

# Chapter 246-215 WAC

## FOOD SERVICE

**WAC**

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**DISPOSITION OF SECTIONS FORMERLY CODIFIED IN THIS CHAPTER**

<p>246-215-009          246-215-010          246-215-019          246-215-020          246-215-029          246-215-030          246-215-039</p>	<p>246-215-060          246-215-069          246-215-070          246-215-079          246-215-080          246-215-089          246-215-090</p>	<p>Modified atmosphere packaging. [Statutory Authority: RCW 43.20.050. 92-08-112 (Order 261B), § 246-215-060, filed 4/1/92, effective 5/2/92.] Repealed by 04-22-111, filed 11/3/04, effective 5/2/05. Statutory Authority: RCW 43.20.050, 43.20.145 and 69.80.060.          Equipment and utensil cleaning and sanitation. [Statutory Authority: RCW 43.20.050. 91-02-051 (Order 124B), recodified as § 246-215-069, filed 12/27/90, effective 1/31/91; 84-14-090 (Order 274), § 248-84-035, filed 7/3/84; 80-14-059 (Order 203), § 248-84-035, filed 10/1/80.] Repealed by 92-08-112 (Order 261B), filed 4/1/92, effective 5/2/92. Statutory Authority: RCW 43.20.050.          Temperature control. [Statutory Authority: RCW 43.20.050. 92-08-112 (Order 261B), § 246-215-070, filed 4/1/92, effective 5/2/92.] Repealed by 04-22-111, filed 11/3/04, effective 5/2/05. Statutory Authority: RCW 43.20.050, 43.20.145 and 69.80.060.          Sanitary facilities and controls. [Statutory Authority: RCW 43.20.050. 91-02-051 (Order 124B), recodified as § 246-215-079, filed 12/27/90, effective 1/31/91; 80-14-059 (Order 203), § 248-84-040, filed 10/1/80; Regulation .84.040, filed 6/4/63; Regulation .84.040, effective 3/11/60.] Repealed by 92-08-112 (Order 261B), filed 4/1/92, effective 5/2/92. Statutory Authority: RCW 43.20.050.          Personal hygiene. [Statutory Authority: RCW 43.20.050. 92-08-112 (Order 261B), § 246-215-080, filed 4/1/92, effective 5/2/92.] Repealed by 04-22-111, filed 11/3/04, effective 5/2/05. Statutory Authority: RCW 43.20.050, 43.20.145 and 69.80.060.          Garbage and rubbish. [Statutory Authority: RCW 43.20.050. 91-02-051 (Order 124B), recodified as § 246-215-089, filed 12/27/90, effective 1/31/91; 80-14-059 (Order 203), § 248-84-045, filed 10/1/80.] Repealed by 92-08-112 (Order 261B), filed 4/1/92, effective 5/2/92. Statutory Authority: RCW 43.20.050.          Sanitary design, construction, and installation of equipment and utensils. [Statutory Authority: RCW 43.20.050. 92-08-112 (Order 261B), § 246-215-090, filed 4/1/92, effective 5/2/92.] Repealed by 04-22-111, filed 11/3/04, effective 5/2/05. Statutory Authority: RCW 43.20.050, 43.20.145 and 69.80.060.</p>
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246-215-099	Insect and rodent control. [Statutory Authority: RCW 43.20.050. 91-02-051 (Order 124B), recodified as § 246-215-099, filed 12/27/90, effective 1/31/91; 80-14-059 (Order 203), § 248-84-050, filed 10/1/80; Regulation .84.050, filed 6/4/63; Regulation .84.050, effective 3/11/60.] Repealed by 92-08-112 (Order 261B), filed 4/1/92, effective 5/2/92. Statutory Authority: RCW 43.20.050.	246-215-160	Mobile food units. [Statutory Authority: RCW 43.20.050. 92-08-112 (Order 261B), § 246-215-160, filed 4/1/92, effective 5/2/92.] Repealed by 04-22-111, filed 11/3/04, effective 5/2/05. Statutory Authority: RCW 43.20.050, 43.20.145 and 69.80.060.
246-215-100	Equipment and utensil cleaning and sanitizing. [Statutory Authority: RCW 43.20.050. 92-08-112 (Order 261B), § 246-215-100, filed 4/1/92, effective 5/2/92.] Repealed by 04-22-111, filed 11/3/04, effective 5/2/05. Statutory Authority: RCW 43.20.050, 43.20.145 and 69.80.060.	246-215-169	Hearings. [Statutory Authority: RCW 43.20.050. 91-02-051 (Order 124B), recodified as § 246-215-169, filed 12/27/90, effective 1/31/91; 80-14-059 (Order 203), § 248-84-080, filed 10/1/80.] Repealed by 92-08-112 (Order 261B), filed 4/1/92, effective 5/2/92. Statutory Authority: RCW 43.20.050.
246-215-109	Construction and maintenance of physical facilities. [Statutory Authority: RCW 43.20.050. 91-02-051 (Order 124B), recodified as § 246-215-109, filed 12/27/90, effective 1/31/91; 80-14-059 (Order 203), § 248-84-055, filed 10/1/80.] Repealed by 92-08-112 (Order 261B), filed 4/1/92, effective 5/2/92. Statutory Authority: RCW 43.20.050.	246-215-170	Customer self-service of food and bulk food dispensing. [Statutory Authority: RCW 43.20.050. 92-08-112 (Order 261B), § 246-215-170, filed 4/1/92, effective 5/2/92.] Repealed by 04-22-111, filed 11/3/04, effective 5/2/05. Statutory Authority: RCW 43.20.050, 43.20.145 and 69.80.060.
246-215-110	Poisonous or toxic materials. [Statutory Authority: RCW 43.20.050. 92-08-112 (Order 261B), § 246-215-110, filed 4/1/92, effective 5/2/92.] Repealed by 04-22-111, filed 11/3/04, effective 5/2/05. Statutory Authority: RCW 43.20.050, 43.20.145 and 69.80.060.	246-215-179	Inspections. [Statutory Authority: RCW 43.20.050. 91-02-051 (Order 124B), recodified as § 246-215-179, filed 12/27/90, effective 1/31/91; 80-14-059 (Order 203), § 248-84-085, filed 10/1/80.] Repealed by 92-08-112 (Order 261B), filed 4/1/92, effective 5/2/92. Statutory Authority: RCW 43.20.050.
246-215-119	Mobile units. [Statutory Authority: RCW 43.20.050. 91-02-051 (Order 124B), recodified as § 246-215-119, filed 12/27/90, effective 1/31/91; 80-14-059 (Order 203), § 248-84-060, filed 10/1/80; Regulation .84.060, filed 6/4/63; Rules (part), effective 3/11/60.] Repealed by 92-08-112 (Order 261B), filed 4/1/92, effective 5/2/92. Statutory Authority: RCW 43.20.050.	246-215-180	Bed and breakfast food service operations. [Statutory Authority: RCW 43.20.050. 92-08-112 (Order 261B), § 246-215-180, filed 4/1/92, effective 5/2/92.] Repealed by 04-22-111, filed 11/3/04, effective 5/2/05. Statutory Authority: RCW 43.20.050, 43.20.145 and 69.80.060.
246-215-120	Sanitary facilities and controls. [Statutory Authority: RCW 43.20.050. 92-08-112 (Order 261B), § 246-215-120, filed 4/1/92, effective 5/2/92.] Repealed by 04-22-111, filed 11/3/04, effective 5/2/05. Statutory Authority: RCW 43.20.050, 43.20.145 and 69.80.060.	246-215-189	Examination—Hold orders—Condemnation—Destruction of food. [Statutory Authority: RCW 43.20.050. 91-02-051 (Order 124B), recodified as § 246-215-189, filed 12/27/90, effective 1/31/91; 80-14-059 (Order 203), § 248-84-090, filed 10/1/80.] Repealed by 92-08-112 (Order 261B), filed 4/1/92, effective 5/2/92. Statutory Authority: RCW 43.20.050.
246-215-129	Bulk foods, storage, and display. [Statutory Authority: RCW 43.20.050. 91-02-051 (Order 124B), recodified as § 246-215-129, filed 12/27/90, effective 1/31/91; 84-14-090 (Order 274), § 248-84-062, filed 7/3/84.] Repealed by 92-08-112 (Order 261B), filed 4/1/92, effective 5/2/92. Statutory Authority: RCW 43.20.050.	246-215-190	Temporary food service establishments. [Statutory Authority: RCW 43.20.050. 92-08-112 (Order 261B), § 246-215-190, filed 4/1/92, effective 5/2/92.] Repealed by 04-22-111, filed 11/3/04, effective 5/2/05. Statutory Authority: RCW 43.20.050, 43.20.145 and 69.80.060.
246-215-130	Garbage, rubbish, and litter. [Statutory Authority: RCW 43.20.050. 92-08-112 (Order 261B), § 246-215-130, filed 4/1/92, effective 5/2/92.] Repealed by 04-22-111, filed 11/3/04, effective 5/2/05. Statutory Authority: RCW 43.20.050, 43.20.145 and 69.80.060.	246-215-199	Review of plans. [Statutory Authority: RCW 43.20.050. 91-02-051 (Order 124B), recodified as § 246-215-199, filed 12/27/90, effective 1/31/91; 80-14-059 (Order 203), § 248-84-095, filed 10/1/80.] Repealed by 92-08-112 (Order 261B), filed 4/1/92, effective 5/2/92. Statutory Authority: RCW 43.20.050.
246-215-139	Temporary food service establishments. [Statutory Authority: RCW 43.20.050. 91-02-051 (Order 124B), recodified as § 246-215-139, filed 12/27/90, effective 1/31/91; 80-14-059 (Order 203), § 248-84-065, filed 10/1/80.] Repealed by 92-08-112 (Order 261B), filed 4/1/92, effective 5/2/92. Statutory Authority: RCW 43.20.050.	246-215-209	Procedure when infection is suspected. [Statutory Authority: RCW 43.20.050. 91-02-051 (Order 124B), recodified as § 246-215-209, filed 12/27/90, effective 1/31/91; 80-14-059 (Order 203), § 248-84-100, filed 10/1/80.] Repealed by 92-08-112 (Order 261B), filed 4/1/92, effective 5/2/92. Statutory Authority: RCW 43.20.050.
246-215-140	Pests and pest control. [Statutory Authority: RCW 43.20.050. 92-08-112 (Order 261B), § 246-215-140, filed 4/1/92, effective 5/2/92.] Repealed by 04-22-111, filed 11/3/04, effective 5/2/05. Statutory Authority: RCW 43.20.050, 43.20.145 and 69.80.060.	246-215-219	Variance clause. [Statutory Authority: RCW 43.20.050. 91-02-051 (Order 124B), recodified as § 246-215-219, filed 12/27/90, effective 1/31/91; 80-14-059 (Order 203), § 248-84-105, filed 10/1/80.] Repealed by 92-08-112 (Order 261B), filed 4/1/92, effective 5/2/92. Statutory Authority: RCW 43.20.050.
246-215-149	Permits required, suspension and revocation procedures. [Statutory Authority: RCW 43.20.050. 91-02-051 (Order 124B), recodified as § 246-215-149, filed 12/27/90, effective 1/31/91; 80-14-059 (Order 203), § 248-84-070, filed 10/1/80; Regulation .84.070 (part), filed 6/4/63; Rules (part), effective 3/11/60.] Repealed by 92-08-112 (Order 261B), filed 4/1/92, effective 5/2/92. Statutory Authority: RCW 43.20.050.	246-215-229	Interpretation. [Statutory Authority: RCW 43.20.050. 91-02-051 (Order 124B), recodified as § 246-215-229, filed 12/27/90, effective 1/31/91; 80-14-059 (Order 203), § 248-84-110, filed 10/1/80.] Repealed by 92-08-112 (Order 261B), filed 4/1/92, effective 5/2/92. Statutory Authority: RCW 43.20.050.
246-215-150	Construction and maintenance of physical facilities. [Statutory Authority: RCW 43.20.050 and chapter 70.84 RCW. 02-09-028, § 246-215-150, filed 4/9/02, effective 5/10/02. Statutory Authority: RCW 43.20.050. 92-08-112 (Order 261B), § 246-215-150, filed 4/1/92, effective 5/2/92.] Repealed by 04-22-111, filed 11/3/04, effective 5/2/05. Statutory Authority: RCW 43.20.050, 43.20.145 and 69.80.060.	246-215-230	Inspections and investigations. [Statutory Authority: RCW 43.20.050. 92-08-112 (Order 261B), § 246-215-230, filed 4/1/92, effective 5/2/92.] Repealed by 04-22-111, filed 11/3/04, effective 5/2/05. Statutory Authority: RCW 43.20.050, 43.20.145 and 69.80.060.
246-215-159	Service of notices. [Statutory Authority: RCW 43.20.050. 91-02-051 (Order 124B), recodified as § 246-215-159, filed 12/27/90, effective 1/31/91; 80-14-059 (Order 203), § 248-84-075, filed 10/1/80.] Repealed by 92-08-112 (Order 261B), filed 4/1/92, effective 5/2/92. Statutory Authority: RCW 43.20.050.	246-215-239	Sulfiting agents. [Statutory Authority: RCW 43.20.050. 91-02-051 (Order 124B), recodified as § 246-215-239, filed 12/27/90, effective 1/31/91; 85-11-024 (Order 288), § 248-84-120, filed 5/13/85.] Repealed by 92-08-112 (Order 261B), filed 4/1/92, effective 5/2/92. Statutory Authority: RCW 43.20.050.
		246-215-250	Review of plans and menu. [Statutory Authority: RCW 43.20.050. 92-08-112 (Order 261B), § 246-215-250, filed 4/1/92, effective 5/2/92.] Repealed by 04-22-111, filed 11/3/04, effective 5/2/05. Statutory Authority: RCW 43.20.050, 43.20.145 and 69.80.060.
		246-215-270	Variance clause. [Statutory Authority: RCW 43.20.050. 92-08-112 (Order 261B), § 246-215-270, filed 4/1/92, effective 5/2/92.] Repealed by 04-22-111, filed 11/3/04,

