# CALIFORNIA RETAIL FOOD CODE

## Excerpt from
## CALIFORNIA HEALTH AND SAFETY CODE

## PART 7. CALIFORNIA RETAIL FOOD CODE

## Effective January 1, 2017

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## CHAPTER 1. GENERAL PROVISIONS

**113700.** These provisions shall be known, and may be cited, as the California Retail Food Code, hereafter referred to as "this part."

**113703.** The purpose of this part is to safeguard public health and provide to consumers food that is safe, unadulterated, and honestly presented through adoption of science-based standards.

**113705.** The Legislature finds and declares that the public health interest requires that there be uniform statewide health and sanitation standards for retail food facilities to assure the people of this state that the food will be pure, safe, and unadulterated. Except as provided in Section 113709, it is the intent of the Legislature to occupy the whole field of health and sanitation standards for retail food facilities, and the standards set forth in this part and regulations adopted pursuant to this part shall be exclusive of all local health and sanitation standards relating to retail food facilities.

**113707.** The department shall adopt regulations to implement and administer this part.

**113709.** This part does not prohibit a local governing body from adopting an evaluation or grading system for food facilities, from prohibiting any type of food facility, from adopting an employee health certification program, from regulating the provision of consumer toilet and handwashing facilities, or from adopting requirements for the public safety regulating the type of vending and the time, place, and manner of vending from vehicles upon a street pursuant to its authority under subdivision (b) of Section 22455 of the Vehicle Code, or from prohibiting the presence of pet dogs in outdoor dining areas of food facilities.

**113711.** In all laws and regulations, references to Chapter 4 (commencing with Section 113700) or the California Uniform Retail Food Facilities Law, shall mean this part or the California Retail Food Code.

**113713.**

(a) Primary responsibility for enforcement of this part shall be with the local enforcement agency. Nothing in this part shall prevent the department from taking any necessary program or enforcement actions for the protection of the public health and safety.

(b) The department shall provide technical assistance, training, standardization, program evaluation, and other services to local health agencies as necessary to ensure the uniform interpretation and application of this part, when an appropriation is made to the department for this purpose.

(c) Whenever the enforcement of the requirements of this part by any local enforcement agency is satisfactory to the department, the enforcement of this part shall not be duplicated by the department. The department shall investigate to determine satisfactory enforcement of this part by evaluating the program of each local enforcement agency at least once every three years and shall prepare a report of the evaluation and list any program improvements needed only when an appropriation is made to the department for these purposes.

**113715.** Any construction, alteration, remodeling, or operation of a food facility shall be approved by the enforcement agency and shall be in accordance with all applicable local, state, and federal statutes, regulations, and ordinances, including but not limited to, fire, building, and zoning codes.

**113717.**

(a) Any person requesting the department to undertake any activity pursuant to paragraph (5) of subdivision (c) of Section 113871, Section 114417, paragraph (2) of subdivision (b) of Section 114419, and Section 114419.3 shall pay the department's costs incurred in undertaking the activity. The department's services shall be assessed at the current hourly cost-recovery rate, and it shall be entitled to recover any other costs reasonably and actually incurred in performing those activities, including, but not limited to, the costs of additional inspection and laboratory

testing. For purposes of this section, the department's hourly rate shall be adjusted annually in accordance with Section 100425.

(b) The department shall provide to the person paying the required fee a statement, invoice, or similar document that describes in reasonable detail the costs paid.

(c) For purposes of this section only, the term "person" does not include any city, county, city and county, or other political subdivision of the state or local government.

**113718.** Notwithstanding Section 16350 of the Government Code, all moneys deposited in the Retail Food Safety and Defense Fund shall be transferred to the Food Safety Fund for appropriation and expenditure as specified by Section 110050.

**113719.** Structural and sanitation requirements shall be based on the food service activity to be conducted, the type of food that is to be prepared or served, and the extent of food preparation that is to be conducted at the food facility.

**113725.**

(a) The enforcement agency shall utilize a standardized food facility inspection format for food facility inspections that includes all of the following:

(1) The name and address of the food facility.

(2) Identification of the following inspection criteria, which shall be the basis of the inspection report:

(A) Improper holding temperatures of potentially hazardous foods.

(B) Improper cooling of potentially hazardous foods.

(C) Inadequate cooking of potentially hazardous foods.

(D) Poor personal hygiene of food employees.

(E) Contaminated equipment.

(F) Food from unapproved sources.

(3) For each violation identified pursuant to paragraph (2), classification of the violation as a minor violation or major violation.

(b) An enforcement agency may modify the format to add criteria to those specified pursuant to paragraph (2) of subdivision (a), if both of the following conditions are met:

(1) The additional criteria are based on other provisions of this part.

(2) A violation is identified by reference to items and sections of this part, or the regulations adopted pursuant to this part relating to those items, if a food facility is cited for a violation of the additional criteria.

(c) This section shall not restrict the ability of the enforcement agency to inspect and report on criteria other than those subject to regulation under this part.

**113725.1**. A copy of the most recent routine inspection report conducted to assess compliance with this part shall be maintained at the food facility and made available upon request. The food facility shall post a notice advising consumers that a copy of the most recent routine inspection report is available for review by any interested party.

**113725.2**. Local enforcement agencies, and the department when adequate funding is made available to the department, shall conduct routine training on food facility inspection standardization to promote the uniform application of inspection procedures.

**113725.3**.

(a) The department shall publish standardized procedures for enforcement agencies to report food facility inspection information regarding each food facility. The report shall include all of the following:

(1) Name and address of the food facility.

(2) Date of last inspection.

(3) Identification of any major violation identified in a food facility inspection.

(4) Reinspection date, if applicable.
(5) Period of closure, if applicable.

(b) The department, in consultation with local environmental health directors, representatives of the retail food industry, and other interested parties, may periodically review and revise the standardized procedures established pursuant to subdivision (a). In making any revisions, the department shall strive to ensure that the required information can be reported and made available in the most efficient, timely, and cost-effective manner.

(c)
(1) The standardized procedures established pursuant to this section shall include a standardized electronic format and protocol for reporting the food facility inspection data in a timely manner, and shall strive to ensure that the information is readily accessible, can be rapidly reported, and, if necessary, corrected, for each food facility that has been inspected or reinspected. If the enforcement agency determines that reported information is materially in error, that error shall be corrected within 48 hours after that determination.
(2) The department may establish standardized procedures for reporting the information on electronic media, including, but not limited to, floppy disks or compact disks.

(d) Within 60 days after the department has established the standardized procedures pursuant to this section, the department shall publish these procedures.

(e)
(1) Each enforcement agency that reports food facility inspection information on an Internet Web site shall report the information in accordance with the standardized procedures established pursuant to this section.
(2) This section shall not restrict the ability of an enforcement agency to report on matters other than matters subject to regulation under this part.

(f) The department may establish a link to each Internet Web site utilized by any enforcement agency containing the food facility inspection information pursuant to subdivision (e).

## CHAPTER 2. DEFINITIONS

**113728.** The following definitions apply in the interpretation and application of this part.

**113729.** "Food additive" has the meaning stated in Section 109940. "Color additive" has the meaning stated in Section 109895.

**113729.5.** “Acceptable market name” means a name that the FDA recognizes as a suitable statement of identity, as described in Section 101.3 of Title 21 of the Code of Federal Regulations, in the labeling of a species. An acceptable market name fairly represents the identity of the species to United States consumers because it is not confusingly similar to the name of another species and because it is not otherwise misleading. An acceptable market name may be any of the following:

(a) A common or usual name established by either a history of common usage in the United States or by regulation.
(b) The common name.
(c) A name specifically coined as the market name for a species. For example, “basa” is the market name coined for Pangasius bocourti.

**113732.** "Adulterated" means either of the following:

(a) Food that bears or contains any poisonous or deleterious substance that may render the food impure or injurious to health.
(b) Food that is manufactured, prepared, or stored in a manner that deviates from a HACCP plan so as to pose a discernable increase in risk.

**113733.** "Acute gastrointestinal illness" means a short duration illness most often characterized by either of the following, which are known to be commonly associated with the agents most likely to be transmitted from infected food employees through contamination of food:

(a) Diarrhea, either alone or in conjunction with other gastrointestinal symptoms, such as vomiting, fever, or abdominal cramps.

(b) Vomiting in conjunction with either diarrhea or two other gastrointestinal symptoms, such as fever or abdominal cramps.

**113734.** "Approved" means acceptable to the enforcement agency based on a determination of conformity with applicable laws, or, in the absence of applicable laws, current public health principles, practices, and generally recognized industry standards that protect public health

.

**113735.**

(a) "Approved source" means a food source allowed under Article 3 (commencing with Section 114021) of Chapter 4, or a producer, manufacturer, distributor, or food facility that is acceptable to the enforcement agency based on a determination of conformity with applicable laws, or, in the absence of applicable laws, with current public health principles and practices, and generally recognized industry standards that protect public health.

(b) Any whole uncut fruit or vegetable or unrefrigerated shell egg grown or produced in compliance with all applicable federal, state, or local laws, regulations, and food safety guidelines issued by a regulatory agency shall be deemed to be from an approved source.

**113737.** "*aw*" means water activity that is a measure of the free moisture in a food, is the quotient of the water vapor pressure of the substance divided by the vapor pressure of pure water at the same temperature, and is indicated by the symbol aw.

**113739.** "Beverage" means a liquid for drinking, including water.

**113740.** "CCR" means the California Code of Regulations.

**113742.** "Certified farmers' market" means a location that is certified by the State of California through the enforcement officers of the county agricultural commissioners and operated pursuant to Chapter 10.5 (commencing with Section 47000) of Division 17 of the Food and Agricultural Code and regulations adopted pursuant to that chapter.

**113744.** "C.F.R." means the Code of Federal Regulations. Citations in this part to the C.F.R. refer sequentially to the title, part, and section numbers, such as 21 C.F.R. 178.1010 refers to Title 21, Part 178, Section 1010.

**113747.**

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

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

**113747.1.** “Cold water” means potable water that is not heated by an auxiliary method or source.

**113748.** "Commingle" means:

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

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

**113750.**

(a) "Comminuted" means reduced in size by methods including chopping, flaking, grinding, or mincing.

(b) "Comminuted" includes fish or meat products that are reduced in size and restructured or reformulated including, but not limited to, gefilte fish, formed roast beef, gyros, ground beef, sausage, and a mixture of two or more types of meat that have been reduced in size and combined, including, but not limited to, sausages made from two or more meats.

**113751.** "Commissary" means a food facility that services mobile food facilities, mobile support units, or vending machines where any of the following occur:

(a) Food, containers, or supplies are stored.

(b) Food is prepared or prepackaged for sale or service at other locations.

(c) Utensils are cleaned.

(d) Liquid and solid wastes are disposed, or potable water is obtained.

**113752.** "Community food producer" means a producer of agricultural products on land that is not zoned for agricultural use but is otherwise in compliance with applicable local land use and zoning restrictions, including, but not limited to, restrictions governing personal gardens, community gardens, school gardens, and culinary gardens.

**113755.** “Community event” means an event conducted for not more than 25 consecutive or nonconsecutive days in a 90-day period and that is of a civic, political, public, or educational nature, including state and county fairs, city festivals, circuses, and other public gathering events approved by the local enforcement agency.

**113756.** "Condiment" means a nonpotentially hazardous food, such as relishes, spices, sauces, confections, or seasonings, that require no additional preparation, and that is used on a food item, including, but not limited to, ketchup, mustard, mayonnaise, sauerkraut, salsa, salt, sugar, pepper, or chile peppers.

**113757.** "Consumer" means a person who is a member of the public, takes possession of food, is not functioning in the capacity of an operator of a food facility, and does not offer the food for resale.

**113758.**

(a) “Cottage food operation” means an enterprise that has not more than the amount in gross annual sales that is specified in this subdivision, is operated by a cottage food operator, and has not more than one full-time equivalent cottage food employee, not including a family member or household member of the cottage food operator, within the registered or permitted area of a private home where the cottage food operator resides and where cottage food products are prepared or packaged for direct, indirect, or direct and indirect sale to consumers pursuant to this part. In 2013, the enterprise shall not have more than thirty-five thousand dollars ($35,000) in gross annual sales in the calendar year. In 2014, the enterprise shall not have more than forty-five thousand dollars ($45,000) in gross annual sales in the calendar year. Commencing in 2015 and each subsequent year thereafter, the enterprise shall not have more than fifty thousand dollars ($50,000) in gross annual sales in the calendar year. A cottage food operation includes both of the following:

(1) A “Class A” cottage food operation, which is a cottage food operation that may engage only in direct sales of cottage food products from the cottage food operation or other direct sales venues described in paragraph (4) of subdivision (b).

(2) A “Class B” cottage food operation, which is a cottage food operation that may engage in both direct sales and indirect sales of cottage food products from the cottage food

operation, from direct sales venues described in paragraph (4) of subdivision (b), from offsite events, or from a third-party retail food facility described in paragraph (5) of subdivision (b).

(b) For purposes of this section, the following definitions shall apply:

(1) “Cottage food employee” means an individual, paid or volunteer, who is involved in the preparation, packaging, handling, and storage of a cottage food product, or otherwise works for the cottage food operation. An employee does not include an immediate family member or household member of the cottage food operator.

(2) “Cottage food operator” means an individual who operates a cottage food operation in his or her private home and is the owner of the cottage food operation.

(3) “Cottage food products” means nonpotentially hazardous foods, including foods that are described in Section 114365.5 and that are prepared for sale in the kitchen of a cottage food operation.

