizing solution between uses and are to be used only for this purpose.

## Water Supply

### 14-1.120 Water supply.

The water supply is to be adequate, safe, and of sanitary quality from an acceptable source that meets the requirements of Part 5 of this Title. Use of water supply requires prior approval from the permit-issuing official.

### 14-1.121 Bottled water.

Bottled and packaged potable water is to be obtained from a source approved by the State Commissioner of Health and handled and stored in a way that protects it from contamination. Bottled and packaged potable water is to be dispensed from the original container.

### 14-1.122 Steam.

Culinary-quality steam is to be used for contact with food or food-contact surfaces. All additives to such steam must be approved by the permit-issuing official for such use.

## Sewage

### 14-1.130 General.

All sewage, including liquid waste, is to be disposed of in a public sewer system or by a sewage disposal system constructed and operated in a manner acceptable to the permit-issuing official.

## Plumbing

### 14-1.140 Plumbing.

- (a) Plumbing is to be sized, installed and maintained to carry adequate quantities of potable hot and cold water at satisfactory pressure to all parts of the food service establishment where needed for satisfactory operation. Sewage and liquid wastes are to be carried to the sewer or sewage disposal facility in a manner which protects the premises, personnel and contents within the establishment and surroundings from contamination. All plumbing is to be constructed and maintained to prevent contamination of the potable water supply, food, equipment, utensils, the premises, contents, employees and patrons. There is to be no direct connection between the sewage system and any drains originating from fixtures and equipment used for storage, preparation or processing of food or drink. Waste lines from equipment requiring indirect drains are to be installed so as to prevent backflow from sewers and drains from other fixtures.

- (b) Carbonated beverage dispensers connected to a water supply system are to be equipped with an air gap at the water inlet, or a double check valve vented to discharge carbon dioxide gas to the atmosphere that provides positive protection against the entrance of carbon dioxide or carbonated water into the water supply system. All water contact surfaces downstream from this protective device are to be of materials that will not produce toxic substances when exposed to carbon dioxide or carbonated water.
- (c) All lines conducting carbon dioxide gas or carbonated beverages are to be stainless steel, food-grade plastic or other material that will not produce toxic substances when exposed to carbon dioxide or carbonated water.

#### **14-1.141 Definition of indirect drain.**

An indirect drain is a waste line which does not connect directly with the drainage system, but conveys and discharges liquid wastes through an air break into an approved plumbing fixture or receptacle, directly connected to the drainage system.

#### **14-1.142 Toilet facilities.**

- (a) Each food establishment is to have adequate, conveniently located, and properly installed toilet facilities for its employees. Such facilities are to be accessible at all times. Toilet fixtures are to be of sanitary design and readily cleanable. Toilet rooms are to be completely enclosed and to have tight-fitting, self-closing doors.
- (b) Toilet facilities are to be kept clean, in good repair and free from objectionable odors. A supply of toilet tissue is to be provided at all times at each toilet. Easily cleanable receptacles for waste paper and other refuse are to be provided. One receptacle, in toilet rooms used for women, is to be covered. Employee hand-washing signs are to be posted in each employee toilet room area.
- (c) All food service establishments with a seating capacity of 20 or more, except those in operation on or before December 5, 1977, are to provide toilet facilities for their patrons as required by chapter 774 of the Laws of 1977.

#### **14-1.143 Handwashing facilities.**

- (a) Adequate handwashing facilities are to be provided and maintained in or adjacent to toilet rooms, and in food preparation areas. Sinks not in use for food storage, preparation or processing or not in use for utensil or dishwashing may be used for handwashing.
- (b) Each handwashing facility is to be provided with running hot and cold or tempered potable water. Self-closing or metering faucets used are to provide a flow of water for at least 15 seconds without need to reactivate the faucet. Steam mixing valves are prohibited. In new construction or extensively altered installations, handwashing facilities are to be provided with hot and cold water tempered by means of a mixing valve or combination faucet.
- (c) Each handwashing facility is to be provided with hand-cleaning soap or detergent with a sanitary storage receptacle. Individual single-service towels, warm air blowers or clean individual sections of continuous cloth are to be provided. Common towels are prohibited. Conveniently located waste receptacles are to be provided if disposable towels are used.
- (d) Handwashing facilities, soap or detergent receptacles, handwashing devices and related facilities are to be kept clean and in good repair.
- (e) Handwashing signs are to be posted at all employee handwashing facilities.