- effective 5/2/05. Statutory Authority: RCW 43.20.050, 43.20.145 and 69.80.060.
- 246-215-500 Separability clause. [Statutory Authority: RCW 43.20.050. 91-02-051 (Order 124B), recodified as § 246-215-500, filed 12/27/90, effective 1/31/91; 80-14-059 (Order 203), § 248-84-500, filed 10/1/80.] Repealed by 92-08-112 (Order 261B), filed 4/1/92, effective 5/2/92. Statutory Authority: RCW 43.20.050.
- 246-215-900 Penalty clause. [Statutory Authority: RCW 43.20.050. 91-02-051 (Order 124B), recodified as § 246-215-900, filed 12/27/90, effective 1/31/91; 80-14-059 (Order 203), § 248-84-900, filed 10/1/80.] Repealed by 92-08-112 (Order 261B), filed 4/1/92, effective 5/2/92. Statutory Authority: RCW 43.20.050.

**WAC 246-215-001 Purpose and authority.** The purpose of chapter 246-215 WAC is to establish state board of health standards for food service under RCW 43.20.050 to promote and protect the health, safety, and well-being of the public and prevent the spread of disease through food.

[Statutory Authority: RCW 43.20.050, 43.20.145 and 69.80.060. 04-22-111, § 246-215-001, filed 11/3/04, effective 5/2/05. Statutory Authority: RCW 43.20.050. 92-08-112 (Order 261B), § 246-215-001, filed 4/1/92, effective 5/2/92; 91-02-051 (Order 124B), recodified as § 246-215-001, filed 12/27/90, effective 1/31/91; 80-14-059 (Order 203), § 248-84-001, filed 10/1/80; Regulation .84.001, filed 6/4/63; Regulation .84.001, effective 3/11/60.]

**WAC 246-215-005 Minimum performance standards.** (1) Any person owning, operating, or working in a food establishment must comply with and is subject to:

(a) The requirements of chapters 1 through 8 of the 2001 *Food Code* published by the U.S. Department of Health and Human Services, Public Health Service, Food and Drug Administration (copies available as report number PB 2002100819 through the U.S. Department of Commerce, Technology Administration, National Technical Information Service); and

(b) The other provisions of this chapter.

(2) If a provision or definition of the *Food Code* is inconsistent with a provision or definition otherwise established under this chapter, the requirement established under this chapter shall apply.

[Statutory Authority: RCW 43.20.050, 43.20.145 and 69.80.060. 04-22-111, § 246-215-005, filed 11/3/04, effective 5/2/05.]

**WAC 246-215-011 Definitions.** (1) This section establishes definitions that are additional to those in the *Food Code* or that modify definitions in the *Food Code*.

(2) "Bed and breakfast operation" means a private home or inn offering one or more lodging units on a temporary basis to travelers.

(3) "Catering operation" means a person contracted to prepare food in an approved food establishment for final cooking or service at another location.

(4) "Commissary" means an approved food establishment where food is stored, prepared, portioned, or packaged for service elsewhere.

(5) "Critical item," as defined in *Food Code* subparagraph 1-201-10 (B)(19), does not apply.

(6) "Donated food distributing organization" means a charitable nonprofit organization under section 501(c) of the federal Internal Revenue Code that distributes food free of charge and includes any nonprofit organization that distributes food free of charge to the public.

(7) "Donor" means a person, corporation, association, or other organization that donates food to a donated food distributing organization under the provisions of chapter 69.80 RCW, known as the Good Samaritan Food Donation Act.

(8) "Donor kitchen" means a kitchen that is used by a donor to handle, store, or prepare food for donation to needy persons through a donated food distributing organization and which is not a residential kitchen in a private home.

(9) "Drinking water" means potable water that is supplied in compliance with chapters 246-290 and 246-291 WAC.

(10) "Egg" means the shell egg of the domesticated chicken, turkey, duck, goose, guinea, or any other species of fowl.

(11) "*Food Code*" means the 2001 edition of the *Food Code* of the United States Public Health Service, Food and Drug Administration.