(4) “Direct sale” means a transaction within the state between a cottage food operation operator and a consumer, where the consumer purchases the cottage food product directly from the cottage food operation. Direct sales include, but are not limited to, transactions at holiday bazaars or other temporary events, such as bake sales or food swaps, transactions at farm stands, certified farmers’ markets, or through community-supported agriculture subscriptions, and transactions occurring in person in the cottage food operation.

(5) “Indirect sale” means an interaction between a cottage food operation, a third-party retailer, and a consumer, where the consumer purchases cottage food products made by the cottage food operation from a third-party retailer that holds a valid permit issued pursuant to Section 114381. Indirect sales include, but are not limited to, sales made to retail shops or to retail food facilities where food may be immediately consumed on the premises.

(6) “Private home” means a dwelling, including an apartment or other leased space, where individuals reside.

(7) “Registered or permitted area” means the portion of a private home that contains the private home’s kitchen used for the preparation, packaging, storage, or handling of cottage food products and related ingredients or equipment, or both, and attached rooms within the home that are used exclusively for storage.

**113759.** "Control point" means any distinct procedure or step in receiving, storing, handling, preparing, displaying, transporting, or dispensing a food.

**113760.** "Critical control point" means a point or procedure in a specific food system where loss of control may result in an unacceptable health risk.

**113761.** "Critical limit" means the maximum or minimum value to which a physical, biological, or chemical parameter must be controlled at a critical control point to minimize the risk that the identified food safety hazard may occur.

**113763.** "Department" means the State Department of Health Services.

**113767.** "Easily cleanable" means a characteristic of a surface that allows effective removal of soil, food residue, or other organic or inorganic materials by normal cleaning methods.

**113768.** "Easily movable" means either of the following:

(a) Portable; mounted on casters, gliders, or rollers so as to be moveable by one person; or provided with a mechanical means to safely tilt or move a unit of equipment for cleaning.

(b) Having no utility connection, a utility connection that disconnects quickly, or a flexible utility connection line of sufficient length to allow the equipment to be moved for cleaning of the equipment and adjacent area.

**113769.** "Egg" means the shell egg of an avian species that includes chicken, duck, goose, guinea, quail, ratite, or turkey, except a balut and an egg product. “Egg” does not include the egg of a reptile species, including an alligator.

**113770.** "Employee" means the permitholder, person in charge, person having supervisory or management duties, person on the payroll, family member, volunteer, person performing work under contractual agreement, or other person working in a food facility.

**113773.** "Enforcement agency" means the department or the local health agency having jurisdiction over the food facility.

**113774.** "Enforcement officer" means the director, agents, or environmental health specialists appointed by the Director of Health Services, and all local health officers, directors of environmental health, and their duly authorized registered environmental health specialists and environmental health specialist trainees.

**113777.**

(a) "Equipment" means an article that is used in the operation of a food facility, including, but not limited to, a freezer, grinder, hood, icemaker, meat block, mixer, oven, reach-in refrigerator, scale, food and utensil shelving and cabinets, sink, slicer, stove, table, temperature measuring device for ambient air, vending machine, or warewashing machine.

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

**113778.** "Exclude" means to prevent a person from working as a food employee or entering a food facility except for those areas open to the general public.

**113778.1.** "FDA" means the United States Food and Drug Administration.

**113778.2.** "Farm stands" are premises, established in accordance with local ordinances and land use codes, defined under and operated pursuant to Chapter 10.5 (commencing with Section 47000) of Division 17 of the Food and Agricultural Code and regulations adopted and enforced pursuant to that chapter, operating within the requirements set forth in Sections 113789 and 114375.

**113778.4**. “Fabric implement” means a cloth or fabric, including, but not limited to, burlap and cheesecloth, that is used as part of the food process and comes in direct contact with food that is subsequently cooked.

**113779.**

(a) “Fish” means fresh or saltwater finfish, crustaceans, and other forms of aquatic life, other than birds or mammals, and all molluscan shellfish, if intended for human consumption. “Fish” also includes alligator, frog, aquatic turtle, jellyfish, sea cucumber, and sea urchin, and the roe of these animals.

(b) “Fish” includes a product derived in whole or in part from fish, including fish that have been processed in any manner.

**113780.** “Fishermen’s market” means a location that is operated by a commercial fisherman licensed by the Department of Fish and Wildlife or an entity representing two or more California-licensed commercial fishermen or California-licensed commercial fishermen and California-registered aquaculturists, that sells only raw edible aquatic plants, raw fresh fish, or fresh frozen fish, caught by commercial fishermen licensed by the Department of Fish and Wildlife or harvested by California-registered aquaculturists, directly to consumers.

**113781.** "Food" means a raw, cooked, or processed edible substance, ice, beverage, an ingredient used or intended for use or for sale in whole or in part for human consumption, and chewing gum.

**113783.** "Food bank" means a surplus food collection and distribution system operated and established to assist in bringing donated food to nonprofit charitable organizations and individuals for the purposes of reducing hunger and supplying nutritional needs.

**113784.** "Food compartment" means an enclosed space, including, but not limited to, an air pot, blender, bulk dispensing system, covered chafing dish, and covered ice bin, with all of the following characteristics:

(a) The space is defined by a physical barrier from the outside environment that completely encloses all food, food-contact surfaces, and the handling of nonprepackaged food.

(b) All access openings are equipped with tight-fitting closures, or one or more alternative barriers that effectively protect the food from contamination, facilitate safe food handling, while minimizing exposure to the environment.

(c) It is constructed from materials that are nontoxic, smooth, easily cleanable, and durable and is constructed to facilitate the cleaning of the interior and exterior of the compartment.

**113786.** "Food-contact surface" means either of the following:

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

(b) A surface of equipment or a utensil from which food may drain, drip, or splash into a food or onto a surface normally in contact with food.

**113788.** "Food employee" means an employee working with food, food equipment or utensils, or food-contact surfaces.

**113789.**

(a) “Food facility” means an operation that stores, prepares, packages, serves, vends, or otherwise provides food for human consumption at the retail level, including, but not limited to, the following:

(1) An operation where food is consumed on or off the premises, regardless of whether there is a charge for the food.

(2) A place used in conjunction with the operations described in this subdivision, including, but not limited to, storage facilities for food-related utensils, equipment, and materials.

(b) “Food facility” includes permanent and nonpermanent food facilities, including, but not limited to, the following:

(1) Public and private school cafeterias.

(2) Restricted food service facilities.

(3) Licensed health care facilities, except as provided in paragraph (12) of subdivision (c).

(4) Commissaries.

(5) Mobile food facilities.

(6) Mobile support units.

(7) Temporary food facilities.

(8) Vending machines.

(9) Certified farmers’ markets, for purposes of permitting and enforcement pursuant to Section 114370.

(10) Farm stands, for purposes of permitting and enforcement pursuant to Section 114375.

(11) Fishermen’s markets.

(c) “Food facility” does not include any of the following:

(1) A cooperative arrangement wherein no permanent facilities are used for storing or handling food.

(2) A private home, including a cottage food operation that is registered or has a permit pursuant to Section 114365.

(3) A church, private club, or other nonprofit association that gives or sells food to its members and guests, and not to the general public, at an event that occurs not more than three days in any 90-day period.

(4) A for-profit entity that gives or sells food at an event that occurs not more than three days in a 90-day period for the benefit of a nonprofit association, if the for-profit entity receives no monetary benefit, other than that resulting from recognition from participating in an event.

(5) Premises set aside for wine tasting, as that term is used in Section 23356.1 of the Business and Professions Code, or premises set aside by a beer manufacturer, as defined in Section 25000.2 of the Business and Professions Code, and in the regulations adopted pursuant to those sections, that comply with Section 118375, regardless of whether there is a charge for the wine or beer tasting, if no other beverage, except for bottles of wine or beer and prepackaged nonpotentially hazardous beverages, is offered for sale or for onsite consumption and no food, except for crackers, pretzels, or prepackaged food that is not potentially hazardous food is offered for sale or for onsite consumption.

(6) An outlet or location, including, but not limited to, premises, operated by a producer, selling or offering for sale only whole produce grown by the producer or shell eggs, or both, provided the sales are conducted at an outlet or location controlled by the producer.

(7) A commercial food processing establishment as defined in Section 111955.

(8) A child day care facility, as defined in Section 1596.750.

(9) A community care facility, as defined in Section 1502.

(10) A residential care facility for the elderly, as defined in Section 1569.2.

(11) A residential care facility for the chronically ill, which has the same meaning as a residential care facility, as defined in Section 1568.01.

(12)

(A) An intermediate care facility for the developmentally disabled, as defined in subdivisions (e), (h), and (m) of Section 1250, with a capacity of six beds or fewer.

(B) A facility described in subparagraph (A) shall report any foodborne illness or outbreak to the local health department and to the State Department of Public Health within 24 hours of the illness or outbreak.

(13) A community food producer, as defined in Section 113752.

**113790.**

(a) "Food handler" means an individual who is involved in the preparation, storage, or service of food in a food facility, as defined in subdivision (b), other than an individual holding a valid food safety certificate issued pursuant to Section 113947.3 or an individual involved in the preparation, storage, or service of food in a temporary food facility, as defined in Section 113930.

(b) For purposes of the definition of a "food facility" in subdivision (a) and in Section 113948, a food facility means a food facility, as defined in Section 113789,that sells food for human consumption to the general public.

**113791.** "Food preparation" means packaging, processing, assembling, portioning, or any operation that changes the form, flavor, or consistency of food, but does not include trimming of produce.

**113794.** "Food safety program" means any city, county, or city and county program that requires, at a minimum, either of the following:

(a) The training of one or more individuals, whether denominated as "owners," "managers," "handlers," or otherwise, relating in any manner to food safety issues.

(b) Individuals to pass a food safety certification examination.

**113794.1.** "Food handler program" means any city, county, or city and county program that requires that all or a substantial portion of the employees of a food facility who are involved in the preparation,

storage, service, or handling of food products, engage in an approved food safety training or pass an approved food safety certification examination, or both.

**113794.3**. “Fresh frozen” means that the food was quickly frozen while still fresh, including immediately after the food had been harvested or fish had been caught.

**113794.4.** “Frozen food” means a food maintained at a temperature at which all moisture therein is in a solid state.

**113795.**

(a) "Game animal" means an animal, the products of which are food, that is not classified as cattle, sheep, swine, goat, horse, mule, or other equine in 9 C.F.R. 301, as poultry in 9 C.F.R. 381, or as fish as defined under Subpart 1 -201.10(B)(31) of the Food and Drug Administration 2001 Food Code.

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

(c) "Game animal" does not include ratites.

**113796.** “Gleaner” means a person who legally gathers remnants of an agricultural crop or harvest part of, or all of, an agricultural crop made available by the owner of the agricultural crop.

**113797.** "Grade A standards" means the requirements of the United States Public Health Service/FDA "Grade A Pasteurized Milk Ordinance" and "Grade A Condensed and Dry Milk Ordinance" with which certain fluid and dry milk and milk products comply.

**113799.** "HACCP" means a Hazard Analysis Critical Control Point.

**113801.** "HACCP plan" means a written document that complies with the requirements of Section 114419.1 and that delineates the formal procedures for following the Hazard Analysis Critical Control Point principles developed by the National Advisory Committee on Microbiological Criteria for Foods. These principles include completion of the following basic steps:

(a) Completion of hazard analysis identification by identifying the likely hazards to consumers presented by a specific food.

(b) Determination of critical control points in receiving, storage, preparation, displaying, and dispensing of a food.

(c) Setting of measurable critical limits for each critical control point determined.

(d) Developing and maintaining monitoring practices to determine if critical limits are being met.

(e) Developing and utilizing corrective action plans when failure to meet critical limits is detected.

(f) Establishing and maintaining a recordkeeping system to verify adherence to an HACCP plan.

(g) Establishing a system of audits to do both of the following:

(1) Initially verify the effectiveness of the critical limits set and appropriateness of the determination of critical control points.

(2) Periodically verify the effectiveness of the HACCP plan.

**113803.** "Hazard" means a biological, chemical, or physical property that may cause an unacceptable public health risk.

**113804.** "Hearing officer" means a local health officer, a director of environmental health, or his or her designee.

**113805**. "Hermetically sealed container" means a container that is designed and intended to be secure against the entry of micro-organisms and, in the case of low acid canned foods, to maintain the commercial sterility of its contents after processing.

**113806.** “Highly susceptible population” means a group of persons who are more likely than other people in the general population to experience foodborne disease because both of the following conditions exist:

(a) The group is comprised of immunocompromised persons, preschool age children, or older adults.
(b) The group obtains food at a facility, including, but not limited to, a kidney dialysis center, hospital, nursing home, or senior center, that provides services, such as custodial care, health care, assisted living, or socialization services.

**113807.** “Hot dog” means a whole, cured, cooked sausage that is skinless or stuffed in a casing, that may be known as a frankfurter, frank, furter, wiener, red hot, vienna, bologna, garlic bologna, or knockwurst, and that may be served in a bun or roll.

**113810.** "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 can cause food infection, food intoxication, disease transmission, vermin infestation, or hazardous condition that requires immediate correction or cessation of operation to prevent injury, illness, or death.

**113812.** "Impound" means the legal control exercised by the enforcement officer over the use, sale, disposal, or removal of any food, equipment, or utensils.

**113814.** “Injected” means manipulating meat to which a solution has been introduced into its interior by processes that are referred to as “injecting,” “pinning,” or “stitch pumping.”