## Garbage and Refuse

### 14-1.150 Garbage and refuse storage and disposal.

Garbage and refuse are to be stored, handled and disposed of in a manner that protects food and food-contact surfaces from contamination and the premises from litter.

- (a) Garbage and refuse is to be kept in durable, easily cleanable, insect-proof and rodent-proof containers. Plastic and wet-strength paper bags may be used to line garbage and refuse containers and for storage inside the food service establishment.
- (b) Garbage and refuse containers in food preparation and utensil washing areas are to be covered when not in use, and after they are filled.
- (c) Garbage and refuse containers stored outside the establishment, and dumpster, compactors and compactor systems, are to be easily cleanable, provided with tight-fitting lids, doors or covers, and kept covered when not in actual use. In containers designed with drains, drain plugs are to be in place at all times except during cleaning.
- (d) A sufficient number of containers are to be provided to hold all the garbage and refuse that accumulates between periods of pickup and removal. Containers are to be cleaned at a frequency to prevent insect and rodent attraction.

## Insect and Rodent Control

### 14-1.160 Insect and rodent control.

The premises are to be free of insects, rodents, harborage, and insect or rodent breeding conditions. Openings to the outside are to be protected against the entrance of insects and rodents. Pesticides are not to be used in place of or as a substitute for proper sanitation.

## Construction and Maintenance of Physical Facilities

### 14-1.170 Floors.

Floors and floor coverings of food storage, food preparation equipment, utensil washing areas, and floors of walk-in refrigerating units, dressing rooms, locker rooms, toilet rooms and vestibules, are to be maintained clean and in good repair and are to be smooth, durable, and non-absorbent. The use of anti-skid floor covering is acceptable when necessary for safety reasons.

### 14-1.171 Walls and ceilings.

- (a) Walls and ceilings, including doors, windows, skylights and similar closures, are to be maintained clean and in good repair.
- (b) Walls, including nonsupporting partitions, wall coverings and ceilings of walk-in refrigerating units, food preparation areas, equipment washing and utensil areas, toilet rooms and vestibules, are to be easily cleanable, light-colored, smooth and nonabsorbent. Concrete or pumice blocks used for interior wall construction in these areas are to be finished and sealed to provide an easily cleanable surface.
- (c) Exposed utility service lines and pipes are to be installed in a way that does not obstruct or prevent cleaning of the walls and ceilings.

- (d) Light fixtures, vent covers, wall-mounted fans, decorative materials and similar equipment attached to walls and ceilings are to be maintained clean and in good repair and are to be installed to be easily cleanable.
- (e) Wall and ceiling covering materials are to be attached and sealed to be easily cleanable and to prevent insect harborage.

### **14-1.172 Cleaning; general requirements.**

Cleaning is to be done during periods when the least amount of food is exposed, such as after closing or between meals, except during emergencies. Dustless methods are to be used to clean floors and walls, such as vacuum cleaning, wet mopping, or the use of dust-resisting sweeping compounds with brooms. Maintenance and cleaning tools, such as brooms, mops, vacuum cleaners and similar equipment, are to be stored and maintained in a way that does not contaminate food, utensils, equipment or linens, and in an orderly manner, to facilitate the cleaning of the storage location.

### **14-1.173 Cleaning of floor cleaning tools.**

In new or extensively remodeled establishments, at least one utility sink or curbed cleaning facility with a floor drain is to be provided and used for cleaning mops, similar wet floor cleaning tools, disposal of mop water and similar liquid waste. The use of lavatories or utensil, equipment or food preparation sinks for this purpose is prohibited.