(12) "Food establishment" is amended in *Food Code* subparagraph 1-201.10 (B)(36)(c) to not mean:

(a) An establishment that offers only nonpotentially hazardous foods prepackaged in a licensed food establishment or food processing plant;

(b) An establishment that offers only nonpotentially hazardous, nonready-to-eat, minimally cut, unprocessed fruits and vegetables;

(c) A food processing plant or other establishment for activities regulated by the Washington state department of agriculture or the U.S. Department of Agriculture;

(d) An establishment that offers only nonpotentially hazardous, ready-to-eat foods produced in a licensed food establishment or food processing plant (such as premixed soda pop, powdered creamer, pretzels, cookies, doughnuts, cake, or meat jerky) that are served without direct hand contact, with limited portioning, directly onto or into sanitary single-use articles or single-service articles from the original package;

(e) An establishment that offers only nonpotentially hazardous hot beverages (such as coffee, hot tea, or hot apple cider) served directly into sanitary single-service articles;

(f) An establishment that offers only dry, nonpotentially hazardous, nonready-to-eat foods (such as dry beans, dry grains, in-shell nuts, coffee beans, tea leaves, or herbs for tea);

(g) An establishment that offers only prepackaged frozen confections produced in a licensed food establishment or food processing plant;

(h) A residential kitchen in a private home or other location, if only foods that are nonpotentially hazardous baked goods are prepared and wrapped in a sanitary manner for sale or service by a nonprofit organization operating for religious, charitable, or educational purposes and if the consumer is informed by a clearly visible placard at the sales or service location that the foods are prepared in a kitchen that is not inspected by a regulatory authority;

(i) A location where foods that are prepared as specified in (h) of this subsection are sold or offered for human consumption;

(j) A kitchen in a private home operated as a family day care provider as defined in RCW 74.15.020 (1)(f) or an adult family home as defined in RCW 70.128.010, used only to

prepare food for residents and other people for whom the operation is licensed to provide care;

(k) A private home that receives catered or home-delivered food;

(l) A private home or other location used for a private event;

(m) A donor kitchen; and

(n) A location used for a potluck.

(13) "Food worker card" means a food and beverage service worker's permit as required under chapter 69.06 RCW.

(14) "Immediate service" means service to the public within thirty minutes of preparation.

(15) "Imminent health hazard" means a significant threat or danger to health that is considered to exist when there is evidence sufficient to show that a product, practice, circumstance, or event creates a situation that requires immediate correction or cessation of operation to prevent injury based on:

(a) A breakdown or lack of equipment or power causing improper temperature control for potentially hazardous food;

(b) A lack of water preventing adequate handwashing, equipment cleaning, or sanitizing;

(c) An emergency situation caused by accident or natural disaster, such as fire, flood, or building collapse;

(d) A sewage backup or sewage contamination within a food establishment; or

(e) An occurrence of an outbreak of foodborne illness linked to the food establishment.

(16) "Local board of health" means the county or district board of health.

(17) "Local health officer" means the legally qualified physician who has been appointed as the health officer for the county or district public health department.

(18) "Mobile food unit" means a readily movable food establishment.

(19) "Person in charge" means the individual present at a food establishment who is responsible for the operation at the time.

(20) "Potentially hazardous food," is amended in *Food Code* subparagraph 1-201.10 (B)(65)(b) to include "fresh herb-in-oil mixtures," unless modified in a way that results in mixtures that do not support growth as specified under subparagraph 1-201.10 (B)(65)(a).

(21) "Potluck" means an event where:

(a) People are gathered to share food;

(b) People attending are expected to bring food to share;

(c) There is no compensation provided to people for bringing food to the event;

(d) There is no charge for any food or beverage provided at the event; and

(e) The event is not conducted for commercial purposes.

(22) "Private event" means a private gathering restricted to members and guests of members of a family, organization, or club; where the event is not open to the general public; and where food is provided without compensation.

(23) "Public water system" means a drinking water system that is operated in compliance with chapters 246-290 and 246-291 WAC.

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

of health, acting through the local health officer, is the regulatory authority for the activity of a food establishment, except as otherwise provided by law.

(25) "Service animal" means an animal that is trained for the purpose of assisting or accommodating a disabled person's sensory, mental, or physical disability.

(26) "Temporary food establishment" means a food establishment:

(a) Operating at a fixed location, with a fixed menu, for not more than twenty-one consecutive days in conjunction with a single event or celebration, such as a fair or festival; or

(b) Operating not more than three days a week at a fixed location, with a fixed menu, in conjunction with an approved, recurring, organized event, such as a farmers market.

[Statutory Authority: RCW 43.20.050, 43.20.145 and 69.80.060. 04-22-111, § 246-215-011, filed 11/3/04, effective 5/2/05.]

#### **WAC 246-215-021 Management and personnel.** (1)

The permit holder and person in charge of the food establishment must ensure that all food employees are in compliance with the provisions of chapter 69.06 RCW and chapter 246-217 WAC for obtaining and renewing valid food worker cards.

(2) The permit holder and person in charge of the food establishment must display or file the original or a copy of the food worker card of each food employee at the employee's place of employment, to be available for inspection by the regulatory authority upon request.

(3) This section does not add to, or remove from, the provisions of chapter 69.06 RCW and chapter 246-217 WAC regarding food worker cards.

[Statutory Authority: RCW 43.20.050, 43.20.145 and 69.80.060. 04-22-111, § 246-215-021, filed 11/3/04, effective 5/2/05.]

**WAC 246-215-031 Employee hygiene.** (1) *Food Code* paragraph 2-302.11(B), regarding maintenance of fingernails, is amended to read: "Unless wearing intact gloves in good repair, a food employee may not wear fingernail polish or artificial fingernails while preparing food."

(2) *Food Code* section 2-303.11, regarding the prohibition of jewelry, is amended to read: "While preparing food, food employees may not wear jewelry on their arms or hands. This section does not apply to a wedding or engagement ring covered by a glove in good repair."

[Statutory Authority: RCW 43.20.050, 43.20.145 and 69.80.060. 04-22-111, § 246-215-031, filed 11/3/04, effective 5/2/05.]

**WAC 246-215-041 Food supplies.** (1) Fluid milk, fluid milk products, dry milk, and dry milk products must meet "Grade A pasteurized" milk standards under chapter 15.36 RCW, except "Grade A raw milk" products meeting standards of chapter 15.36 RCW may be sold in retail stores in the original container for off-premises consumption.

(2) *Food Code* section 3-201.16, regarding obtaining mushrooms picked in the wild from a source where each individual mushroom is inspected by an approved expert, does not apply.

(3) *Food Code* subparagraphs 3-201.17 (A)(3) and 3-201.17 (A)(4), regarding the sale or service of wild game animals, do not apply.

[Statutory Authority: RCW 43.20.050, 43.20.145 and 69.80.060. 04-22-111, § 246-215-041, filed 11/3/04, effective 5/2/05.]

**WAC 246-215-051 Public health labeling.** (1) Whenever unpasteurized milk and foods containing unpasteurized milk are offered for sale at a food establishment, except hard or semi-soft raw milk cheeses properly fermented and aged for a minimum of sixty days in compliance with 21 CFR Part 133, the permit holder and person in charge must ensure that:

(a) The product is conspicuously labeled "RAW MILK" or "CONTAINS RAW MILK"; and

(b) A sign is posted in a conspicuous manner near the product stating: "WARNING: RAW MILK OR FOODS PREPARED FROM RAW MILK MAY BE CONTAMINATED WITH DANGEROUS BACTERIA CAPABLE OF CAUSING SEVERE ILLNESS. CONTACT YOUR LOCAL HEALTH AGENCY FOR ADVICE OR TO REPORT A SUSPECTED ILLNESS."

(2) The permit holder and person in charge must ensure that required information contained on food labels is in the English language, except that duplicate labeling in other languages is allowed.

(3) *Food Code* paragraph 3-201.11(C), regarding food labeling, is amended to read: "Packaged food shall be labeled as specified under law, including chapter 69.04 RCW; 21 CFR 101 Food Labeling; 9 CFR 317 Labeling, Marking Devices, and Containers; 9 CFR 381 Subpart N Labeling and Containers; and as specified under §§ 3-202.17 and 3-202.18."

(4) *Food Code* paragraph 3-203.11(A), regarding molluscan shellfish original containers, is amended to read: "Except as specified in paragraphs (B), (C), and (D) of this section..."

(5) *Food Code* section 3-203.11, regarding molluscan shellfish original containers, is amended to add a paragraph (D), which reads:

"(D) Shellstock may be removed from the container in which they are received and repacked in consumer self-service containers if:

(1) Each self-service container of shellstock is plainly marked with the harvest area name, harvest area date, and original shellfish dealer's certification number, including the abbreviation of the name of the state or country in which the shellfish are harvested, or otherwise marked with a code that can be used to link the product with tag or label information as specified under § 3-202.18;

(2) The tag or label information as specified under § 3-202.18 for the shellstock is retained in a written or electronic log for 90 days that correlates the date when, or dates during which, the shellstock are sold;

(3) The shellstock are protected from contamination; and

(4) The packaging material allows air to get to the shellfish."