**113815.** "Juice" means the aqueous liquid expressed or extracted from one or more fruits or vegetables, purees of the edible portions of one or more fruits or vegetables, or any concentrates of such liquid or puree. "Juice" includes juice as a beverage, an ingredient of a beverage, and a puree as an ingredient of a beverage.

**113816.** "Law" means applicable local, state, and federal statutes, regulations, and ordinances.

**113818.**

(a) "Limited food preparation" means food preparation that is restricted to one or more of the following:
    (1) Heating, frying, baking, roasting, popping, shaving of ice, blending, steaming or boiling of hot dogs, or assembly of nonprepackaged food.
    (2) Dispensing and portioning of nonpotentially hazardous food.
    (3) Holding, portioning, and dispensing of any foods that are prepared for satellite food service by the onsite permanent food facility or prepackaged by another approved source.
    (4) Slicing and chopping of food on a heated cooking surface during the cooking process.
    (5) Cooking and seasoning to order.
    (6) Juicing or preparing beverages that are for immediate service, in response to an individual consumer order, that do not contain frozen milk products.

(b) "Limited food preparation" does not include any of the following:
    (1) Slicing and chopping unless it is on the heated cooking surface.
    (2) Thawing.
    (3) Cooling of cooked, potentially hazardous food.
    (4) Grinding raw ingredients or potentially hazardous food.
    (5) Reheating of potentially hazardous foods for hold holding, except for steamed or boiled hot dogs and tamales in the original, inedible wrapper

(6) Except as authorized in paragraph (3) of subdivision (a), hot holding of nonprepackaged, potentially hazardous food, except for roasting corn on the cob, steamed or boiled hot dogs, and tamales in the original, inedible wrapper.
(7) Washing of foods.
(8) Cooking of potentially hazardous foods for later use.

**113820.** "Linens" means fabric items such as cloth hampers, cloth napkins, tablecloths, wiping cloths, and work garments, including cloth gloves.

**113820.5.**
(a) "Major food allergen" means all of the following:
(1) Milk.
(2) Eggs.
(3) Fish, including, but not limited to, bass, flounder, and cod.
(4) Crustacean shellfish, including, but not limited to, crab, lobster, and shrimp.
(5) Tree nuts, including, but not limited to, almonds, pecans, and walnuts.
(6) Wheat.
(7) Peanuts.
(8) Soybeans.
(9) A food ingredient that contains protein derived from a food listed in paragraphs (1) to (8), inclusive.
(b) Major food allergen does not include either of the following:
(1) A highly refined oil derived from a food specified in paragraphs (1) to (8), inclusive, of subdivision (a) and any ingredient derived from that highly refined oil.
(2) An ingredient that is exempt under the petition or notification process specified in the federal Food Allergen Labeling and Consumer Protection Act of 2004 (Public Law 108-282).

**113821.** "Major violation" means a violation of this part that may pose an imminent health hazard and warrants immediate closure or other corrective action.

**113823.** "Meat" means the flesh of animals used as food, including the dressed flesh of cattle, swine, sheep, goats, game animal, and other edible animals, except fish, poultry and wild game animals specified in subdivision (a) of Section 114031.
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**113824.** "Menu change" means a modification of a food facility's menu that would require a change in the food facility's food preparation methods, storage equipment, or storage capacity previously approved by the local enforcement agency. These changes may include, but are not limited to, the addition of potentially hazardous foods to a menu, installation of new food preparation or storage equipment, or increasing storage capacity.

**113827.** "Minor violation" means a violation of this part that does not pose an imminent health hazard, but does warrant correction.

**113831.**
(a) "Mobile food facility" means any vehicle used in conjunction with a commissary or other permanent food facility upon which food is sold or distributed at retail. "Mobile food facility" does not include a "transporter" used to transport packaged food from a food facility, or other approved source to the consumer.
(b) "Single operating site mobile food facilities" means at least one, but not more than four, unenclosed mobile food facilities, and their auxiliary units, that operate adjacent to each other at a single location.

**113833.** "Mobile support unit" means a vehicle used in conjunction with a commissary or other permanent food facility that travels to and services mobile food facilities as needed to replenish supplies, including food and potable water, clean the interior of the unit, or dispose of liquid or solid wastes.

**113835.** "Molluscan shellfish" means any edible species of fresh or frozen oysters, clams, mussels, and scallops or edible portions thereof, except when the scallop product consists only of the shucked adductor muscle.

**113837.** "Multiservice utensil" means a utensil manufactured for use more than one time.

**113839.** “Nonpermanent food facility” means a food facility that operates from a mobile unit or at a nonpermanent location, including, but not limited to, a certified farmers’ market, a fishermen’s market, a mobile food facility, a mobile support unit, a temporary food facility, or a vending machine.

**113841.** "Nonprofit charitable organization" means either of the following:

(a) A corporation incorporated pursuant to the Nonprofit Corporation Law (Division 2 (commencing with Section 5000) of Title 1 of the Corporations Code), that is exempt from taxation pursuant to paragraphs (1) to (10), inclusive, and paragraph (19) of Section 501 (c) of the Internal Revenue Code and Section 23701d of the Revenue and Taxation Code.

(b) An organization that was organized and is in operation for charitable purposes and meets the requirements of Section 214 of the Revenue and Taxation Code.

**113842.** "Nonprofit charitable temporary food facilities" means either one of the following:

(a) A temporary food facility, as defined in Section 113930, that is conducted by a nonprofit charitable organization, as defined in Section 113841.

(b) An established club or organization of students that operates under the authorization of a school or other educational facility.

**113843.** "Open-air barbecue" means a piece of equipment designed for barbecuing food, where the food is prepared out of doors by cooking directly over hot coals, heated lava, hot stones, gas flame, or other method approved by the department, on equipment suitably designed and maintained for use out of doors, that is operated by a temporary food facility, or a mobile food facility that remains fixed during hours of operations at a community event or a permanent food facility.

**113846.** "Outdoor wood-burning oven" means an oven located out of doors, that utilizes wood as the primary fuel for cooking and is operated on the same premises as, and in conjunction with, a permanent food facility.

**113849.** "Permanent food facility" means a food facility operating in a permanently constructed structure, including any room, building, place, or portion thereof, maintained, used, or operated for the purpose of storing, preparing, serving, manufacturing, packaging, or otherwise handling food at the retail level.

**113851.** "Permit" means the document issued by the enforcement agency that authorizes a person to operate a food facility.

**113853.** "Permitholder" means the entity that is legally responsible for the operation of the food facility, such as the owner, the owner's agent, or other person, and possesses a valid permit to operate a food facility.

**113855.** "Person" means any individual, firm, partnership, joint venture, association, limited liability company, corporation, estate, trust, receiver, syndicate, city, county, or other political subdivision, or any other group or combination acting as a unit.

**113856.** "Person in charge" means the individual present at a food facility who is responsible for the operation of the food facility.

**113859.**

(a) "Personal care items" means items or substances that may be poisonous, toxic, or a source of contamination and are used to maintain or enhance a person's health, hygiene, or appearance.

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

**113861.** "pH" means the symbol for the negative logarithm of the hydrogen ion concentration, which is a measure of the degree of acidity or alkalinity of a solution. Values between 0 and 7 indicate acidity and values between 7 and 14 indicate alkalinity. The value for pure distilled water is 7, which is considered neutral.

**113863.** "Plumbing fixture" means a receptacle or device that is permanently or temporarily connected to the water distribution system of the premises and demands a supply of water from the system or discharges used water, waste materials, or sewage directly or indirectly to the drainage system of the premises.

**113865.** "Plumbing system" means the water supply and distribution pipes, plumbing fixtures and traps, soil, waste, and vent pipes, sanitary and storm sewers and building drains, including their respective connections, devices, and appurtenances within the premises, and water-treating equipment.

**113867.** "Poisonous or toxic materials" means substances that are not intended for ingestion and are included in one of the following categories:

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

(b) Pesticides except sanitizers, which include substances such as insecticides and rodenticides.

(c) Substances necessary for the operation and maintenance of the facility, such as nonfood grade lubricants and personal care items that may be deleterious to health.

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

**113868.** "Portable" means equipment that is capable of being lifted and moved or has utility connections that are designed to be disconnected or of sufficient length to permit the unit to be moved for cleaning, and does not exceed 80 pounds (36kg) in weight.

**113869.** "Potable water" means water that complies with the standards for transient noncommunity water systems pursuant to the California Safe Drinking Water Act (Chapter 4 (commencing with Section 116270) of Part 12, to the extent permitted by federal law.

**113871.**

(a) "Potentially hazardous food" means a food that requires time or temperature control to limit pathogenic micro-organism growth or toxin formation.

(b) "Potentially hazardous food" includes a food of animal origin that is raw or heat-treated, a food of plant origin that is heat-treated or consists of raw seed sprouts, cut melons, cut tomatoes or mixtures of cut tomatoes that are not modified to render them unable to support pathogenic micro-organism growth or toxin formation, and garlic-in-oil mixtures that are not acidified or otherwise modified at a food processing plant in a way that results in mixtures that do not support growth or toxin formation as specified under subdivision (a).

(c) "Potentially hazardous food" does not include any of the following:

(1) A food with an aw value of 0.85 or less.

(2) A food with a pH level of 4.6 or below when measured at 75°F.

(3) An air-cooled, hard-boiled egg with shell intact, or an egg with shell intact that is not hard-boiled, but has been pasteurized to destroy all viable salmonellae.

(4) A food in an unopened, hermetically sealed container that is commercially processed to achieve and maintain commercial sterility under conditions of nonrefrigerated storage and distribution.

(5) A food that has been shown by appropriate microbial challenge studies approved by the enforcement agency not to support the rapid and progressive growth of infectious or toxigenic micro-organisms that may cause food infections or food intoxications, or the growth and toxin production of Clostridium botulinum, such as a food that has an aw and a pH that are above the levels specified under paragraphs (1) and (2) and that may contain a preservative, other barrier to the growth of micro-organisms, or a combination of barriers that inhibit the growth of micro-organisms.

(6) A food that does not support the rapid and progressive growth of infectious or toxigenic micro-organisms, even though the food may contain an infectious or toxigenic micro-organism or chemical or physical contaminant at a level sufficient to cause illness.

**113873.** "Poultry" means either of the following:

(a) Any domesticated bird, including chickens, turkeys, ducks, geese, or guineas, whether live or dead, as defined in Poultry Products Inspection Regulations (9 C.F.R. 381).

(b) Any migratory waterfowl, game bird, including a pheasant, partridge, quail, grouse, or guinea, or pigeon, ratites, or squab, whether live or dead, as defined in the Voluntary Poultry Inspection Regulations (9 C.F.R. 362).

**113874.** "Premises" means:

(a) The food facility, its contents, and the contiguous land or property and its facilities and contents that are under the control of the permitholder.

(b) The food facility, its contents, and the land or property not described in subdivision (a) if the facility and contents are under the control of the permitholder and may impact food facility personnel, facilities, or operations.

**113876.** "Prepackaged food" means any properly labeled processed food, prepackaged to prevent any direct human contact with the food product upon distribution from the manufacturer, a food facility, or other approved source.

**113877.** "Produce" means any whole edible portion of a plant in its raw and natural state.

**113879.** "Produce stand" means a permanent food facility that sells, offers for sale, or gives away only produce or shell eggs, or both, except that "produce stand" does not include premises operated by a producer selling or offering for sale only whole produce grown by the producer, or shell eggs, or both, provided that the sales are conducted on premises controlled by the producer.

**113880.** "Producer" means a person or entity who produces shell eggs or edible plants by practice of the agricultural arts upon land that the person or entity controls.

**113881.** "Ready-to-eat food" means food that is in a form that is edible without additional preparation to achieve food safety, as specified in Section 114004 or Section 114008, is a raw or partially cooked food of animal origin and the consumer is advised as specified under Section 114093, or may receive additional preparation for palatability or aesthetic, epicurean, gastronomic, or culinary purposes. "Ready-to-eat food" includes all of the following:

(a) Raw food of animal origin that is cooked as specified in Section 114004 or 114008.

(b) Raw fruits and vegetables that are washed as specified in Section 113992.

(c) Fruits and vegetables that are cooked for hot holding as specified in Section 114010.

(d) All potentially hazardous food that is cooked to the temperature and time required for the specific food under Sections 114004, 114008, and 114010 and cooled as specified in Section 114002.
(e) Produce for which further washing, cooking, or other processing is not required for food safety, and from which rinds, peels, husks, or shells, if naturally present, are removed.
(f) Substances derived from plants, such as spices, seasonings, and sugar.
(g) A bakery item, such as bread, cakes, pies, fillings, or icing, for which further cooking is not required for food safety.
(h) The following products that are produced in accordance with USDA guidelines and that have received a lethality treatment for pathogens: dry, fermented sausages, such as dry salami or pepperoni; salt-cured meat and poultry products, such as prosciutto ham, country cured ham, and parma ham; and dried meat and poultry products, such as jerky or beef sticks.
(i) Foods manufactured according to 21 C.F.R. Part 113—Thermally Processed Low-Acid Foods Packaged in Hermetically Sealed Containers.

**113883.** "Reduced-oxygen packaging" means the reduction of the amount of oxygen in a package by mechanically evacuating the oxygen, displacing the oxygen with another gas or combination of gases, or otherwise controlling the oxygen content in a package to a level below that normally found in the surrounding atmosphere, which is 21 percent oxygen. "Reduced-oxygen packaging" includes methods that may be referred to as altered atmosphere, modified atmosphere, controlled atmosphere, low oxygen, and vacuum packaging, including sous vide.