### **14-1.174 Lighting.**

- (a) Permanent artificial light sources are to be installed and maintained to provide at least 30 footcandles of light on all food preparation surfaces and at equipment or utensil washing work levels.
- (b) Permanent artificial light sources are to be installed and maintained to provide at least 20 footcandles of light at a distance of 30 inches from the floor in:
  - (1) utensil and equipment storage areas, lavatory and toilet areas;
  - (2) walk-in refrigerating units, dry food storage areas and in other areas; and
  - (3) dining areas during cleaning operations.

### **14-1.175 Ventilation.**

- (a) All rooms are to be provided with sufficient ventilation to keep them free of excessive heat, steam, condensation, vapors, odors, smoke and fumes. Ventilation systems, when vented to the outside, are not to create an unsightly or harmful discharge or create a nuisance.
  - (1) Intake and exhaust air ducts are to be constructed and maintained to prevent the entrance of dust, dirt or other contaminating materials into the establishment.
  - (2) In new or extensively remodeled establishments, mechanical ventilation is required in all rooms where odors, vapors or fumes originate.
- (b) Ventilation hoods and devices are to be constructed and installed to prevent grease or condensation from collecting on walls or ceilings and from dripping into food or onto food-contact surfaces.

### **14-1.176 Dressing rooms and areas.**

In establishments where employees routinely change clothes, rooms or areas are to be designated and used for this purpose. These designated rooms or areas are not to be used for food preparation, or storage or service, or for utensil washing or storage.

### **14-1.177 Locker area.**

Enough lockers or other suitable facilities are to be provided and used for the orderly storage of employee clothing and other belongings.

## **Miscellaneous**

### **14-1.180 Premises.**

- (a) Food service establishments and all parts of the property used in connection with operations of the establishment are to be kept clean and free from litter, and are to be maintained in such a manner as to prevent creation of a nuisance.
- (b) Only articles necessary to the operation and maintenance of the food service establishment are to be in the establishment.
- (c) Unnecessary traffic of persons through the food preparation and utensil washing areas is prohibited.

### **14-1.181 Living areas.**

Operation of a food service establishment is not to be conducted in any room used as living or sleeping quarters. Food service operations are to be separated from living or sleeping quarters by complete partitioning and solid self-closing doors.

### **14-1.182 Laundry facilities.**

- (a) Laundry facilities in a food service establishment are restricted to the washing and drying of linens, clothes, uniforms and aprons necessary to the operation.
- (b) A separate room is required for laundry facilities, except that such operations may be conducted in storage rooms containing only packaged foods or packaged single-service articles.
- (c) Clean clothes and linens are to be stored, until used, in a clean place protected from contamination.
- (d) Soiled clothes and soiled linens are to be stored in nonabsorbent containers or washable laundry bags until removed for laundering.

### **14-1.183 Animals.**

Live animals, including birds and turtles, are to be excluded from food service operations. This exclusion does not apply to edible fish, crustacea, shellfish, or to fish in aquariums. Patrol dogs accompanying security police officers or guide dogs accompanying blind persons are permitted in the dining area.

### **14-1.184 Religious, fraternal and charitable organizations.**

The provisions of this Subpart for equipment, plan review and pre-operational notification applicable to commercial food service operations shall not apply to food service establishments open to the public which are operated by religious, fraternal and charitable organizations.

- (a) A permission to operate a food service issued to such organizations hereunder shall be for a term of two years and shall not require payment of a fee.
- (b) Plan review requirements are waived for all such organizations.
- (c) Such organization shall notify the permit issuing official or the department of its intention to engage in food service operations over the course of the next two years. The mailing of such notice will satisfy all requirements of this Part for the two-year period.
- (d) The provisions of this section shall not prohibit the commissioner from actions necessary to assure that the public health is not endangered.
- (e) This section shall not apply to continuing food services provided by such organizations operated more often than weekly.