(6) *Food Code* subparagraph 3-203.12 (B)(2)(b), regarding maintaining identification of molluscan shellfish, is amended to read: "Ensuring that shellstock from one tagged or labeled container are not commingled with shellstock from another container harvested on a different day and from a different growing area as identified on the tag or label."

(7) *Food Code* section 3-501.17, regarding date marking, does not apply.

(8) *Food Code* paragraph 3-602.11(A), regarding food labels, is amended to read: "Food packaged in a food establishment shall be labeled as specified in law, including chapter 69.04 RCW; 21 CFR 101 - Food Labeling; and 9 CFR 317 - Labeling, Marking Devices, and Containers."

(9) The consumer advisory provisions of *Food Code* section 3-603.11 also apply to unpasteurized juices of fruits and vegetables.

[Statutory Authority: RCW 43.20.050, 43.20.145 and 69.80.060. 04-22-111, § 246-215-051, filed 11/3/04, effective 5/2/05.]

**WAC 246-215-061 Food handling.** (1) The pooling of unpasteurized eggs is prohibited, except raw shell eggs may be broken and pooled by a method whereby egg shells are not immersed in the liquid portion of the eggs and only if the eggs are broken and prepared for immediate service in response to a consumer's order.

(2) Overnight unattended cooking and overnight unattended hot holding are prohibited without continuous temperature monitoring under an approved plan.

(3) Paragraph (C) is added to *Food Code* section 3-302.15, regarding washing fruits and vegetables, to read: "Raw vegetables include fresh herbs."

(4) *Food Code* paragraph 3-306.13(A), regarding consumer self-service, is amended to read: "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 consumer self-service of ready-to-eat foods at buffets or salad bars that serve foods such as sushi or raw shellfish; ready-to-cook individual portions for cooking and immediate consumption on the premises such as consumer-cooked meats or consumer-selected ingredients for Mongolian barbecue; raw, frozen shrimp, lobster, finfish, calamari, or adductor muscle of scallop; or frozen, breaded seafood."

(5) *Food Code* subparagraph 3-401.11 (A)(1)(a), regarding the minimum cooking temperature and time for eggs, is amended to read: "Unpasteurized eggs, and."

(6) *Food Code* subparagraph 3-401.11 (A)(2), regarding the minimum cooking temperature and time for certain animal foods, is amended to read: "68°C (155°F) for 15 seconds or a temperature and time combination specified in the following chart, provided that food employees monitor both temperature and time under an approved plan, for ratites; injected meats; and comminuted fish, meat, game animals commercially raised for food as specified under subparagraph 3-201.17 (A)(1), and game animals under a voluntary inspection program as specified under subparagraph 3-201.17 (A)(2)."

(7) *Food Code* subparagraph 3-401.11 (A)(3), regarding the minimum cooking temperature and time for certain animal foods, is amended to read: "74°C (165°F) or above for 15 seconds for poultry; wild game animals; stuffed fish; stuffed meat; stuffed pasta; stuffed poultry; stuffed ratites; or stuffing containing fish, meat, poultry, or ratites."

(8) As alternatives to the cooling provisions of *Food Code* paragraph 3-501.14(A), the following rapid cooling procedures are allowed:

(a) Continuous cooling of foods in a shallow layer of two inches or less, uncovered, protected from cross-contamina-

tion, in cooling equipment maintaining an ambient temperature of 5°C (41°F) or less; or

(b) Continuous cooling of intact pieces of uncommitted meat no greater than four inches thick, uncovered, unwrapped, not touching other pieces of food, protected from cross-contamination, in cooling equipment maintaining an ambient temperature of 5°C (41°F) or less.

(9) *Food Code* paragraph 3-501.16(A), regarding potentially hazardous food hot and cold holding, is amended to read:

"Except during active preparation for up to two hours, cooking, or cooling, or..."

[Statutory Authority: RCW 43.20.050, 43.20.145 and 69.80.060. 04-22-111, § 246-215-061, filed 11/3/04, effective 5/2/05.]

**WAC 246-215-071 Equipment and utensils.** (1) Containers for display and service of ready-to-eat, unpackaged, bulk foods for consumer self-service must have a consumer access point no less than thirty inches above floor level, except for approved containers of liquids.

(2) *Food Code* paragraph 3-304.12(F), regarding storage of in-use utensils, is amended to read: "In a container of water maintained at a temperature of 60°C (140°F) or greater or 5°C (41°F) or less and the container is cleaned at a frequency specified under subparagraph 4-602.11 (D)(7)."

(3) *Food Code* paragraph 4-501.11(C), regarding equipment repair, is amended to read: "Cutting or piercing parts of can openers shall be replaced as needed to minimize the creation of metal fragments that can contaminate food when the container is opened."

(4) *Food Code* subparagraph 4-602.11 (D)(7), regarding the cleaning frequency for food contact surfaces and utensils, is amended to read: "In-use utensils are intermittently stored in a container of water maintained at a temperature of 60°C (140°F) or greater or 5°C (41°F) or less and the container is cleaned at least every twenty-four hours or at a frequency necessary to preclude accumulation of soil residues."

[Statutory Authority: RCW 43.20.050, 43.20.145 and 69.80.060. 04-22-111, § 246-215-071, filed 11/3/04, effective 5/2/05.]

**WAC 246-215-081 Water, plumbing, and waste.** (1) Handwashing sinks in food establishments must be adequately sized to allow a food employee to wash both hands simultaneously.

(2) Food establishments must have designated food preparation sinks that are:

(a) Sufficient in number and size to wash, soak, rinse, drain, cool, thaw, or otherwise process any food that requires placement in a sink;

(b) Appropriate for the menu, method of food preparation, and volume of food prepared; and

(c) Not used for handwashing, utensil washing, or other activities that could contaminate food.

(3) Bottled drinking water used or sold for food service must be obtained from approved sources in accordance with chapters 246-290 and 246-291 WAC.

(4) Water used in food establishments must meet drinking water quality standards in accordance with chapters 246-290 and 246-291 WAC, except as specified under *Food Code* section 5-102.12.

(5) *Food Code* paragraph 5-203.11(C), regarding use of treated towelettes for handwashing, does not apply.

[Statutory Authority: RCW 43.20.050, 43.20.145 and 69.80.060. 04-22-111, § 246-215-081, filed 11/3/04, effective 5/2/05.]

**WAC 246-215-091 Physical facilities.** (1) The food establishment permit holder must ensure that toilet rooms are conveniently located within two hundred feet of the food establishment and accessible to employees during all hours of operation.

(2) The food establishment permit holder must ensure that toilet rooms are conveniently located and accessible to patrons during all hours of operation if:

(a) The establishment has customer seating for on-premises consumption; and

(b) The establishment was constructed or extensively remodeled after May 1, 1992.

(3) Toilet rooms in food establishments may be used jointly by patrons and employees, provided patrons accessing the toilet rooms are excluded from food preparation areas and unpackaged food storage areas.

(4) *Food Code* section 6-202.110, regarding outdoor refuse storage areas, does not apply.

[Statutory Authority: RCW 43.20.050, 43.20.145 and 69.80.060. 04-22-111, § 246-215-091, filed 11/3/04, effective 5/2/05.]

**WAC 246-215-121 Mobile food units.** (1) The permit holder and person in charge of a mobile food unit must comply with the requirements of this chapter, except as otherwise provided in this section.

(2) The permit holder must obtain approval from other applicable regulating agencies prior to operating a mobile food unit, including the Washington state department of labor and industries.

(3) The person in charge of a mobile food unit must operate the mobile food unit from an approved commissary or servicing area and shall return to such location for supplies, thorough cleaning, and other servicing activities, as approved in a plan of operation. When not in operation, a mobile food unit must be stored at an approved servicing area or other approved location.

(4) The regulatory authority may impose additional requirements to protect against health hazards related to the operation of a mobile food unit and may:

(a) Limit the food preparation steps;

(b) Prohibit some menu items; and

(c) Restrict the mode of operation when facilities or equipment are inadequate to protect public health.

(5) The owner of a mobile food unit must submit a properly prepared plan of operation with specifications of the mobile food unit, commissary, and servicing area to the regulatory authority for approval before:

(a) Construction or remodeling begins;

(b) The menu of the mobile food unit is changed;

(c) The method of food preparation is changed;

(d) The vehicle is changed; or

(e) The commissary is changed.