**113885.** "Refrigeration unit" means a mechanical unit that extracts heat from an area through liquefaction and evaporation of a fluid by a compressor, flame, or thermoelectric device, and includes a mechanical thermostatic control device that regulates refrigerated blown air into an enclosed area at or below the minimum required food storage temperature of potentially hazardous foods in conformance with Section 113996.

**113887.** "Refuse" means solid waste not carried by water through the sewage system.

**113889.** "Remodel" means construction, building, or repair to the food facility that requires a permit from the local building authority. For purposes of mobile food facilities, temporary food facilities, and satellite food service, "remodel" means any replacement or significant modification of an integral piece of equipment.

**113893.**
(a) "Restricted food service facility" means either of the following:
  (1) A food facility of 20 guestrooms or less that provides overnight transient occupancy accommodations, that serves food only to its registered guests, that serves only a breakfast or similar early morning meal and no other meals, and that includes the price of food in the price of the overnight transient occupancy accommodation.
  (2) An agricultural homestay facility that meets all of the following requirements:
    (A) Has not more than six guest rooms or accommodates not more than 15 guests.
  (B) Provides overnight transient accommodations.
    (C) Serves food only to its registered guests and serves meals at any time, and includes the price of food in the price of the overnight transient occupancy accommodation.
    (D) Lodging and meals are incidental and not the primary function of the agricultural homestay facility.
    (E) The agricultural homestay facility is located on, and is a part of, a farm, as defined in Section 52262 of the Food and Agricultural Code, that produces agricultural products as its primary source of income.
(b) Notwithstanding subdivision (a), a restricted food service facility may serve light foods or snacks presented to the guest for self-service.

(c) The predominant relationship between the occupants of a restricted food service facility and the permitholder of the facility is that of innkeeper and guest. For purposes of this section, the existence of some other legal relationships as between some occupants and the permitholder shall be immaterial.

**113894.** "Restrict" means to limit the activities of a food employee so that there is no risk of transmitting a disease that is transmissible through food and the food employee does not work with exposed food, clean equipment, utensils, linens, and unwrapped single-use articles.

**113895.** "Retail" means the storing, preparing, serving, manufacturing, packaging, transporting, salvaging, or otherwise handling food for dispensing or sale directly to the consumer or indirectly through a delivery service.

**113897.** "Sanitization" means the application of cumulative heat or chemicals on cleaned food-contact surfaces that, when evaluated for efficacy, is sufficient to yield a reduction of five logs, which is equal to a 99.999 percent reduction, of representative disease micro-organisms of public health importance.

**113899.** "Satellite food service" means a remotely located food service operation that is conducted on the same property as, in reasonable proximity to, and in conjunction with and by, a fully enclosed permanent food facility. Satellite food service does not include remote food service operations located within a fully enclosed permanent food facility.

**113901.** "Sealed" means free of cracks or other openings that allow the entry or passage of moisture.

**113903.**

(a) "Service animal" means any dog that is individually trained to do work or perform tasks for the benefit of an individual with a disability, including a physical, sensory, psychiatric, intellectual, or other mental disability, or that is in training to do that work or perform those tasks. “Service animal” does not include any other species of animals, whether wild or domestic, trained or untrained.

(b) The work or tasks performed by a service animal shall include assisting individuals who are blind or have low vision with navigation and other tasks, alerting individuals who are deaf or hard of hearing to the presence of people or sounds, providing nonviolent protection or rescue work, pulling a wheelchair, assisting an individual during a seizure, alerting individuals to the presence of allergens, retrieving items such as medicine or the telephone, providing physical support and assistance with balance and stability to individuals with mobility disabilities, or helping persons with psychiatric and neurological disabilities by preventing or interrupting impulsive or destructive behaviors. The crime deterrent effects of an animal’s presence and the provision of emotional support, well-being, comfort, or companionship do not constitute work or tasks for the purposes of this subdivision.

**113907.** "Shellfish certification number" means a unique combination of letters and numbers assigned by a shellfish control authority to a molluscan shellfish dealer according to law or to the provisions of the National Shellfish Sanitation Program.

**113909.** "Shellfish control authority" means a state, federal, foreign, tribal, or other government entity legally responsible for administering a program that includes certification of molluscan shellfish harvesters and dealers.

**113911.** "Shellstock" means raw, in-shell molluscan shellfish.

**113912.** "Shucked shellfish" means molluscan shellfish that have one or both shells removed.

**113914.** "Single-use articles" mean utensils, tableware, carry-out utensils, bulk food containers, and other items such as bags, containers, placemats, stirrers, straws, toothpicks, and wrappers that are designed and constructed for one time, one person use, after which they are intended for discard. "Single-use articles" also include items such as wax paper, butcher paper, plastic wrap, formed aluminum food containers, jars, plastic tubs or buckets, bread wrappers, pickle barrels, ketchup bottles, and number 10 cans that do not meet the materials, durability, strength, and cleanability specifications for utensils under Sections 114130, 114130.1, and 114130.3.

**113916.** "Smooth" means any of the following:

(a) A food-contact surface that is free of pits, pinholes, cracks, crevices, inclusions, rough edges, and other surface imperfections detectable by visual or tactile inspection.

(b) A nonfood-contact equipment surface equal to that of commercial grade hot-rolled steel free of visible scale.

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

**113917.** "Swap meet" shall have the meaning set forth in Section 21661 of the Business and Professions Code.

**113924.** "Table-mounted equipment" means equipment that is not portable and is designed to be mounted off the floor on a table, counter, or shelf.

**113926.** "Tableware" means eating, drinking, and serving utensils for table use, including forks, knives, spoons, bowls, cups, serving dishes, tumblers, and plates.

**113928.** "Temperature measuring device" means a thermometer, thermocouple, thermistor, or other device that indicates the temperature of food, air, or water.

**113930. "**Temporary food facility" means a food facility approved by the enforcement officer that operates at a fixed location for the duration of an approved community event or at a swap meet and only as a part of the community event or swap meet.

**113931.** "Tight-fitting" means fabricated so that joining members are in contact along the entire seam with no opening greater than 1/64th inch (.04 cm).

**113932.** "Transporter" means any vehicle used to transport food pursuant to a prior order from a manufacturer, distributor, retail food facility, or other approved source to a retail food facility or consumer.

**113933.** "USDA" means the United States Department of Agriculture.

**113934.** "Utensil" means a food-contact implement or container used in the storage, preparation, transportation, dispensing, sale, or service of food, such as kitchenware or tableware that is multiuse, single-service, or single-use, gloves used in contact with food, temperature sensing probes of food temperature measuring devices, and probe-type price or identification tags used in contact with food.

**113936.** "Variance" means a written document issued by the department that allows the use of an alternative practice or procedure based on a determination by the department that the alternate practice or procedure is equivalent to the existing requirements, and that a health hazard will not result from the alternative practice or procedure. A variance may be issued in the following circumstances:

(a) For employee hygiene, as described in subdivision (e) of Section 113953, and Sections 113953.3 and 113953.4.

(b) For protection of food from contamination, as described in Sections 113984, 113986, 113988, and 113992.

(c) For time as a public health control, as described in Section 114000.

(d) For cooling time and methods, as described in Sections 114002 and 114002.1.
(e) For cooking and reheating temperatures for potentially hazardous food, as described in Sections 114004, 114008, 114010, and 114016.
(f) For use of raw shell eggs in foods that are not thoroughly cooked, as described in Section 114012.
(g) For thawing of frozen food, as described in Section 114020.
(h) For receiving temperatures of potentially hazardous foods, as described in Section 114037.
(i) For reduced-oxygen packaging of potentially hazardous food, as described in Sections 114057 and 114057.1.
(j) For sanitization methods for food-contact and nonfood-contact surfaces, as described in Sections 114099.6, 114109, 114117, 114119, and 114121.

**113938.** "Vending machine" means a self-service device that, upon insertion of money or tokens, dispenses food without the necessity of replenishing the device between each vending operation and that operates in conjunction with a commissary. "Vending machine" does not include any device dispensing exclusively peanuts, nuts, popcorn, gum, or hard candy, prepackaged candy, cookies, crackers, or similar snacks and beverages that are not potentially hazardous food, and prepackaged ice.

**113939.** "Vermin" means cockroaches, mice, rats, and similar pests that carry disease.

**113939.1.** "Vermin infestation" means the presence of vermin within the food facility as evidenced by actual live bodies, fresh droppings or vomitus, urine stains, or gnaw marks, that could result in contamination to the food, equipment, packaging, or utensils.

**113940.** "Warewashing" means the cleaning and sanitizing of utensils and food-contact surfaces of equipment.
**113941.** "Warm water" means water that is supplied through a mixing valve or combination faucet at a temperature of at least 100°F.

## CHAPTER 3. MANAGEMENT AND PERSONNEL

### ARTICLE 1. SUPERVISION

**113945.** The permitholder shall be the person in charge or shall designate a person in charge and shall ensure that a person in charge is present at the food facility during all hours of operation.

**113945.1.** Except as specified in Section 113984.1, the person in charge shall ensure that persons unnecessary to the food facility operation shall not be allowed in the food preparation, food storage, or warewashing areas.

### ARTICLE 2. EMPLOYEE KNOWLEDGE

**113947.**
(a) The person in charge and all food employees shall have adequate knowledge of, and shall be properly trained in, food safety as it relates to their assigned duties.
(b) The person in charge shall comply with both of the following:
  (1) Have adequate knowledge of major food allergens, foods identified as major food allergens, and the symptoms that a major food allergen could cause in a sensitive individual who has an allergic reaction.
  (2) Educate the employees at the food facility regarding the information described in paragraph (1), which the person in charge may elect to accomplish by, among other methods, using a poster or job aid to which the employee can refer.
(c) For purposes of this section, “person in charge” means a designated person who has knowledge

of safe food handling practices and the major food allergens as they relate to the specific food preparation activities that occur at the food facility.

**113947.1.**

(a) Food facilities that prepare, handle, or serve nonprepackaged potentially hazardous food, except temporary food facilities, shall have an owner or employee who has successfully passed an approved and accredited food safety certification examination as specified in Sections 113947.2 and 113947.3. There shall be at least one food safety certified owner or employee at each food facility. No certified person at a food facility may serve at any other food facility as the person required to be certified pursuant to this subdivision. The certified owner or employee need not be present at the food facility during all hours of operation.

(b) Food facilities that are not subject to the requirements of subdivision (a) that prepare, handle, or serve nonprepackaged, nonpotentially hazardous foods, except temporary food facilities, shall do one of the following:

(1) Have an owner or employee who has successfully passed an approved and accredited food safety certification examination as specified in Sections 113947.2 and 113947.3.

(2) Demonstrate to the enforcement officer that the employees have an adequate knowledge of food safety principles as they relate to the specific operation involved in their assigned duties.

(c) On and after July 1, 2007, temporary food facilities that prepare, handle, or serve nonprepackaged food shall have an owner or person in charge who can demonstrate to the enforcement officer that he or she has an adequate knowledge of food safety principles as they relate to the specific food facility operation.

(d)

(1) For the purposes of this section, multiple contiguous food facilities permitted within the same site and under the same management, ownership, or control shall be deemed to be one food facility, notwithstanding the fact that the food facilities may operate under separate permits.

(2) This subdivision shall not apply to the premises of a licensed winegrower or brandy manufacturer utilized for wine tastings conducted pursuant to Section 23356.1 of the Business and Professions Code of wine or brandy produced or bottled by, or produced and prepackaged for, that licensee when use is limited to wine tasting.

(e) A food facility that commences operation, changes ownership, or no longer has a certified owner or employee pursuant to this section shall have 60 days to comply with this subdivision.

(f) The responsibilities of a certified owner or employee at a food facility or an owner or person in charge of a temporary food facility described in subdivision (c) shall include the safety of food preparation and service, including ensuring that all employees who handle, or have responsibility for handling, nonprepackaged foods of any kind, have sufficient knowledge to ensure the safe preparation or service of the food, or both. The nature and extent of the knowledge that each employee is required to have may be tailored, as appropriate, to the employee's duties related to food safety issues.

(g) The food safety certificate issued pursuant to Section 113947.3 shall be retained on file at the food facility at all times, and shall be made available for inspection by the enforcement officer.

(h) Certified individuals shall be recertified every five years by passing an approved and accredited food safety certification examination.

(i) A food safety program that was not in effect prior to January 1, 1999, shall not be enacted, adopted, implemented, or enforced, unless the program fully conforms to the requirements of this part.

**113947.2.** The food safety certification examination for purposes of Section 113947.1 shall include, but need not be limited to, all of the following elements of knowledge:

(a) Foodborne illness, including terms associated with foodborne illness, micro-organisms, hepatitis A, and toxins that can contaminate food and the illness that can be associated with contamination, definition and recognition of potentially hazardous foods, chemical, biological, and

physical contamination of food, and the illnesses that can be associated with food contamination, and major contributing factors for foodborne illness.

(b) The relationship between time and temperature with respect to foodborne illness, including the relationship between time and temperature and micro-organisms during the various food handling, preparation, and serving states, and the type, calibration, and use of thermometers in monitoring food temperatures.

(c) The relationship between personal hygiene and food safety, including the association of hand contact, personal habits and behaviors, and food employee health to foodborne illness, and the recognition of how policies, procedures, and management contribute to improved food safety practices.

(d) Methods of preventing food contamination in all stages of food handling, including terms associated with contamination and potential hazards prior to, during, and after delivery.

(e) Procedures for cleaning and sanitizing equipment and utensils.

(f) Problems and potential solutions associated with facility and equipment design, layout, and construction.