## **Enforcement**

### **14-1.190 Permits, application, fees, issuance, inspection.**

- (a) A valid permit issued by the permit-issuing official having jurisdiction is required for lawful operation of a food service establishment. This permit is to be prominently displayed at each food service establishment where it can be seen by the consumer. At establishments that serve retail frozen desserts, the \$25 permit fee imposed by Public Health Law Section 225(5)(s) shall be paid at the time any other permit fees related to the operation of the food service establishment are collected by the permit-issuing official and the establishment's permit shall indicate that the facility can manufacture and sell retail frozen desserts.
- (b) The term permit-issuing official means the health commissioner or health officer of a city of 50,000 population or over, the health commissioner or health officer of a county or part-county health district, the State regional health director or area director having jurisdiction, a grade I or grade II public health administrator qualified and appointed pursuant to Part 11 of this Title, a public health director or any county health director having all the powers and duties prescribed in section 352 of the Public Health Law. The health commissioner or health officer of a city of 50,000 population or over, or the health commissioner or health officer of a county or part county health district, or such grade I or grade II public health administrator or public health director or county health director may designate the director of environmental health of such district; and the State regional health director, or area director may designate the district director as additional persons authorized to issue permits required by this Subpart.
- (c) Not less than 21 days before starting operation of a food service establishment, an application for a permit is to be submitted to the permit-issuing official having jurisdiction. This application is to be completed in full on forms acceptable to the permit-issuing official.
- (d) A permit will be issued subject to the food service establishment being constructed; maintained and operated in compliance with this Subpart and not presenting a danger to the health of the consumer or to the public. An applicant's past history of compliance or non-compliance will be a consideration in evaluating each of the previously mentioned criteria. The condition of the establishment, its equipment, utensils, personnel, mode of operation, surroundings, water supply, sewage disposal, waste handling, furnishings,

food and appurtenances are all factors in determining whether its continued operation may affect public health. After making the preliminary inspection, a permit may be issued or the operator advised of violations prohibiting issuance of such permit by the permit-issuing official.

- (e) It is unlawful for a food service establishment to operate without a permit during the 21 days from the time a permit has been requested. In the event the permit-issuing official or his designated representative does not make an inspection of the establishment during this 21-day period, operations may commence without a permit on the 22nd day and may be continued without being in violation of this Subpart until such time as the permit-issuing official or his designated representative makes an inspection and issues a permit or issues an order to cease operation for cause.
- (f) The designated representative of the permit-issuing official is a person authorized to perform inspections of food service establishments on behalf of the permit-issuing official.
- (g) Adult proprietary care facilities and day care centers approved to operate by the New York State Department of Social Services, hospitals and nursing homes approved to operate pursuant to the Public Health Law, and state owned/operated facilities do not require a separate permit for food service operations unless such operations are conducted by a third party. In that event, the third party is responsible to make application and to obtain a permit from the permit-issuing official subject to the requirements of this Subpart.

#### **14-1.191 Pre-operational review.**

It is the responsibility of the operator of a food service establishment to construct, equip, furnish, maintain and operate the food service establishment under his control in compliance with the requirements of this Subpart and other applicable laws, rules and regulations. Prior to constructing, major renovation, or commencing operation of a food service establishment, the permit-issuing official may require all food service establishments under his control to submit sketches or plans showing the floor layout, equipment, plumbing, ventilation, refuse storage facilities, sewage disposal facilities and similar information. Submission and review of plans does not relieve the operator of a food service establishment or his successor from meeting all requirements of this Subpart.

#### **14-1.192 Term of permits; nontransferable.**

- (a) Permits will be issued for a period of time not to exceed two years. The permit-issuing official will determine the term of the permit based on the record of compliance of the establishment, the potential for risk to public health presented by operation of the establishment, and whether the establishment has an acceptable self-inspection program. After due notice and an opportunity for a hearing, the permit-issuing official may at any time change the term of any permit.
- (b) Permits are nontransferable from one owner or operator to another, or from one establishment location to another.

#### **14-1.194 Enforcement.**

- (a) Operation of a food service establishment without a permit is a violation of this Subpart. The permit-issuing official or his designated representative may order any food service establishment or operation in his jurisdiction, operating without a valid permit, to

close and cease all food operations immediately, and to remain closed until the establishment or operation has obtained and displays a valid permit.