(6) The owner of a mobile food unit must include in the plan required by subsection (5) of this section:

(a) Menu and food preparation steps;

(b) Floor plan;

- (c) Equipment specifications and location;
  - (d) Finish schedule;
  - (e) Proposed itinerary or sites to be served;
  - (f) Source of water and specifications of the on-board plumbing;
  - (g) Site used for sewage disposal;
  - (h) Availability of restrooms for employees;
  - (i) Operating procedures; and
  - (j) Cleaning schedule.
- (7) The person in charge of a mobile food unit must ensure:
- (a) Only employees and other persons authorized by the regulatory authority are present in the mobile food unit; and
  - (b) All employees are in compliance with the provisions of chapter 69.06 RCW and chapter 246-217 WAC for obtaining and renewing valid food worker cards, unless all foods are prepackaged and are nonpotentially hazardous.
- (8) The person in charge of a mobile food unit must ensure:
- (a) All foods, including ice, are from an approved source or commissary;
  - (b) Potentially hazardous foods prepared on the mobile food unit are served the same day that they are prepared;
  - (c) Prepackaged foods are properly labeled;
  - (d) Only single-service articles are provided for use by the customer; and
  - (e) Condiments not in individual packages are provided in dispenser bottles or in other containers protected from contamination.
- (9) The person in charge of a mobile food unit must ensure that potentially hazardous foods are:
- (a) Not cooled on the mobile food unit;
  - (b) Properly temperature-controlled during transport to the place of service;
  - (c) Temperature-monitored by use of a stem-type thermometer or thermocouple capable of measuring all proper food temperatures;
  - (d) Reheated, for hot holding, from 45°F to 165°F or above within one hour on the mobile food unit when the foods were cooked and cooled in an approved nonmobile food establishment;
  - (e) Reheated, for hot holding, from 45°F to 140°F or above within one hour on the mobile food unit when the foods were produced in a food processing plant;
  - (f) Reheated no more than one time; and
  - (g) Held in preheated mechanical hot holding equipment or prechilled mechanical cold holding equipment, or otherwise temperature controlled by an approved method.
- (10) The person in charge must ensure that raw meats greater than one inch in thickness are not cooked on the mobile food unit, unless otherwise approved.
- (11) The person in charge must ensure that the water system on the mobile food unit:
- (a) Is supplied from an approved source of water;
  - (b) Is designed and constructed in an approved manner;
  - (c) Is filled from the approved water source through a food-grade hose;
  - (d) Is refilled as frequently as necessary to furnish enough hot and cold water for handwashing, food prepara-

tion, utensil cleaning, sanitizing, and facility cleaning, on the mobile food unit;

(e) Has a water supply tank with a minimum capacity of five gallons for handwashing;

(f) Stores liquid waste in a wastewater retention tank with at least fifteen percent more capacity than the water supply tank; and

(g) Retains wastewater on the mobile food unit until disposed of by an approved method.

(12) The person in charge of the mobile food unit must ensure that a separate handwashing facility for employees is accessible at all times of operation and includes:

(a) A sink with potable, warm, running water;

(b) Soap; and

(c) Paper towels.

(13) When only prepackaged food items are served, the regulatory authority may waive or modify requirements for handwashing on the mobile food unit.

(14) The permit holder must ensure approved toilet facilities are available for employees:

(a) Readily accessible within two hundred feet of the mobile food unit during times of operation, if at any one location for more than one hour; and

(b) Provided with handwashing facilities with potable, warm, running water.

(15) The permit holder must ensure:

(a) A three-compartment sink is available on the mobile food unit with potable hot and cold running water to wash, rinse, and sanitize utensils when utensils are reused on the mobile food unit; except

(b) This requirement may be waived or modified by the regulatory authority when:

(i) Limited food preparation occurs; or

(ii) Additional clean utensils are available and utensil washing takes place at an approved commissary or servicing area.

(16) The permit holder must provide the regulatory authority a designated business name and ensure that name is posted on the mobile food unit in a manner easily visible to customers during operation.

(17) The permit holder must ensure the original or a copy of the currently valid food establishment permit is posted on the mobile food unit in a manner easily visible to customers during operation.

(18) The permit holder and person in charge must ensure overhead protection is provided at the site of operation of the mobile food unit for all food handling activities.

(19) The permit holder and person in charge must ensure that all food, equipment, utensils, and other food service supplies are contained on the mobile food unit, at the approved commissary, at the approved servicing area, or as otherwise approved in the plan of operation.

(20) The menu of a mobile food unit that can be moved between locations by being pushed by a single person must be limited to nonpotentially hazardous foods, hot dogs, and espresso drinks, unless otherwise approved.

(21) The regulatory authority may allow a person to operate a food establishment with a limited menu in a movable building without permanent plumbing under applicable provisions of this section.

[Statutory Authority: RCW 43.20.050, 43.20.145 and 69.80.060. 04-22-111, § 246-215-121, filed 11/3/04, effective 5/2/05.]

**WAC 246-215-131 Temporary food establishments.**

(1) The permit holder and person in charge of a temporary food establishment must comply with the requirements of this chapter, except as otherwise provided in this section.

(2) The regulatory authority may impose additional requirements to protect against health hazards related to the operation of the temporary food establishment and may:

- (a) Limit the food preparation steps;
- (b) Prohibit some menu items; and
- (c) Restrict the mode of operation when facilities or equipment are inadequate to protect public health.

(3) The owner of a temporary food establishment must:

(a) Apply to the regulatory authority for a permit to operate the temporary food establishment at least fourteen calendar days before intending to provide food service, or as otherwise required by the regulatory authority;

(b) Allow only employees and other persons authorized by the regulatory authority to be present in the temporary food establishment; and

(c) Require the person in charge of the temporary food establishment to obtain a valid food worker card before beginning work.

(4) The person in charge of a temporary food establishment must ensure:

(a) Adequate facilities are provided at the temporary food establishment for all necessary food preparation steps;

(b) All foods, including ice, are from an approved source;

(c) All off site food preparation is done in an approved food establishment;

(d) All storage of food and equipment is done at approved locations;

(e) Food is transported and stored in properly designed food-grade containers;

(f) Food is protected from potential contamination during transport;

(g) Only single-service articles are provided for use by consumers, unless otherwise approved by the regulatory authority; and

(h) Condiments not in individual packages are provided in dispenser bottles or in other containers protected from contamination.

(5) The person in charge of a temporary food establishment must ensure that potentially hazardous foods are:

(a) Not cooled in a temporary food establishment;

(b) Properly temperature-controlled during transport to the temporary event location;

(c) Temperature-monitored by use of a stem-type thermometer or thermocouple capable of measuring all proper food temperatures;

(d) Reheated, for hot holding, from 45°F to 165°F or above within one hour when cooked and cooled in an approved food establishment;

(e) Reheated, for hot holding, from 45°F to 140°F or above within one hour when produced in a food processing plant;

(f) Reheated no more than one time; and

(g) Held in preheated mechanical hot holding equipment or prechilled mechanical cold holding equipment, or otherwise temperature controlled by an approved method.

(6) The person in charge of a temporary food establishment must ensure potentially hazardous foods that are thawed as part of a continuous cooking process are not greater than four inches thick.

(7) The person in charge of a temporary food establishment must ensure a separation barrier or other effective method is used to protect food preparation and cooking areas from public access.

(8) The permit holder of a temporary food establishment must ensure approved handwashing facilities are conveniently located for employees in all food preparation areas, which include:

(a) Potable, warm, running water;

(b) Soap and paper towels;

(c) A five-gallon or larger insulated container kept supplied with warm water for handwashing delivered through a continuous-flow spigot, if permanent plumbing is not available; and

(d) A wastewater retention tank sufficient in size to hold all wastewater generated by the temporary food establishment until emptied in an approved manner, if a public sewage system hookup is not available.

(9) The permit holder of a temporary food establishment must ensure approved toilet facilities are available for employees:

(a) Readily accessible during all times of operation; and

(b) Provided with handwashing facilities with potable, warm, running water.

(10) The permit holder of a temporary food establishment must ensure access within two hundred feet to a three-compartment sink with approved drain boards and an adequate supply of hot and cold running water to wash, rinse, and sanitize utensils when:

(a) Equipment or utensils are reused on-site; or

(b) The temporary food establishment operates for two or more consecutive days; except

(c) The regulatory authority may approve an alternative utensil cleaning method when three-compartment sinks with drain boards are not available and no health hazard will result.

(11) The permit holder and person in charge must ensure a separate food preparation sink is available at the temporary food establishment that is supplied with potable running water, drained to an approved wastewater system through an indirect connection, if produce needs to be washed on-site. Alternative produce washing facilities may be used if approved.

[Statutory Authority: RCW 43.20.050, 43.20.145 and 69.80.060. 04-22-111, § 246-215-131, filed 11/3/04, effective 5/2/05.]

**WAC 246-215-141 Bed and breakfast operations.** (1)

The permit holder and person in charge of a bed and breakfast operation must comply with the requirements of this chapter, except as otherwise provided in this section.

(2) The regulatory authority may impose additional requirements to protect against health hazards related to the food service portion of a bed and breakfast operation.



(3) Food may be handled in the residential kitchen of a bed and breakfast operation without meeting the provisions of *Food Code* sections 2-301.15, 4-202.15, 4-202.16, 4-202.17, 4-203.13, 4-204.12, 4-204.16, 4-204.113, 4-204.115, 4-204.118, 4-204.120, 4-301.14, 4-302.13, 4-302.14, 4-402.11, 4-402.12, 4-501.11, 4-501.13, 4-501.16, 4-501.110, 4-501.112, 4-501.113, 4-501.116, 4-602.12, 4-703.11, 4-904.13, 5-203.13; parts 4-8 and 5-5; and chapters 6 and 7, if:

(a) The number of guest bedrooms does not exceed eight;

(b) Food service is limited to overnight guests;

(c) Breakfast is the only meal prepared; however, nonpotentially hazardous baked goods may be prepared and served at any time of the day;

(d) Potentially hazardous foods are prepared for immediate service only; and

(e) Potentially hazardous foods are not cooled for later reheating.