(g) Problems and potential solutions associated with temperature control, preventing cross-contamination, housekeeping, and maintenance

(h) Describing foods identified as major food allergens and the symptoms that a major food allergen could cause in a sensitive individual who has an allergic reaction.

**113947.3.**

(a) Food safety certification required pursuant to Section 113947.1 shall be achieved by successfully passing an examination from an accredited food protection manager certification organization. The certification organization shall be accredited by the American National Standards Institute as meeting the requirements of the Conference for Food Protection's "Standards for Accreditation of Food Protection Manager Certification Programs." Those food employees who successfully pass an approved certification examination shall be issued a certificate by the certifying organization. The issuance date for each original certificate issued pursuant to this section shall be the date when the individual successfully completes the examination. Certificates shall be valid for five years from the date of original issuance. Any replacement or duplicate certificate shall have as its expiration date the same expiration date that was on the original certificate.

(b)

(1) By July 20, 2008, the department, in consultation with the California Conference of Directors of Environmental Health, representatives of the retail food industry, and other interested parties, shall develop and implement a program for the purposes of demonstrating adequate knowledge for operators of temporary food facilities.

(2) At least one of the accredited food safety certification examinations shall cost no more than sixty dollars ($60), including the certificate. However, the department may adjust the cost of food safety certification examinations to reflect actual expenses incurred in producing and administering the food safety certification examinations required under this section. If a food safety certification examination is not available at the price established by the department, the certification and recertification requirements relative to food safety certification examinations imposed by this section shall not apply.

(3) At least one of the accredited food safety certification examinations shall be offered online.

(4) An accredited food safety certification examination that is provided with an in-person trainer-led class or is offered online shall be proctored under secure conditions to protect the validity of the food protection manager certification examination.

**113947.4.** Except as provided in Section 113947.5, no city, county, or city and county may enact, adopt, implement, or enforce any requirement that any food facility or any person certified pursuant to this section do any of the following:

(a) Obtain any food safety certificate or other document in addition to the certificate required by Section 113947.1.
(b) Post, place, maintain, or keep the certificate other than as specified in subdivision (e) of Section 113947.1.
(c) Pay any fee or other sum as a condition for having a certificate verified, validated, or otherwise processed by the city, county, or city and county.

**113947.5.** Certification conferred pursuant to this part shall be recognized throughout the state. Nothing in this part shall be construed to prohibit any enforcement agency from implementing or enforcing a food handler program that took effect prior to January 1, 1998, but only in the form in which the program existed prior to January 1, 1998.

**113947.6.** Notwithstanding Section 114395, a violation of any provision in Sections 113947.1 to 113947.5, inclusive, shall constitute an infraction, punishable by a fine of not more than one hundred dollars ($100) for each day of operation in violation.

**113948.**

(a)
(1) Subject to the exceptions described in subdivision (d), a food handler who is hired prior to June 1, 2011, shall obtain a food handler card on or before July 1, 2011. Subject to the exceptions described in subdivision (d), a food handler who is hired on or after June 1, 2011, shall obtain a food handler card within 30 days after the date of hire. Each food handler shall maintain a valid food handler card for the duration of his or her employment as a food handler.
(2) Food handler cards shall be valid for three years from the date of issuance, regardless of whether the food handler changes employers during that period.
(3) A food handler card shall be recognized throughout the state, except in jurisdictions described in subdivision (e).

(b)
(1) Prior to January 1, 2012, a food handler may obtain a food handler card from either one of the following:
(A) An American National Standards Institute (ANSI) accredited training provider that meets ASTM International E2659-09 Standard Practice for Certificate Programs.
(B) A food protection manager certification organization described in Section 113947.3.
(2) Commencing January 1, 2012, a food handler shall obtain a food handler card only from an American National Standards Institute (ANSI) accredited training provider that meets ASTM International E2659-09 Standard Practice for Certificate Programs.
(3) A food handler card shall be issued only upon successful completion of a food handler training course and examination that meets at least all of the following requirements:
(A) The course provides basic, introductory instruction on the elements of knowledge described in subdivisions (a), (b), (c), (d), (e), and (g) of Section 113947.2.
(B) The course and examination is designed to be completed within approximately two and one-half hours.
(C) The examination consists of at least 40 questions regarding the required subject matter.
(D) A minimum score of 70 percent on the examination is required to successfully complete the examination.

(c) The food handler training course and examination may be offered through a trainer-led class and examination, through the use of a computer program or the Internet, or through a combination of trainer-led class and the use of a computer program or the Internet. The use of the computer program or Internet shall have sufficient security channels and procedures to guard against

fraudulent activity. However, this subdivision shall not be construed to require the presence or participation of a proctor during a food handler training course examination that is provided through a computer program or the Internet.

(d) This section shall not apply to a food handler who is employed by any of the following:

(1) Certified farmer's markets.

(2) Commissaries.

(3) Grocery stores, except for separately owned food facilities to which this section otherwise applies that are located in the grocery store. For purposes of this paragraph, "grocery store" means a store primarily engaged in the retail sale of canned food, dry goods, fresh fruits and vegetables, and fresh meats, fish, and poultry and any area that is not separately owned within the store where food is prepared and served, including a bakery, deli, and meat and seafood counter. "Grocery store" includes convenience stores.

(4) Licensed health care facilities.

(5) Mobile support units.

(6) Public and private school cafeterias.

(7) Restricted food service facilities.

(8) Retail stores in which a majority of sales are from a pharmacy, as defined in Section 4037 of the Business and Professions Code, and venues with snack bar service in which the majority of sales are from admission tickets, but excluding any area in which restaurant-style sit-down service is provided.

(9) A food facility that provides in-house food safety training to all employees involved in the preparation, storage, or service of food if all of the following conditions are met:

(A) The food facility uses a training course that has been approved for use by the food facility in another state that has adopted the requirements described in Subpart 2-103.11 of the 2001edition of the model Food Code, not including the April 2004 update, published by the federal Food and Drug Administration.

(B) Upon request, the food facility provides evidence satisfactory to the local enforcement officer demonstrating that the food facility training program has been approved for use in another state pursuant to subparagraph (A).

(C) The training is provided during normal work hours, and at no cost to the employee.

(10) A food facility that is subject to a collective bargaining agreement with its food handlers.

(11) Any city, county, city and county, state, or regional facility used for the confinement of adults or minors, including, but not limited to, a county jail, juvenile hall, camp, ranch, or residential facility.

(12) An elderly nutrition program, administered by the California Department of Aging, pursuant to the Older Americans Act of 1965 (42 U.S.C. Sec. 3001 et seq.), as amended.

(e) The requirements of this section shall not apply to a food handler subject to an existing local food handler program that took effect prior to January 1, 2009.

(f) Each food facility that employs a food handler subject to the requirements of this section shall maintain records documenting that each food handler employed by the food facility possesses a valid food handler card, and shall provide those records to the local enforcement officer upon request.

(g) At least one food handler training course and examination shall cost no more than fifteen dollars ($15), including a food handler card. If a food handler training course and examination is not available at that cost, the requirement to obtain a food handler card imposed by this section shall not apply.

## ARTICLE 3. EMPLOYEE HEALTH

**113949.** It is the intent of the Legislature to reduce the likelihood of foodborne disease transmission by preventing any food employee who is suffering from symptoms associated with an acute gastrointestinal

illness, or known to be infected with a communicable disease that is transmissible through food, from engaging in the handling of food until the food employee is determined to be free of that illness or disease, or incapable of transmitting the illness or disease through food as specified in this article.

**113949.1.**

(a) When a local health officer is notified of an illness that can be transmitted by food in a food facility or by an employee of a food facility, the local health officer shall inform the local enforcement agency. The local health officer or the local enforcement agency, or both, shall notify the person in charge of the food facility and shall investigate conditions and may, after the investigation, take appropriate action, and for reasonable cause, require any or all of the following measures to be taken:

(1) The immediate restriction or exclusion of any food employee from the affected food facility.

(2) The immediate closing of the food facility until, in the opinion of the local enforcement agency, the identified danger of disease outbreak has been addressed. Any appeal of the closure shall be made in writing within five days to the applicable local enforcement agency.

(3) Any medical evaluation of any employee, including any laboratory test or procedure, that may be indicated. If an employee refuses to participate in a medical evaluation, the local enforcement agency may require the immediate exclusion of the refusing employee from that or any other food facility until an acceptable medical evaluation or laboratory test or procedure shows that the employee is not infectious.

(b) For purposes of this section, "illness" means a condition caused by any of the following infectious agents:

(1) Salmonella typhi.

(2) Salmonella spp.

(3) Shigella spp.

(4) Entamoeba histolytica.

(5) Enterohemorrhagic or shiga toxin producing Escherichia coli.

(6) Hepatitis A virus.

(7) Norovirus.

(8) Other communicable diseases that are transmissible through food.

**113949.2.** The owner who has a food safety certificate issued pursuant to Section 113947.1 or the employee who has this food safety certificate shall instruct all food employees regarding the relationship between personal hygiene and food safety, including the association of hand contact, personal habits and behaviors, and food employee health to foodborne illness. The owner or food safety certified employee shall require food employees to report the following to the person in charge:

(a) If an employee is diagnosed with an illness due to one of the following:

(1) Salmonella typhi.

(2) Salmonella spp.

(3) Shigella spp.

(4) Entamoeba histolytica.

(5) Enterohemorrhagic or shiga toxin producing Escherichia coli.

(6) Hepatitis A virus.

(7) Norovirus.

(b) If a food employee has a wound that is one of the following:

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

(2) On exposed portions of the arms, unless the wound is protected by an impermeable cover.

(3) On other parts of the body, unless the wound is covered by a dry, durable, tight-fitting bandage.

**113949.4.** A food employee shall do both of the following:

(a) Report to the person in charge the information specified under Section 113949.2.

(b) Comply with the exclusions or restrictions, or both, that are specified under Section 113950.

**113949.5.**

(a) The person in charge shall notify the local enforcement agency when notified that the food employee has been diagnosed with an infectious agent specified under subdivision (b) of Section 113949.1.

(b) A person in charge shall notify the local enforcement agency when he or she is aware that two or more food employees are concurrently experiencing symptoms associated with an acute gastrointestinal illness.

**113950.**

(a) The local health officer or, in consultation with the local health officer, the local enforcement agency shall do either of the following:

(1) Exclude a food employee from a food facility if the food employee is diagnosed with an infectious agent specified in subdivision (b) of Section 113949.1 and the food employee is symptomatic and still considered infectious

(2) Restrict a food employee if the food employee is diagnosed with an infectious agent specified under subdivision (b) of Section 113949.1 and is not experiencing symptoms of the illness associated with that agent but is still considered infectious with an agent specified in subdivision (b) of Section 113949.1.

(b) The person in charge shall do either of the following:

(1) Exclude a food employee from a food facility if the food employee is diagnosed with an infectious agent specified under subdivision (b) of Section 113949.1.

(2) Restrict a food employee from working with exposed food; clean equipment, utensils, and linens; and unwrapped single-service and single-use articles in a food facility if the food employee is suffering from symptoms of an acute gastrointestinal illness.

**113950.5.**

(a) The person in charge may remove a restriction for a food employee upon the resolution of symptoms as reported by a food employee if the food employee states that he or she no longer has any symptoms of an acute gastrointestinal illness.

(b) Only the local health officer or the local enforcement agency, or both, shall remove exclusions or restrictions, or both, related to diagnosed illnesses due to infectious agents specified in subdivision (b) of Section 113949.1 after the local health officer provides a written clearance stating that the excluded or restricted food employee is no longer considered infectious.

## ARTICLE 4. HANDWASHING

**113952.** Food employees shall keep their hands and exposed portions of their arms clean.

**113953.**

(a) Handwashing facilities shall be provided within or adjacent to toilet rooms. The number of handwashing facilities required shall be in accordance with local building and plumbing codes.

(b)

(1) Except as otherwise provided in Section 114358, food facilities constructed or extensively remodeled after January 1 1996, that handle nonprepackaged food, shall provide facilities exclusively for handwashing in food preparation areas and in warewashing areas that are not located within or immediately adjacent to food preparation areas. Handwashing facilities shall be sufficient in number and conveniently located so as to be accessible at all times for use by food employees.

(2) The handwashing facility shall be separated from the warewashing sink by a metal splashguard with a height of at least 6 inches, that extends from the back edge of the drainboard to the front edge of the drainboard, the corners of the barrier to be rounded. No splashguard is required if the distance between the handwashing sink and the warewashing sink drainboards is 24 inches or more.

(c) Handwashing facilities shall be equipped to provide warm water under pressure for a minimum of 15 seconds through a mixing valve or combination faucet. If the temperature of water provided to a handwashing sink is not readily adjustable at the faucet, the temperature of the water shall be at least 100*F, but not greater than 108*F.

(d) An automatic handwashing facility may be installed and used in accordance with the manufacturer's instructions.

(e) Notwithstanding subdivision (b), the enforcement agency may allow handwashing facilities other than those required by this section when it deems that the alternate facilities are adequate.

**113953.1.**

(a) A handwashing facility shall be clean, unobstructed, and accessible at all times for employee use.

(b) A handwashing facility shall not be used for purposes other than handwashing.

(c) Employees shall not clean their hands in a sink used for food preparation, warewashing, or in a service sink or a curbed cleaning facility used for the disposal of mop water and similar liquid waste.

(d) Notwithstanding subdivision (c), a warewashing sink may be used for handwashing as specified in Section 114125.

**113953.2.** A handwashing facility shall be provided with the following in dispensers at, or adjacent to, each handwashing facility:

(a) Handwashing cleanser.