- (b) For serious, repeated or persistent violations of any of the requirements of this Subpart, or for interference with the permit-issuing official or his designated representative in the performance of his duties, the permit may be revoked after notice and an opportunity for a hearing has been provided by the permit-issuing official.
- (c) The permit-issuing official may suspend a permit and order immediate cessation of operations and service of food at a food service establishment within his jurisdiction when in his opinion continued operation is an imminent hazard to public health. Any person so ordered is to comply immediately, and within 15 days is to be provided with an opportunity to be heard and to present proof that continued operation does not constitute a danger to the public health.

#### **14-1.195 Access.**

The permit-issuing official or his designated representative is to be permitted access for purposes of inspection at all times while the food service establishment is in operation, whether open to the public for service of food or not. Refusal of admittance, after proper identification, is cause for action to obtain permit revocation and an order to close.

#### **14-1.196 Embargo**

- (a) The permit-issuing official or his designated representative may, by written order, place an embargo order on food which he determines or has reason to believe to be contaminated, unfit for human consumption, or from an unapproved source. Such food may not be used, sold, donated, discarded, repackaged or otherwise disposed of until such embargo is lifted by the permit-issuing official, his designated representative, or court of competent jurisdiction. The permit-issuing official shall provide the owner of the food embargoed, or the representative of the owner, an opportunity to be heard within 15 calendar days after the date of the order of embargo. The hearing officer, based on the evidence produced at such hearing, will make a recommendation to the permit-issuing official that he may vacate the order of embargo, or may, by written order, direct the embargoed food, or any part of it, (1) to be continued to be held under embargo pending further testing, analysis or court action, (2) to be destroyed, (3) to be denatured and rendered inedible, (4) to be released for return to a food processing plant for further processing, (5) to be released to another regulatory agency, or (6) to other appropriate action. The permit-issuing official will consider the hearing officer's recommendation in determining the disposition of the embargoed food. The owner of the food embargoed shall be deemed to have received notice of embargo and hearing at the time the notice of embargo and hearing is delivered to any of his employees or agents.
- (b) The permit-issuing official or his designated representative may take representative samples of the suspected food for analysis upon payment of the retail value of the sample taken.

#### **14-1.197 Suspension of permits.**

Permits may be suspended temporarily by the permit-issuing official, after notice and an opportunity to be heard, for failure of the permit holder to comply with the requirements of this Subpart, or with any lawful notice or order issued by the permit-issuing official or his designated representative.

### **14-1.198 Closure.**

When action is taken to order closure and cessation of operations, the permit-issuing official or his designated representative is to:

- (a) conspicuously post a notice or placard at each entrance of the establishment stating the existence of such order and the authority for such order. This order is not to be concealed, mutilated or altered by any person, or removed without permission of the permit-issuing official; and
- (b) publish notice of the order, with the reasons for the order, in one or more newspapers in the county or city in which the food service establishment is located.

### **14-1.199 Hearings.**

The hearings provided for in this Subpart are to be conducted by the permit-issuing official or his designated hearing officer.

### **14-1.200 Emergency occurrences, reporting of foodborne disease.**

- (a) In the event of an occurrence such as fire, flood, power outage, or similar event which might result in the contamination of food or which might prevent potentially hazardous food from being held at required temperatures, the person in charge of the establishment is to immediately notify the permit-issuing official.
- (b) Any food service operator except those regulated by Chapter V of this Title having actual or constructive knowledge of the occurrence of illness allegedly due to the consumption of food served at the establishment, shall report the same within 24 hours by telephone, telegram or in person to the permit-issuing official.

### **14-1.201 Waiver.**

The permit-issuing official may waive, in writing, any of the requirements of this Subpart, and the waiver included as a condition of the permit to operate, when it reasonably appears that the public health will not be endangered by such waiver. All such waivers are to be only for the same period as the term of the permit.

### **14-1.202 Separability.**

If any provision of this Subpart is held invalid, such invalidity shall not affect other provisions which shall be given effect without the invalid provisions.