(4) If food service is provided in a bed and breakfast operation other than under the conditions of subsection (3) of this section, all foods must be prepared in an approved non-residential kitchen meeting the requirements of this chapter.

(5) The person in charge of a bed and breakfast operation must ensure:

(a) Food supplies for personal use are separated from food supplies intended for guest use;

(b) Food contact surfaces are thoroughly cleaned before each use;

(c) A sink for handwashing is accessible and conveniently located for use by food employees during all times food is prepared for bed and breakfast guests;

(d) Each sink used for handwashing is provided with a supply of hand soap and single use towels or other approved hand-drying device;

(e) Refuse, recyclables, and returnables are stored in a manner that does not create a public health hazard or nuisance;

(f) The premises are maintained to control insects, rodents, and other pests;

(g) Children under age ten and animals are kept out of food preparation areas during all times food is prepared for bed and breakfast guests; and

(h) Toxic chemicals are stored in accurately labeled containers away from all foods and food service supplies.

(6) The kitchen of a bed and breakfast operation must have at least the following facilities for cleaning and sanitizing food contact utensils and equipment and to allow handwashing in a separate sink basin from one used for food preparation:

(a) A three-compartment sink; or

(b) Two sink basins plus a home-style dishwasher with a sanitizing cycle providing 155°F or hotter water.

[Statutory Authority: RCW 43.20.050, 43.20.145 and 69.80.060. 04-22-111, § 246-215-141, filed 11/3/04, effective 5/2/05.]

**WAC 246-215-151 Donated food distributing organizations.** (1) A donated food distributing organization must comply with the requirements of this chapter, except as otherwise provided in this section.

(2) A donated food distributing organization is exempt from the provisions of WAC 246-215-200 and part 8-3 of the *Food Code*, regarding operating with a valid food establishment permit.

(3) A donated food distributing organization must notify the regulatory authority in writing or by another approved manner:

(a) Annually of the nature of its food service activities, including types of food served or distributed; and

(b) Whenever there is a significant change in its food service activities.

(4) A donated food distributing organization is exempt from meeting the provisions of *Food Code* sections 2-301.15, 3-202.11, 3-602.11, 4-202.15, 4-202.16, 4-202.17, 4-203.13, 4-204.12, 4-204.16, 4-204.113, 4-204.115, 4-204.118, 4-204.120, 4-301.14, 4-302.13, 4-302.14, 4-402.11, 4-402.12, 4-501.11, 4-501.13, 4-501.16, 4-501.110, 4-501.112, 4-501.113, 4-501.116, 4-602.12, 4-703.11, 4-904.13, 5-203.13; parts 4-8 and 5-5; and chapters 6 and 7, if:

(a) All foods are donated to needy persons under the provisions of chapter 69.80 RCW;

(b) Potentially hazardous food items are served within eight hours of preparation; and

(c) Potentially hazardous food items are not cooled and reheated on-site.

(5) The person in charge of a donated food distributing organization must ensure:

(a) Equipment for cold holding, heating, and hot holding foods are sufficient in number and capacity to provide food temperatures specified in chapter 3 of the *Food Code*;

(b) Food contact surfaces are thoroughly cleaned before each use;

(c) A sink for handwashing is accessible and conveniently located for use by food employees during all times of food preparation and service of unwrapped foods;

(d) Each sink used for handwashing is provided with a supply of hand soap and single use towels or other approved hand-drying device;

(e) Refuse, recyclables, and returnables are stored in a manner that does not create a public health hazard or nuisance;

(f) The premises are maintained to control insects, rodents, and other pests;

(g) Children under age ten and animals are kept out of food preparation areas during the preparation of foods; and

(h) Toxic chemicals are stored in accurately labeled containers away from all foods and food service supplies.

(6) A donated food distributing organization must have at least the following facilities available for handwashing and cleaning of food contact utensils and equipment:

(a) A three-compartment sink; or

(b) Two sink basins plus a home-style dishwasher with a sanitizing cycle providing 155°F or hotter water; or

(c) As otherwise approved.

(7) A donated food distributing organization may receive foods for charitable purposes that include:

(a) Surplus foods from a food establishment;

(b) Muscle meat of a wild game animal;

(i) Received from a law enforcement officer certified by a jurisdiction in the state of Washington or from a hunter licensed by the department of fish and wildlife;

- (ii) Processed by an approved meat cutter; and
- (iii) Labeled "UNINSPECTED WILD GAME MEAT, THOROUGHLY COOK TO 165°F INTERNAL TEMPERATURE";
- (c) Muscle meat of a domesticated livestock animal, poultry, or rabbit:
  - (i) Donated live to the distributing organization;
  - (ii) Raised by a member of an approved youth club, such as 4H;
  - (iii) Processed by an approved meat cutter; and
  - (iv) Labeled "UNINSPECTED MEAT, THOROUGHLY COOK TO 165°F INTERNAL TEMPERATURE";
- (d) Foods properly handled, stored, or prepared in a donor kitchen;
- (e) Nonpotentially hazardous, nonready-to-eat foods handled or stored in a residential kitchen in a private home; and
- (f) Nonpotentially hazardous baked goods handled, stored, or prepared in a residential kitchen in a private home.
- (8) The person in charge of a donated food distributing organization must ensure that foods are inspected upon receipt and information is obtained from donors in order to determine:
  - (a) Foods are safe and free from adulteration;
  - (b) Surplus foods have not been previously served to a person;
  - (c) Potentially hazardous foods have been kept under continuous temperature control above 140°F or below 45°F during handling, storage, and transport, except for a maximum of two hours during preparation;
  - (d) Foods have been protected from contamination during handling and storage by intact original commercial packaging or sanitary food-grade containers; and
  - (e) Foods have been handled and transported in separate containers as needed to prevent potential cross-contamination between ready-to-eat and nonready-to-eat foods.
- (9) A donated food distributing organization must not serve or distribute:
  - (a) Home-canned foods;
  - (b) Canned foods in containers that are rusty or severely dented;
  - (c) Distressed foods (such as from a fire, flood, or prolonged storage) unless the foods have been evaluated and approved for charitable distribution; or
  - (d) Infant formula that is past the original expiration date set by the processor.
- (10) A donated food distributing organization may distribute packaged foods without complete label information on each individual container, provided that:
  - (a) Each container is labeled with the common name of the food; and
  - (b) The label information, according to the provisions of chapter 69.04 RCW, is on the master carton or is posted in plain view on a card, sign, or other method of notice at the point of distribution to the consumer.
- (11) The person in charge of a donated food distributing organization receiving potentially hazardous foods or nonpotentially hazardous, ready-to-eat foods not prepackaged in a food processing plant must keep records for thirty days documenting the source, quantity, type, and receiving date of the foods.

[Statutory Authority: RCW 43.20.050, 43.20.145 and 69.80.060. 04-22-111, § 246-215-151, filed 11/3/04, effective 5/2/05.]

**WAC 246-215-181 Compliance and enforcement.** (1) *Food Code* subparagraph 8-304.11 (G)(2), regarding replacement of facilities and equipment to meet current standards when the ownership of a food establishment changes, does not apply.

(2) *Food Code* subparagraph 8-401.10 (B)(2), regarding inspection frequency, is amended to read: "The food establishment is assigned a less frequent inspection frequency based on a written risk-based inspection schedule developed by the regulatory authority, or set by state or federal law, and uniformly applied throughout the jurisdiction."

(3) *Food Code* paragraph 8-401.10(C), regarding inspection frequency of temporary food establishments, is amended to read: "The regulatory authority shall inspect a temporary food establishment during its permit period, unless the regulatory authority develops a written risk-based plan for exempting certain categories of temporary establishments from inspection that is uniformly applied throughout the jurisdiction."

(4) *Food Code* paragraph 8-401.20(A), regarding criteria for prioritizing inspections, is amended to read: "Past performance, for nonconformance with code or HACCP plan requirements."

(5) *Food Code* paragraph 8-401.20(B), regarding criteria for prioritizing inspections, is amended to read: "Past performance, for numerous or repeat violations of code or HACCP plan requirements."

(6) *Food Code* section 8-401.20, regarding criteria for prioritizing inspections, is amended to add a paragraph (H) to read: "Whether the establishment is properly implementing an approved self-inspection program."

(7) *Food Code* subparagraph 8-402.20 (A)(3) and section 8-402.40, regarding obtaining an inspection order, do not apply. The regulatory authority may suspend a person's permit to operate a food establishment if a representative of the regulatory authority, after showing proper credentials, is denied access to conduct an inspection of the food establishment.

(8) *Food Code* section 8-403.10, regarding documenting information and observations, is amended to read: "The regulatory authority shall document on an inspection report form approved by the department of health."

(9) *Food Code* subparagraph 8-403.10 (B)(2), regarding documenting information on an inspection report form, is amended to read: "Failure of food employees and the person in charge to demonstrate knowledge of their responsibility to report a disease or medical condition."