(b) Sanitary single-use towels or a heated-air hand drying device.

**113953.3.**

(a) Except as specified in subdivision (b), all employees shall thoroughly wash their hands and that portion, if any, of their arms exposed to direct food contact with cleanser and warm water by vigorously rubbing together the surfaces of their lathered hands and arms for at least 10 to 15 seconds and thoroughly rinsing with clean running water followed by drying of cleaned hands and that portion, if any, of their arms exposed. Employees shall pay particular attention to the areas underneath the fingernails and between the fingers. Employees shall wash their hands in all of the following instances:

(1) Immediately before engaging in food preparation, including working with nonprepackaged food, clean equipment and utensils, and unwrapped single-use food containers and utensils.

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

(3) After using the toilet room.

(4) After caring for or handling any animal allowed in a food facility pursuant to this part.

(5) After coughing, sneezing, using a handkerchief or disposable tissue, using tobacco, eating, or drinking.

(6) After handling soiled equipment or utensils.

(7) During food preparation, as often as necessary to remove soil and contamination and to prevent cross-contamination when changing tasks.

(8) When switching between working with raw food and working with ready-to-eat food.

(9) Before initially donning gloves for working with food.

(10) Before dispensing or serving food or handling clean tableware and serving utensils in the food service area.

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

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

**113953.4.**

(a) A hand antiseptic used as a topical application, a hand antiseptic solution used as a hand dip, or a hand antiseptic soap shall meet either one of the following requirements:
  (1) Be an approved drug that is listed in the FDA publication Approved Drug Products with Therapeutic Equivalence Evaluations as an approved drug based on safety and effectiveness.
  (2) Have active antimicrobial ingredients that are listed in the FDA monograph for OTC Antiseptic Health-Care Drug Products as an antiseptic handwash.

(b) In addition to the requirements of subdivision (a), the hand antiseptic used as a topical application, hand antiseptic solution used as a hand dip, or hand antiseptic soap shall meet either one of the following requirements:
  (1) Have components that are exempted from the requirement of being listed in federal Food Additive regulations as specified in 21 CFR 170.39 - Threshold of regulation for substances used in food-contact articles.
  (2) Comply with, and be listed in, either of the following federal regulations:
    (A) 21 CFR 178 - Indirect Food Additives: Adjuvants, Production Aids, and Sanitizers as regulated for use as a Food Additive with conditions of safety use.
    (B) 21 CFR 182 - Substances Generally Recognized as Safe, 21 CFR 184 - Direct Food Substances Affirmed as Generally Recognized as Safe, or 21 CFR 186 - Indirect Food Substances Affirmed as Generally Recognized as Safe for use in contact with food.

(c) A hand antiseptic used as a topical application, a hand antiseptic solution used as a hand dip, or a hand antiseptic soap that meets the requirements of subdivisions (a) and (b) shall be applied only to hands that are cleaned in a manner described in Section 113953.3.

(d) If a hand antiseptic or a hand antiseptic solution used as a hand dip does not meet the requirements of subdivision (b), the hand antiseptic or hand antiseptic solution used as a hand dip may be used only if its use is either of the following:
  (1) Followed by thorough hand rinsing in clean water before hand contact with food directly or with the use of gloves.
  (2) Limited to situations where bare hands do not come in direct contact with food.

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

**113953.5.**

(a) Except as specified in subdivision (b), a sign or poster that notifies food employees to wash their hands shall be posted at all handwashing lavatories used by food employees, and shall be clearly visible to food employees.

(b) This section does not apply to toilet rooms in guestrooms of restricted food service facilities.

**113961.**

(a) Food employees shall minimize bare hand and arm contact with nonprepackaged food that is in a ready-to-eat form.

(b) Food employees shall use utensils, including scoops, forks, tongs, paper wrappers, gloves, or other implements, to assemble ready-to-eat food or to place ready-to-eat food on tableware or in other containers. However, food employees may assemble or place on tableware or in other containers ready-to-eat food in an approved food preparation area without using utensils if hands are cleaned in accordance with Section 113953.3.

(c) Food that has been served to the consumer and then wrapped or prepackaged at the direction of the consumer shall be handled only with utensils. These utensils shall be properly sanitized before reuse.

## ARTICLE 5. PERSONAL CLEANLINESS

**113967.** No employee shall commit any act that may cause the contamination or adulteration of food, food-contact surfaces, or utensils.

**113968.** Food employees shall keep their fingernails trimmed, filed, and maintained so the edges and surfaces are cleanable and not rough.

**113969.**

(a) Except as specified in subdivision (b), all food employees preparing, serving, or handling food or utensils shall wear hair restraints such as hats, hair coverings, or nets which are designed and worn to effectively keep their hair from contacting nonprepackaged food, clean equipment, utensils, linens, and unwrapped single-use articles.

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

**113971.** Food employees shall wear clean outer clothing to prevent contamination of food, equipment, utensils, linens, and single-use articles.

## ARTICLE 6. HYGIENIC PRACTICES

**113973.**

(a) Single-use gloves shall be worn when contacting food and food-contact surfaces if the employee has any cuts, sores, rashes, artificial nails, nail polish, rings (other than a plain ring, such as a wedding band), uncleanable orthopedic support devices, or fingernails that are not clean, smooth, or neatly trimmed.

(b) Whenever gloves are worn, they shall be changed, replaced, or washed as often as handwashing is required by this part. Single-use gloves shall not be washed.

(c) If used, single-use gloves shall be used for only one task, such as working with ready-to-eat food or with raw food of animal origin, used for no other purpose, and shall be discarded when damaged or soiled, or when interruptions in the food handling occur.

(d) Except as specified in subdivision (e), slash-resistant gloves that are used to protect the hands during operations requiring cutting shall be used only with food that is subsequently cooked as specified in Section 114004, such as frozen food or a primal cut of meat.

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

(f) Cloth gloves may not be used in direct contact with food unless the food is subsequently cooked.

**113974.** Food employees experiencing, while at work in a food facility, persistent sneezing, coughing, or runny nose that is associated with discharges from the eyes, nose, or mouth, and that cannot be controlled by medication, shall not work with exposed food; clean equipment, utensils, or linens; or unwrapped single-use utensils.

**113975.**

(a) Except as provided in subdivision (b), an employee who has a wound that is open or draining shall not handle food.

(b) A food employee who has a wound is restricted from food handling unless the food employee complies with all of the following:

(1) If the wound is located on the hand or wrist, an impermeable cover, such as a finger cot or stall, shall protect the wound. A single-use glove shall be worn over the impermeable cover.
(2) If the wound is located on exposed portions of the arms, an impermeable cover shall protect the wound.
(3) If the wound is located on other parts of the body, a dry, durable, tight-fitting bandage shall cover the wound.
(4) For purposes of this section, a wound also includes a cut, sore, rash, or lesion.

**113976.** Unless a utensil used to taste food is discarded after the first time it is used for this purpose and before the next tasting or any other use, the utensil shall be washed, rinsed, and sanitized pursuant to Chapter 5 (commencing with Section 114095) between tastings and before any other use.

**113977.**
(a) Except as specified in subdivision (b), an employee shall eat, drink, or use any form of tobacco only in designated areas where contamination of nonprepackaged food; clean equipment, utensils, and linens; unwrapped single-use articles; or other items needing protection cannot result.
(b) A food employee may drink from a closed beverage container if the container is handled to prevent contamination of the employee's hands, the container, nonprepackaged food, and food-contact surfaces.

**113978.** Food facilities shall have a "no smoking" sign posted in the food preparation, food storage, and warewashing areas.

## CHAPTER 4. GENERAL FOOD SAFETY REQUIREMENTS

### ARTICLE 1. PROTECTION FROM CONTAMINATION

**113980.** All food shall be manufactured, produced, prepared, compounded, packed, stored, transported, kept for sale, and served so as to be pure and free from adulteration and spoilage; shall have been obtained from approved sources; shall be protected from dirt, vermin, unnecessary handling, droplet contamination, overhead leakage, or other environmental sources of contamination; shall otherwise be fully fit for human consumption; and shall conform to the applicable provisions of the Sherman Food, Drug, and Cosmetic Law (Part 5 (commencing with Section 109875)).

**113982.**
(a) Food shall be transported in a manner that meets the following requirements:
(1) The interior floor, sides, and top of the food holding area shall be constructed of a smooth, washable, impervious material capable of withstanding frequent cleaning.
(2) The food holding area shall be constructed and operated so that no liquid wastes can drain onto any street, sidewalk, or premises.
(3) Except as provided in subdivision (a) of Section 113996, potentially hazardous food shall be maintained at the required holding temperatures.
(b) This section shall not apply to the transportation of prepackaged nonpotentially hazardous foods.

**113984.**
(a) Adequate and suitable counter space shall be provided for all food preparation operations.
(b) Except as specified in subdivision (c), food preparation shall be conducted within a fully enclosed food facility.
(c) Limited food preparation shall be conducted within a food compartment or as approved by the enforcement agency. Subject to subdivision (g), this subdivision does not require an additional

food compartment when adding ingredients to a beverage or dispensing into a serving container when the beverage is prepared for immediate service in response to an individual consumer order.

(d) Food shall be prepared with suitable utensils and on surfaces that, prior to use, have been cleaned, rinsed, and sanitized as specified in Section 114117 to prevent cross-contamination.

(e) Overhead protection shall be provided above all food preparation, food display, warewashing, and food storage areas.

(f) All food shall be thawed, washed, sliced, and cooled within an approved fully enclosed food facility.

(g) Based upon local environmental conditions, location, and other similar factors, the enforcement officer may establish additional structural or operational requirements, or both, for mobile food facilities as necessary to ensure that foods, food-contact surfaces, and utensils are of a safe and sanitary quality.

**113984.1.** Consumer access to a food facility through the food preparation area is permissible, at the discretion of the permitholder, if ready-to-eat foods are prepared in approved areas separated from sources of contamination by a space of at least three feet from the consumer and in areas that are separate from raw or undercooked foods. The route of access shall be separated from the required space by a rail or wall at least three feet high or otherwise clearly delineated.

**113986.**

(a) Food shall be protected from cross-contamination by utilizing one or more of the following methods:

(1) Separating raw food of animal origin during transportation, storage, preparation, holding, and display from raw ready-to-eat food, including other raw food of animal origin such as fish for sushi or molluscan shellfish, or other raw ready-to-eat food such as produce, and cooked ready-to-eat food in any of the following ways:

(A) Using separate equipment for each type.

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

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

(D) Except as specified in subdivision (b), storing the food in packages, covered containers, or wrappings.

(E) Cleaning hermetically sealed containers of food of visible soil before opening.

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

(G) Storing damaged, spoiled, or recalled food being held in the food establishment as specified in Section 114055.

(H) Separating fruits and vegetables before they are washed, as specified in Section 113992, from ready-to-eat food.

(2) Except when combined as ingredients, separating types of raw foods of animal origin from each other during transportation, storage, preparation, holding, and display in the following ways:

(A) Using separate equipment for each type.

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

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

(D) Except as specified in subdivision (b), storing the food in packages, covered containers, or wrappings.

(E) Cleaning hermetically sealed containers of food of visible soil before opening.

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

(G) Storing damaged, spoiled, or recalled food being held in the food establishment as specified in Section 114055.

(H) Separating fruits and vegetables before they are washed, as specified in Section 113992, from ready-to-eat food.

(b) Subparagraph (D) of paragraph (2) of subdivision (a) of this section shall not apply to any of the following:

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

(2) Primal cuts, quarters, or sides of raw meat or slab bacon that are hung on clean, sanitized hooks or placed on clean, sanitized racks.

(3) Whole, uncut, processed meats, such as country hams, and smoked or cured sausages that are placed on clean, sanitized racks.

(4) Food being cooled as specified in subdivision (b) of Section 114002.1.

(5) Shellstock.

**113988.**

(a) Food shall be protected from contamination that may result from the addition of unsafe or unapproved food or color additives or unsafe or unapproved levels of approved food and color additives.

(b) A food employee may not apply sulfiting agents to fresh fruits and vegetables intended f or raw consumption, or to any potentially hazardous food.

**113990**. Ice that has been used as a medium for cooling the exterior surfaces of food such as melons or fish, prepackaged foods such as canned beverages, or cooling coils and tubes of equipment, shall not be used as food.

**113992.**

(a) Produce shall be thoroughly washed in potable water to remove soil and other contaminants before being cut, combined with other ingredients, cooked, served, or offered for human consumption in ready-to-eat form, except as specified in subdivision (b) and except when intended for washing by the consumer before consumption.

(b) Chemicals used to wash or peel produce shall meet the requirements specified in 21 C.F.R. 173.315.

## ARTICLE 2. TIME AND TEMPERATURE RELATIONSHIPS

**113996.**

(a) Except during preparation, cooking, cooling, transportation to or from a retail food facility for a period of less than 30 minutes, or when time is used as the public health control as specified under Section 114000, or as otherwise provided in this section, potentially hazardous food shall be maintained at or above 135°F, or at or below 41°F.

(b) Roasts cooked to a temperature and for a time specified in subdivision (b) of Section 114004 shall be held at a temperature of 130°F.

(c) The following foods may be held at or below 45°F:

(1) Raw shell eggs.

(2) Unshucked live molluscan shellfish.

(3) Pasteurized milk and pasteurized milk products in original, sealed containers.

(4) Potentially hazardous foods held for dispensing in vending machines.

(5) Potentially hazardous foods held for sampling at a certified farmers' market.

(6) Potentially hazardous foods held during transportation.

(d) Potentially hazardous foods held for dispensing in serving lines and salad bars may be maintained above 41*F, but not above 45*F, during periods not to exceed 12 hours in any 24-hour period only if the unused portions are disposed of at or before the end of this 24-hour period. For purposes of this subdivision, a display case shall not be deemed to be a serving line.

**113998.** If it is necessary to remove potentially hazardous food from the specified holding temperatures to facilitate preparation, this preparation shall in no case exceed two cumulative hours without a return to the specified holding temperatures.

**114000.**

(a) Except as specified in subdivision (b), if time only, rather than time in conjunction with temperature, is used as the public health control for a working supply of potentially hazardous food before cooking or for ready-to-eat potentially hazardous food that is displayed or held for service for immediate consumption, the following shall occur:
   (1) The food shall be marked or otherwise identified to indicate the time that is four hours past the point in time when the food is removed from temperature control.
   (2) The food shall be cooked and served, served if ready-to-eat, or discarded within four hours from the point in time when the food is removed from temperature control.
   (3) The food in unmarked containers or packages or marked to exceed a four-hour limit shall be discarded.
   (4) Written procedures shall be maintained in the food facility and made available to the enforcement agency upon request, that ensure compliance with this section and Section 114002, for food that is prepared, cooked, and refrigerated before time is used as a public health control.

(b) Time only, rather than time in conjunction with temperature, may not be used as the public health control for raw eggs in the following food facilities:
   (1) Licensed health care facilities.
   (2) Public and private school cafeterias.

**114002.**

(a) Whenever food has been prepared or heated so that it becomes potentially hazardous, it shall be rapidly cooled if not held at or above 135°F.

(b) After heating or hot holding, potentially hazardous food shall be cooled rapidly from 135°F to 41°F or below within six hours and, during this time the decrease in temperature from 135*F to 70°F shall occur within two hours.

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

(d) Except as specified in subdivision (e), a potentially hazardous food received in compliance with laws allowing a temperature above 41°F during shipment from the supplier as specified in Section 114037, shall be cooled within four hours to 41°F or less.

(e) Pasteurized milk in original, sealed containers, pasteurized milk products in original, sealed containers, raw shell eggs, and unshucked live molluscan shellfish need not comply with subdivision (c) or (d) if these foods are placed immediately upon their receipt in refrigerated equipment that maintains an ambient temperature of 45°For less.

**114002.1.**

(a) The rapid cooling of potentially hazardous foods shall be accomplished in accordance with the time and temperature criteria specified in Section 114002 by using one or more of the following methods based on the type of food being cooled:
   (1) Placing the food in shallow pans.
   (2) Separating the food into smaller or thinner portions.
   (3) Using rapid cooling equipment.
   (4) Using containers that facilitate heat transfer.
   (5) Adding ice as an ingredient.
   (6) Using ice paddles.
   (7) Inserting appropriately designed containers in an ice bath and stirring frequently.
   (8) In accordance with an HACCP plan adopted pursuant to this part.
   (9) Utilizing other effective means that have been approved by the enforcement agency.

(b) When placed in cooling or cold holding equipment, food containers in which food is being cooled shall be arranged in the equipment to provide maximum heat transfer through the container walls, loosely covered, or uncovered if protected from overhead contamination during the cooling period to facilitate heat transfer from the surface of the food, and stirred as necessary to evenly cool a liquid or a semi-liquid food.

**114004.**

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

(1) The following shall be heated to a minimum internal temperature of 145 degrees Fahrenheit or above for 15 seconds:

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

(B) Except as specified in paragraph (2) or (3) of subdivision (a) or subdivision (b) or (c), fish and meat, including game animals commercially raised for food.

(2) The following foods shall be heated to a minimum internal temperature of 155 degrees Fahrenheit for 15 seconds or the temperature specified in the following chart that corresponds to the holding time:

(A) Ratites and mechanically tenderized and injected meats.

(B) The following foods, if they are comminuted: fish, meat, and game animals commercially raised for food as specified in subparagraph (B) of paragraph (1).

(C) Raw eggs that are not prepared as specified in paragraph (1).

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

(3) The following shall be heated to a minimum internal temperature of 165 degrees Fahrenheit for 15 seconds:

(A) Poultry.

(B) Baluts.

(C) Stuffed fish, stuffed meat, stuffed poultry, and stuffed ratites.

(D) Stuffing containing fish, meat, poultry, or ratites.

(E) Pasta and any other food stuffed with fish, meat, poultry, or ratites.

(F) Wild game animals.

(b) Whole beef roasts, corned beef roasts, pork roasts, lamb roasts, and cured pork roasts, such as ham, shall be cooked as specified in both of the following:

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

| Oven Type: | Oven Temperature Based on Weight: | |
|---|---|---|
| | Less than 10 lbs: | 10 lbs. or more: |
| Still Dry | 350°F or more | 250°F or more |
| Convection | 325°F or more | 250°F or more |
| High Humidity* | 250°F or less | 250°F or less |
| * Relative humidity greater than 90% for at least 1 hour measured in the cooking chamber or exit of the oven; or in a moisture-impermeable bag that provides 100% humidity. | | |

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

| Temperature (°F) | Time* in Minutes | Temperature (°F) | Time* in Seconds |
|---|---|---|---|
| 130 | 112 | 147 | 134 |
| 131 | 89 | 149 | 85 |
| 133 | 56 | 151 | 54 |
| 135 | 36 | 153 | 34 |
| 136 | 28 | 155 | 22 |
| 138 | 18 | 157 | 14 |
| 140 | 12 | 158 | 0 |
| 142 | 8 | | |
| 144 | 5 | | |
| 145 | 4 | | |
| * Holding time may include post oven heat rise. | | | |

(c) A raw or undercooked whole-muscle, intact beef steak may be served or offered for sale in a ready-to-eat form if all of the following conditions are satisfied:
(1) The food facility serves a population that is not a highly susceptible population.
(2) The steak is labeled to indicate that it meets the definition of "whole-muscle, intact beef" as specified in subdivision (c) of Section 114021.
(3) The steak is cooked on both the top and bottom to a surface temperature of 145 degrees Fahrenheit or above and a cooked color change is achieved on all external surfaces.

(d) A raw animal food such as raw egg, raw fish, raw marinated fish, raw molluscan shellfish, or steak tartare, or a partially cooked food such as lightly cooked fish, soft cooked eggs, or rare meat other than whole-muscle, intact beef steaks as specified in subdivision (c), may be served or offered for sale upon consumer request or selection in a ready-to-eat form if either of the following conditions are satisfied:
(1) All of the following requirements are met:
(A) As specified in paragraph (1) or (2) of subdivision (e) of Section 114091, the food facility serves a population that is not a highly susceptible population.
(B) The food, if served or offered for service by consumer selection from a children's menu, does not contain comminuted meat.
(C) The consumer is informed pursuant to Section 114093 to ensure its safety, the food should be cooked as specified in subdivision (a) or (b).
(2) The department grants a variance from subdivision (a) or (b) pursuant to Section 114417 based on a HACCP plan that satisfies all of the following conditions:
(A) It is submitted by the permitholder and approved pursuant to Sections 114417.1 and 114417.3.
(B) It documents scientific data or other information showing that a lesser time and temperature regimen results in safe food.
(C) It verifies that equipment and procedures for food prepared and training of food employees at the food facility meet the conditions of the variance.

**114008.** Raw foods of animal origin cooked in a microwave oven shall meet all of the following requirements:
(a) Be rotated or stirred throughout or midway during cooking to compensate for uneven distribution of heat.
(b) Be covered to retain surface moisture.
(c) Be heated to a temperature of at least 165°F in all parts of the food.
(d) Stand covered for at least two minutes after cooking to obtain temperature equilibrium.

**114010.** Fruits and vegetables that are cooked for hot holding shall be cooked to a minimum temperature of 135°F.

**114012.** Except as specified in Section 114091, pasteurized eggs or pasteurized egg products shall be substituted for raw shell eggs in the preparation of foods such as Caesar salad, hollandaise or Béarnaise sauce, mayonnaise, eggnog, ice cream, and egg-fortified beverages that are not cooked as specified under Section 114004, nor included in Section 114093.

**114014.** Cooked and refrigerated food that is prepared for immediate service in response to an individual consumer order may be served at any temperature.

**114016.**

(a) Except as specified under subdivisions (b) and (c), potentially hazardous food that is cooked, cooled, and reheated for hot holding shall be reheated so that all parts of the food reach a temperature of at least 165°F for 15 seconds.

(b) Except as specified under subdivision (c), potentially hazardous food reheated in a microwave oven for hot holding shall be reheated so that all parts of the food reach a temperature of at least 165°F and the food is rotated or stirred, covered, and allowed to stand covered for at least two minutes after reheating.

(c) Ready-to-eat food taken from a commercially processed, hermetically sealed container, or from an intact package from a food processing plant shall be heated to a temperature of at least 135°F for hot holding.

(d) Reheating for hot holding shall be done rapidly, and the time the food is between 41°F and 165°F shall not exceed two hours.

(e) Remaining unsliced portions of roasts that are cooked as specified under Section 114004 may be reheated for hot holding using the oven parameters and minimum time and temperature conditions as specified in Section 114004.

**114018.** Frozen foods shall be stored and displayed in their frozen state unless being thawed in accordance with Section 114020.

**114020.** Frozen potentially hazardous food shall only be thawed in one of the following ways:

(a) Under refrigeration that maintains the food temperature at 41°F or below.

(b) Completely submerged under potable running water for a period not to exceed two hours at a water temperature of 70°F or below, and with sufficient water velocity to agitate and flush off loose particles into the sink drain.

(c) In a microwave oven if immediately followed by immediate preparation.

(d) As part of a cooking process.

## ARTICLE 3. FOOD FROM APPROVED SOURCES

**114021.**

(a) Food shall be obtained from sources that comply with all applicable laws.

(b) Food stored or prepared in a private home shall not be used or offered for sale in a food facility, unless that food is prepared by a cottage food operation that is registered or has a permit pursuant to Section 114365.

(c) Whole-muscle, intact beef steaks that are intended for consumption in an undercooked form that does not satisfy the conditions for service pursuant to Section 114093 shall satisfy all of the following conditions:

(1) Either the food has been obtained from a food processing plant that, upon request by the purchaser, packages the steaks and labels them to indicate that the steak meets the definition of whole-muscle, intact beef, or is deemed acceptable by the enforcement agency based on other evidence, such as written buyer specifications or invoices, that indicate that the steaks meet the definition of whole-muscle intact beef.

(2) If the food is individually cut in a food facility, all of the following conditions are satisfied:

(A) The food is cut from whole-muscle intact beef that is labeled by a food processing plant as specified in paragraph (1).
(B) The food is prepared so it remains intact.
(C) If the food is packaged for undercooking in a food facility, the food is labeled as specified in paragraph (1).

**114023.** Food in a hermetically sealed container shall be obtained from a food processing plant that is regulated by the food regulatory agency that has jurisdiction over the plant, or from a cottage food operation that produces jams, jellies, and preserves and that is registered or has a permit pursuant to Section 114365.

**114024.**
(a) Liquid, frozen, and dry eggs and egg products shall be obtained pasteurized.
(b) Frozen milk products, such as ice cream, shall be obtained pasteurized as specified in 21 C.F.R. 135 -Frozen Desserts.
(c) Fluid and dry milk and milk products complying with Grade A standard as specified in law shall be obtained pasteurized.
(d) This section shall not apply to properly labeled prepackaged raw milk and raw milk products obtained from an approved source and dispensed and sold at retail by the food facility in compliance with 17 CCR 11380.

**114025.** Ice for use as a food or a cooling medium shall be made from potable water.

**114027.** Fish that are received for sale or service shall be commercially and legally caught or harvested.

**114029.**
(a) Molluscan shellfish shall be obtained from sources according to law or the requirements specified in the United States Department of Health and Human Services, Public Health Service, Food and Drug Administration, National Shellfish Sanitation Program Guide for the Control of Molluscan Shellfish.
(b) Molluscan shellfish received in interstate commerce shall be from sources that are listed in the Interstate Certified Shellfish Shippers List.
(c) Molluscan shellfish that are recreationally caught shall not be received for sale or service.

**114031.**
(a) Game animals shall be received from an approved source.
(b) A game animal shall not be received for sale or service if it is a species of wildlife that is listed in 50 C.F.R. 17 Endangered and Threatened Wildlife and Plants or is listed as an endangered or threatened animal by the Department of Fish and Game.
(c) The enforcement agency may approve the use of legally obtained donated fish and game by nonprofit organizations authorized to serve meals to indigent persons.
(1) "Fish," as used in this subdivision, shall be defined as that term is used in Section 45 of the Fish and Game Code.
(2) "Game," as used in this subdivision, means any game bird, as defined in Section 3500 of the Fish and Game Code, or game mammal, as defined in Section 3950 of the Fish and Game Code.

## ARTICLE 4. RECEIPT OF FOOD

**114035.**
(a) Food shall be inspected as soon as practicable upon receipt and prior to any use, storage, or resale.

(b) Food shall be accepted only if the inspection conducted upon receipt determines that the food satisfies all of the following:
  (1) Was prepared by and received from approved sources.
  (2) Is received in a wholesome condition.
  (3) Is received in packages that are in good condition and that protect the integrity of the contents so that the food is not exposed to adulteration or potential contaminants.
  (4) Is in containers and on pallets that are not infested with vermin or otherwise contaminated.

(c) Potentially hazardous food shall be inspected for signs of spoilage and randomly checked for adherence to the temperature requirements as specified in Section 113996.