(10) *Food Code* subparagraph 8-403.10 (B)(3), regarding documenting information on an inspection report form, is amended to read: "Nonconformance with this code."

(11) *Food Code* section 8-403.20, regarding specifying a time frame for corrections, is amended to read: "The regulatory authority shall specify on the inspection report form the time frame for correction of any violations."

(12) *Food Code* sections 8-405.11 and 8-405.20, regarding critical violations, do not apply.

(13) *Food Code* section 8-406.11, regarding noncritical violations, does not apply.

[Statutory Authority: RCW 43.20.050, 43.20.145 and 69.80.060. 04-22-111, § 246-215-181, filed 11/3/04, effective 5/2/05.]

**WAC 246-215-191 Exempt from permit.** (1) The regulatory authority may exempt a person from the provisions of WAC 246-215-200(1) and section 8-301.11 of the *Food Code* in order to operate without a food establishment permit, provided that the person meets the other provisions of this chapter, including not using any food prepared in a residential kitchen or other nonapproved facility, and the types of food served are limited to those specified in subsection (4) of this section.

(2) The person requesting a permit exemption under subsection (1) of this section must submit a written application for an exemption on a form provided by the regulatory authority at least fourteen calendar days before providing food service, or as otherwise required by the regulatory authority.

(3) The person requesting a permit exemption under subsection (1) of this section must submit properly prepared plans and specifications of the food service facilities and equipment if the regulatory authority requires it, based on a review of the application for an exemption submitted under subsection (2) of this section.

(4) The person requesting a permit exemption under subsection (1) of this section must limit food handling to one or more of the following foods:

- (a) Popcorn and flavored popcorn;
- (b) Cotton candy;
- (c) Dried herbs and spices processed in an approved facility;
- (d) Machine-crushed ice drinks containing nonpotentially hazardous ingredients and made with ice from an approved source;
- (e) Corn on the cob;
- (f) Whole peppers roasted for immediate service;
- (g) Roasted nuts and roasted candy-coated nuts;
- (h) Deep-fried pork skins prepared from pork skins rendered at a food processing plant;
- (i) Caramel apples;
- (j) Chocolate-dipped ice cream bars prepared from pre-packaged ice cream bars produced in a food processing plant;
- (k) Chocolate-dipped bananas prepared from bananas peeled and frozen in an approved facility; and
- (l) Individual samples of nonpotentially hazardous sliced fruits and vegetables.

[Statutory Authority: RCW 43.20.050, 43.20.145 and 69.80.060. 04-22-111, § 246-215-191, filed 11/3/04, effective 5/2/05.]

**WAC 246-215-200 Permits required, suspension, revocation, enforcement.** (1) Any person operating a food establishment operating a food establishment without a valid permit issued by the regulatory authority may be guilty of a misdemeanor under RCW 70.05.120 and local regulations.

(2) The regulatory authority may suspend any permit to operate a food establishment if:

- (a) Continued operation of the food establishment constitutes an imminent or actual health hazard;
- (b) Operations, facilities, or equipment in the food establishment fail to comply with these regulations;

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(c) The permit holder does not comply with these regulations; or

(d) Interference with the regulatory authority in the performance of its duties has occurred.

(3) When the regulatory authority has suspended a food establishment permit, the permit holder or person in charge:

(a) Will be notified in writing by the regulatory authority that the food establishment permit is immediately suspended upon service of the notice;

(b) Must immediately cease all food service operations until a hearing with the regulatory authority finds the operation to be in compliance with the requirements of these regulations;

(c) May request a hearing by filing a written request for a hearing with the regulatory authority within ten days of receipt of the notice of suspension; and

(d) Will be notified, if a written request for a hearing is not filed within ten days, that the suspension is sustained.

(4) Any person whose food establishment permit has been suspended may at any time make written application for a reinstatement for the purpose of reinstatement of the permit. The application must include a signed statement explaining how the conditions causing the suspension of the permit have been corrected.

(5) Within two working days following receipt of a written request for a reinspection, the regulatory authority will make a reinspection, and reinstate the permit if the person is in compliance with these regulations.

(6) The regulatory authority may adopt and use a permit suspension process different than specified under subsections (2), (3), (4), or (5) of this section.

(7) The regulatory authority may revoke a food establishment permit after providing the permit holder an opportunity for a hearing if:

(a) Serious and repeated violation(s) of any requirements of these regulations have occurred; or

(b) Repeated interference with, or assault upon a representative of the regulatory authority in the performance of his/her duty, has occurred.

(8) Before revocation, the regulatory authority will notify, in writing, the permit holder of the specific reason(s) why the permit is to be revoked. The notice will state:

(a) That the permit will be revoked at the end of the ten days following the notice unless a written request for a hearing is filed with the regulatory authority by the permit holder within such ten-day period; and

(b) If a request for a hearing is not filed by the permit holder within the ten-day period, the revocation of the permit becomes final.

(9) Any person whose food establishment permit has been revoked by the regulatory authority, after a period of six months, may:

- (a) Make written application for a new permit; and
- (b) Request a hearing with the regulatory authority to determine whether a new permit will be issued.

(10) The regulatory authority may use a permit revocation process different than specified under subsections (7), (8), and (9) of this section.

(11) The regulatory authority may initiate any one, or a combination of, compliance methods that include, but are not limited to:

- (a) Holding an administrative conference with the food establishment permit holder or person in charge;
- (b) Placing the food establishment on probation;
- (c) Setting conditions for continued operation of the food establishment, by the permit holder, during the probation period;
- (d) Requiring additional education and/or training of employees, management, and owners of the food establishment; and
- (e) Completing a hazard analysis critical control point (HACCP) evaluation and requiring monitoring procedures be implemented for critical control points identified.

[Statutory Authority: RCW 43.20.050, 43.20.145 and 69.80.060. 04-22-111, § 246-215-200, filed 11/3/04, effective 5/2/05. Statutory Authority: RCW 43.20.050. 92-08-112 (Order 261B), § 246-215-200, filed 4/1/92, effective 5/2/92.]

**WAC 246-215-210 Service of notices.** (1) A notice provided for in these regulations is properly served when it is:

- (a) Delivered to the permit holder;
- (b) Delivered to the person in charge of the food establishment; or
- (c) Sent by registered or certified mail, return receipt requested, to the last known address of the permit holder.

(2) A copy of the notice will be filed in the records of the regulatory authority.

[Statutory Authority: RCW 43.20.050, 43.20.145 and 69.80.060. 04-22-111, § 246-215-210, filed 11/3/04, effective 5/2/05. Statutory Authority: RCW 43.20.050. 92-08-112 (Order 261B), § 246-215-210, filed 4/1/92, effective 5/2/92.]

**WAC 246-215-220 Hearings.** (1) The hearings provided for in these regulations will be:

- (a) Conducted by the regulatory authority or its designee; and
  - (b) Conducted at a time and place designated by the regulatory authority.
- (2) The regulatory authority or designee will:
- (a) Make a final finding based upon the complete hearing record;
  - (b) Sustain, modify, or rescind any notice or order considered in the hearing; and
  - (c) Furnish a written report of the hearing decision to the holder of the permit.

(3) The regulatory authority may adopt and use an alternate hearing process.

[Statutory Authority: RCW 43.20.050, 43.20.145 and 69.80.060. 04-22-111, § 246-215-220, filed 11/3/04, effective 5/2/05. Statutory Authority: RCW 43.20.050. 92-08-112 (Order 261B), § 246-215-220, filed 4/1/92, effective 5/2/92.]

**WAC 246-215-240 Examination, hold orders, condemnation, and destruction of food.** (1) The permit holder or person in charge of a food establishment in which food has been improperly handled, stored, or prepared must:

- (a) Voluntarily destroy the questionable food; or
- (b) Contact the regulatory authority to determine if the food is safe for human consumption.

(2) The permit holder or person in charge of a food establishment must denature or destroy any food if the regulatory authority determines the food presents an imminent or actual health hazard.

(3) The regulatory authority may examine or collect samples of food as often as necessary for enforcement of these regulations.

(4) The regulatory authority may, after notice to the permit holder or person in charge, place a written hold order on any suspect food until a determination on its safety can be made and will:

- (a) Tag;
- (b) Label; or
- (c) Otherwise identify any food subject to the hold order and complete a form approved by the department of health for all suspect food.

(5) The hold order issued by the regulatory authority will include:

- (a) Instructions for filing a written request for a hearing with the regulatory authority within ten calendar days; and
- (b) Notification that if a hearing is not requested in accordance with the instructions provided in the hold order, and the regulatory authority does not vacate the hold order, the food must be destroyed under the supervision of a representative of the regulatory authority.

(6) When food is subject to a hold order by the regulatory authority, the permit holder and person in charge are prohibited from:

- (a) Using;
- (b) Serving; or
- (c) Moving the food from the food establishment.

(7) The regulatory authority may permit storage of food under conditions specified in the hold order, unless storage is not possible without risk to the public health, in which case, immediate destruction will be ordered and must be accomplished by the permit holder or person in charge of the food establishment.

(8) Based upon evidence provided at the hearing, the regulatory authority may either:

- (a) Vacate the hold order; or
- (b) Direct the permit holder or person in charge of the food establishment by written order to:
  - (i) Denature or destroy such food; or
  - (ii) Bring the food into compliance with the provisions of these regulations.

[Statutory Authority: RCW 43.20.050, 43.20.145 and 69.80.060. 04-22-111, § 246-215-240, filed 11/3/04, effective 5/2/05. Statutory Authority: RCW 43.20.050. 92-08-112 (Order 261B), § 246-215-240, filed 4/1/92, effective 5/2/92.]

**WAC 246-215-251 Employee health.** (1) The provisions of this section replace the provisions of *Food Code* part 2-2, regarding employee health.

(2) Food employees must not work in or around any place where unwrapped or unpackageged food or beverage products are prepared, sold, or offered for sale if they know themselves to have:

(a) A symptom of gastrointestinal infection such as diarrhea, vomiting, or jaundice, except as provided in subsection (9) of this section;

(b) A diagnosed infection by a disease agent that can be transmitted from a food employee through food, including *Salmonella* spp., *Shigella* spp., shiga toxin-producing *Escherichia coli*, or hepatitis A virus; or

(c) A lesion that appears inflamed or contains pus, such as a boil or infected wound, and that is not covered with:

- (i) An impermeable cover and a single use glove if the lesion is on a hand or wrist;
- (ii) An impermeable cover if the lesion is on an arm; or
- (iii) A dry, durable, tight fitting bandage if the lesion is on another part of the body.

(3) Food employees must immediately report to the person in charge when they know they have:

- (a) A symptom of gastrointestinal infection, as described in subsection (2)(a) of this section;
- (b) A diagnosed infection by a disease agent that can be transmitted from a food employee through food, including *Salmonella* spp., *Shigella* spp., shiga toxin-producing *Escherichia coli*, or hepatitis A virus; or

(c) A lesion that appears inflamed or contains pus and that is not covered as described in subsection (2)(c) of this section.

(4) The person in charge of the food establishment must notify the regulatory authority about any food employee known to have:

- (a) Jaundice, except as provided in subsection (9) of this section; or
- (b) An infection by a disease agent that can be transmitted from a food employee through food, including *Salmonella* spp., *Shigella* spp., shiga toxin-producing *Escherichia coli*, or hepatitis A virus.

(5) The person in charge of a food establishment must restrict any food employee from working in or around any place where unwrapped or unpackaged food or beverage products are prepared, sold, or offered for sale who is known to have:

- (a) A symptom of gastrointestinal infection such as diarrhea, vomiting, or jaundice, except as provided in subsection (9) of this section;
- (b) An infection by a disease agent that can be transmitted from a food employee through food including *Salmonella* spp., *Shigella* spp., shiga toxin-producing *Escherichia coli*, or hepatitis A virus; or

(c) A lesion that appears inflamed or contains pus and that is not covered as described in subsection (2)(c) of this section.

(6) If the population served by the food establishment is a highly susceptible population, the person in charge must exclude from the establishment any food employee who is known to have:

- (a) A current symptom of diarrhea, vomiting, or jaundice, except as provided in subsection (9) of this section;
- (b) An infection by *Salmonella Typhi* within the last three months unless approved to be released from exclusion by the regulatory authority; or
- (c) An infection by *Shigella* spp., shiga toxin-producing *Escherichia coli*, hepatitis A virus, or a *Salmonella* spp. other than *Salmonella Typhi* within the last month unless approved to be released from exclusion by the regulatory authority.

(7) The person in charge of a food establishment and all employees must cooperate with public health officials investigating:

- (a) An illness outbreak associated with food;
- (b) An illness outbreak suspected to be associated with food; or

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(c) A food employee suspected to be infected with a disease agent that can be transmitted from a food employee through food.

(8) The person in charge of a food establishment and food employees must comply with orders issued by the regulatory authority for excluding employees from a food establishment or restricting employee activities due to a diagnosed or suspected infection by a disease agent that can be transmitted from a food employee through food until the regulatory authority rescinds the order based on:

- (a) Provisions of *Food Code* part 8-5, regarding prevention of foodborne disease transmission by employees; or
- (b) Disease information contained in *Control of Communicable Diseases Manual*, 17th edition, James Chin (editor), American Public Health Association, 2000.

(9) A food employee with a symptom of gastrointestinal illness, such as diarrhea or jaundice, may work in food service without special restriction, provided that the food employee furnishes written medical documentation to the regulatory authority from a licensed physician, nurse practitioner, or physician assistant that the symptom is due to a medical condition not transmissible through food, such as Crohn's disease, irritable bowel syndrome, ulcerative colitis, or hepatitis C.

(10) *Food Code* paragraph 8-501.40(C), regarding releasing a food employee from restriction or exclusion, is amended to read: "A food employee who was infected with *Shigella* spp., shiga toxin-producing *Escherichia coli*, or a *Salmonella* spp. other than *Salmonella Typhi* if the food employee's stools are negative for these bacteria based on testing of 2 consecutive stool specimen cultures that are taken..."

[Statutory Authority: RCW 43.20.050, 43.20.145 and 69.80.060. 04-22-111, § 246-215-251, filed 11/3/04, effective 5/2/05.]

**WAC 246-215-260 Procedure when disease transmission is suspected.** (1) When a possible foodborne illness incident is reported to any food employee, the person in charge of the food establishment must:

- (a) Immediately report the incident to the regulatory authority; and
- (b) Remove from sale and refrigerate any suspect foods until released by the regulatory authority.

(2) When the regulatory authority suspects that a food establishment, or its employees, might be a source of a foodborne illness, the regulatory authority must take appropriate action to control the transmission of disease. This action may include any or all of the following:

- (a) Secure records that might enable identification of persons potentially exposed to the disease, and/or require additional assistance in locating such persons;
- (b) Secure the illness history of each suspected employee;
- (c) Exclude any suspected employee(s) from working in food establishments until, in the opinion of the regulatory authority, there is no further risk of disease transmission;
- (d) Suspend the permit of the food establishment until, in the opinion of the regulatory authority, there is no further risk of disease transmission;
- (e) Restrict the work activities of any suspected employee;

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- (f) Require medical and laboratory examinations of any food employee and of his/her body discharges;
  - (g) Obtain any suspect food for laboratory examination;
  - (h) Require the destruction of, or placement of a hold order on, all suspect food; and
  - (i) Limit, substitute, or restrict menu items or food handling practices that may be associated with causing illness.
- (3) The provisions of chapter 246-100 WAC, Communicable and certain other diseases, apply.

[Statutory Authority: RCW 43.20.050, 43.20.145 and 69.80.060. 04-22-111, § 246-215-260, filed 11/3/04, effective 5/2/05. Statutory Authority: RCW 43.20.050. 92-08-112 (Order 261B), § 246-215-260, filed 4/1/92, effective 5/2/92.]

**WAC 246-215-280 Interpretation.** (1) The regulatory authority must enforce these regulations in accordance with the interpretations contained in the 2001 edition of the *Food Code* of the United States Public Health Service, Food and Drug Administration, where applicable.

(2) If a section of these regulations conflicts with the *Food Code*, these regulations apply.

(3) When a regulatory authority adopts rules with more stringent provisions than those contained in these regulations, the more stringent rules apply.

(4) Designations in the *Food Code* of critical, noncritical, and swing violations do not apply.

[Statutory Authority: RCW 43.20.050, 43.20.145 and 69.80.060. 04-22-111, § 246-215-280, filed 11/3/04, effective 5/2/05. Statutory Authority: RCW 43.20.050. 92-08-112 (Order 261B), § 246-215-280, filed 4/1/92, effective 5/2/92.]

**WAC 246-215-290 Separability clause.** If any section, paragraph, clause, or phrase of these rules and regulations be declared unconstitutional or invalid for any reason, the remaining rules and regulations will not be affected.

[Statutory Authority: RCW 43.20.050, 43.20.145 and 69.80.060. 04-22-111, § 246-215-290, filed 11/3/04, effective 5/2/05. Statutory Authority: RCW 43.20.050. 92-08-112 (Order 261B), § 246-215-290, filed 4/1/92, effective 5/2/92.]

**WAC 246-215-300 Penalty clause.** Any person violating, refusing, or neglecting to comply with these regulations:

(1) Will, upon conviction, be guilty of a misdemeanor under RCW 70.05.120; or

(2) May be subject to a civil penalty under local health department/district rules and regulations.

[Statutory Authority: RCW 43.20.050, 43.20.145 and 69.80.060. 04-22-111, § 246-215-300, filed 11/3/04, effective 5/2/05. Statutory Authority: RCW 43.20.050. 92-08-112 (Order 261B), § 246-215-300, filed 4/1/92, effective 5/2/92.]

**WAC 246-215-311 Effective date.** The revised provisions of this chapter, as adopted by the state board of health on September 8, 2004, will become effective beginning May 2, 2005.

[Statutory Authority: RCW 43.20.050, 43.20.145 and 69.80.060. 04-22-111, § 246-215-311, filed 11/3/04, effective 5/2/05.]