**114037.**

(a) Except as specified in subdivision (b), refrigerated, potentially hazardous food may be at a temperature of 45°F or below when received, if the potentially hazardous food is cooled within four hours of receipt to a temperature at or below 41°F.

(b) If a temperature other than 41°F for a potentially hazardous food is specified in law governing its distribution, the food may be received at the specified temperature and cooled as specified in subdivisions (d) and (e) of Section 114002.

(c) Live molluscan shellfish shall not be accepted unless received at an internal temperature of 45°F or below, or, if received on the date of harvest, at a temperature above 45°F.

(d) Potentially hazardous food that is received hot shall be at a temperature of 135°F or above.

(e) A food that is labeled frozen and shipped frozen by a food processing plant shall be received frozen and accepted only if there are not visible signs of thawing or refreezing.

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

**114039.**

(a) Raw shucked shellfish shall be obtained in nonreturnable packages that bear a legible label that identifies the name, address, and certification number of the shucker-packer or repacker of the molluscan shellfish, and a "sell by" date or a "best if used by" date for packages with a capacity of less than one-half gallon, or the date shucked for packages with a capacity of one-half gallon or more.

(b) A package of raw shucked shellfish that does not bear a label or that bears a label that does not contain all the information required by subdivision (a) shall be subject to impound pursuant to Section 114393.

**114039.1.**

(a) Shellstock shall be obtained in containers bearing legible source identification tags or labels that are affixed by the harvester or each dealer that depurates, ships, or reships the shellstock. Except as specified by subdivision (c), on the harvester’s or dealer's tag or label, the following information shall be listed in the following order:
  (1) The harvester’s or dealer's name and address.
  (2) The harvester's certification number as assigned by the authority and the original shellstock shipper's certification number.
  (3) The date of harvesting.
  (4) The most precise identification of the harvest location or aquaculture site that is practicable based on the system of harvest area designations that is in use by the shellfish control authority and including the abbreviation of the name of the state or country in which the shellfish are harvested.
  (5) The type and quantity of shellfish.
  (6) The following statement in bold, capitalized type: "THIS TAG IS REQUIRED TO BE ATTACHED UNTIL CONTAINER IS EMPTY OR RETAGGED AND THEREAFTER KEPT ON FILE FOR 90 DAYS."

(7) The dealer's tag or label shall also indicate the original shipper's certification number, including the abbreviation of the name of the state or country in which the shellfish are harvested.

(b) A container of shellstock that does not bear a tag or label or that bears a tag or label that does not contain all the information required under subdivision (a) shall be subject to impound pursuant to Section 114393.

(c) If the harvester's tag or label is designed to accommodate each dealer's identification, individual dealer tags or labels need not be provided.

**114039.2.** When received by a food facility, shellstock shall be reasonably free of mud, dead shellfish, and shellfish with broken shells. Dead shellfish or shellstock with badly broken shells shall be discarded.

**114039.3.**

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

(b) Shellstock may be removed from the container in which they are received and displayed on drained ice or held in a display container. A quantity specified by a consumer may be removed from the display or display container and provided to the consumer if the source of the shellstock on display is identified as specified under Section 114039.1 and recorded as specified under Section 114039.4 and the shellstock are protected from contamination.

(c) Shucked shellfish may be removed from the container in which they were received and held in a display container from which individual servings are dispensed upon a consumer's request if the labeling information for the shellfish on display as specified under Section 114039 is retained and correlated to the date when, or dates during which, the shellfish are sold or served and the shellfish are protected from contamination.

**114039.4.**

(a) Except as specified by subdivision (b), shellstock tags shall remain attached to the container in which the shellstock are received until the container is empty.

(b) The identity of the source of shellstock that are sold or served shall be maintained for 90 calendar days from the dates of harvest by using an approved recordkeeping system that keeps the tags or labels in chronological order correlated to the date or dates the shellstock are sold or served.

(c) Notwithstanding subdivision (b), if shellstock are removed from their tagged or labeled container, the identity of the source of shellstock that are sold or served shall be maintained by doing the following:

(1) Using a recordkeeping system as required under subdivision (b).

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

(3) If shellstock are portioned and prepackaged, including a copy of the corresponding shellstock tag or properly labeling the package with the required shellfish information.

**114039.5.**

(a) Except as specified in subdivision (b), molluscan shellfish life-support system display tanks shall not be used to display shellfish that are offered for human consumption and shall be conspicuously marked so that it is obvious to the consumer that the shellfish are for display only.

(b) Molluscan shellfish life support system display tanks that are used to store and display shellfish that are offered for human consumption shall be operated and maintained in accordance with an HACCP plan as specified in Section 114419.1. Operation and maintenance shall ensure the following:

(1) Water used with fish other than molluscan shellfish does not flow into the molluscan tank.

(2) The safety and quality of the shellfish as they were received are not compromised by the use of the tank.

(3) The identity of the source of the shellstock is retained as specified in Section 114039.4.

(c) Molluscan shellfish life support system display tanks that were in operation prior to the effective date of this part need not comply with Section 114419.

**114041.**

(a) Shell eggs shall be received clean and sound.

(b) Shell eggs shall not exceed the restricted egg tolerances for United States Consumer Grade B Standards.

## ARTICLE 5. FOOD STORAGE

**114047.**

(a) Adequate and suitable space shall be provided for the storage of food.

(b) Except as specified in subdivisions (c), (d), and (e), food shall be protected from contamination by storing the food in a clean, dry location, where it is not exposed to splash, dust, vermin, or other forms of contamination or adulteration, and at least six inches above the floor.

(c) Food in packages and working containers may be stored less than six inches above the floor on case lot handling equipment as specified under Section 114165.

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

(e) Temporary alternate food storage methods and locations may be approved by the local enforcement agency.

**114049.** Food shall not be stored in any of the following ways:

(a) In locker rooms.

(b) In toilet rooms.

(c) In dressing rooms.

(d) In refuse rooms.

(e) In mechanical rooms.

(f) Under sewer lines that are not shielded to intercept potential drips.

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

(h) Under open stairwells.

(i) Under other sources of contamination.

**114051.** Working containers holding food or food ingredients that are removed from their original packages for use in the food facility, such as cooking oils, flour, herbs, potato flakes, salt, spices, and sugar, shall be identified with the common name of the food, except that containers holding food that can be readily and unmistakably recognized, such as dry pasta, need not be identified.

**114053.**

(a) Prepackaged food may not be stored in direct contact with ice or water if the food is subject to the entry of water because of the nature of its packaging, wrapping, or container, or its positioning in the ice or water.

(b) Except as specified in subdivisions (c) and (d), nonprepackaged food may not be stored in direct contact with undrained ice.

(c) Whole raw fruits or vegetables, cut raw vegetables, and tofu may be immersed in ice or water.

(d) Raw chicken and raw fish that are received immersed in ice in shipping containers may remain in that condition while in storage awaiting preparation, display, service, or sale.

**114055.**

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

(b) All returned or damaged food products and food products from which the label has been removed shall be separated and stored in a separate area and in a manner that shall prevent adulteration of other foods and shall not contribute to a vermin problem.

## ARTICLE 6. SPECIALIZED PROCESSING METHODS

**114057.**

(a) Potentially hazardous foods that are packed by the food facility in reduced-oxygen packaging or have been partially cooked and sealed in any container or configuration that creates anaerobic conditions shall be plainly date coded. The date coding shall state "Use By," followed by the appropriate month, day, and year.

(b) For purposes of this section, "partially cooked" means potentially hazardous foods that have not been sufficiently cooked to assure commercial sterility or fail to have barriers to prevent the growth of or toxin formation by Clostridium botulinum.

**114057.1.**

(a) A food facility that packages food using a reduced-oxygen packaging method and Clostridium botulinum is identified as a microbiological hazard in the final prepackaged form shall ensure that there are at least two barriers in place to control the growth and toxin formation of Clostridium botulinum.

(b) A food facility that packages food using a reduced-oxygen packaging method and Clostridium botulinum is identified as a microbiological hazard in the final prepackaged form shall have an approved HACCP plan that does all of the following:

(1) Contains the information specified under Section 114419.1.

(2) Identifies the food to be prepackaged.

(3) Limits the food prepackaged to a food that does not support the growth of Clostridium botulinum because it complies with one of the following:

(A) Has an aw of 0.91 or less.

(B) Has a pH of 4.6 or less.

(C) Is a meat or poultry product cured at a food processing plant regulated by the U.S.D.A. and is received in an intact package.

(D) Is a food with a high level of competing organisms, such as raw meat or raw poultry.

(4) Specifies methods for maintaining food at 41°F or below.

(5) Describes how the packages shall be prominently and conspicuously labeled on the principal display panel in bold type on a contrasting background, with instructions to maintain the food at 41°F or below and discard the food if within 14 calendar days of its packaging it is not served for on-premises consumption, or consumed if served or sold for off-premises consumption.

(6) Limits the refrigerated shelf life to no more than 14 calendar days from packaging to consumption, except the time product is maintained frozen, or the original manufacturer's "sell by" or "use by" date, whichever occurs first.

(7) Includes operational procedures that prohibit contacting food with bare hands, identify a designated area and the method by which physical barriers or methods of separation of raw foods and ready-to-eat foods minimize cross-contamination and access to the processing equipment is restricted to responsible trained personnel familiar with the potential hazards of the operation, and delineate cleaning and sanitization procedures for food-contact surfaces.

(8) Describes the training program that ensures that individuals responsible for the reduced-oxygen packaging operation understand the concepts required for a safe operation, the

equipment and facilities, and the procedures specified under paragraph (7) and Section 114419.1.

(c) Except for fish that is frozen before, during, and after packaging, a food facility shall not package fish using a reduced-oxygen packaging method.

(d) A food facility is not required to have an HACCP plan if the food facility uses a reduced-oxygen packaging method to package hazardous food that always complies with the following standards with respect to packaging the hazardous food:

(1) The food is labeled with the production time and date.

(2) The food is held at 41 degrees Fahrenheit or lower during refrigerated storage.

(3) The food is removed from its package in the food facility within 48 hours after packaging.

## ARTICLE 7. FOOD DISPLAY AND SERVICE

**114060.**

(a) Except for nuts in the shell and whole raw fruits and vegetables that are intended for hulling, peeling, or washing by the consumer before consumption, food on display shall be protected from contamination by the use of packaging, counter, service line, or sneeze guards that intercept a direct line between the consumer's mouth and the food being displayed, containers with tight-fitting securely attached lids, display cases, mechanical dispensers, or other effective means.

(b) Nonprepackaged food may be displayed and sold in bulk in other than self-service containers if both of the following conditions are satisfied:

(1) The food is served by a food employee directly to a consumer.

(2) The food is displayed in clean, sanitary, and covered, or otherwise protected, containers.

**114063.**

(a) Raw, nonprepackaged food of animal origin, such as beef, lamb, pork, poultry, and eviscerated fish, shall not be offered for consumer self-service. This subdivision does not apply to the following:

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

(2) Ready-to-cook individual portions for immediate cooking and consumption on the premises, such as consumer-cooked meats or consumer-selected ingredients for Mongolian barbecue, or raw, frozen shrimp, lobster, finfish, or scallop abductor muscle, or frozen breaded seafood.

(b) Nonprepackaged food may be displayed in bulk for consumer self-service if all of the following conditions are satisfied:

(1) Produce and food requiring further processing, except raw food of animal origin, may be displayed on open counters or in containers.

(2) Except for salad bar and buffet-type food service, a label shall be conspicuously displayed in plain view of the consumer and securely attached to each self-service container, or in clear relationship to it, and shall contain the information required in Section 114089.

(3) Nonfood items shall be displayed and stored in an area separate from food.

(c) French style, hearth-baked, or hard-crusted loaves and rolls shall be considered properly wrapped if contained in an open-end bag of sufficient size to enclose the loaves or rolls.

(d) Consumer self-service operations for ready-to-eat foods such as buffets and salad bars shall be provided with a suitable food dispensing utensil for each container displayed or effective dispensing methods that protect the food from contamination.

(e) Consumer self-service operations such as buffets and salad bars shall be checked periodically on a regular basis by food employees trained in safe operating procedures.

**114065.** Notwithstanding Section 114266, this section shall not be construed to require the enclosure, during operating hours, of consumer self-service nonpotentially hazardous bulk beverage dispensing operations that meet the following requirements:

(a) The dispensing operation is installed contiguous with a permanent food facility and is operated by the food facility.
(b) The beverages are dispensed from enclosed equipment that precludes exposure of the beverages until they are dispensed at the nozzles. The dispensing equipment actuating lever or mechanism and filling device of consumer self-service beverage dispensing equipment shall be designed to prevent contact with the lip-contact surface of glasses or cups that are refilled.
(c) Ice and ice product are dispensed only from an ice product dispenser. Ice and ice product are not scooped or manually loaded into a dispenser out-of-doors.
(d) Single-use utensils are protected from contamination and are individually wrapped or dispensed from approved sanitary dispensers.
(e) The dispensing operations have overhead protection that fully extends over all equipment associated with the facility.
(f) During nonoperating hours the dispensing operations are fully enclosed so as to be protected from contamination by vermin and exposure to the elements.
(g) The permitholder of the permanent food facility demonstrates to the enforcement agency that adequate methods are in place to properly clean and sanitize the beverage dispensing equipment.
(h) Beverage dispensing operations are in compliance with Section 113980 and have been approved by the enforcement agency.
(i) Beverage dispensing operations are under the constant and complete control of the person in charge of the permanent food facility who is operating the dispensing equipment.

**114067.**

(a) Satellite food service is restricted to limited food preparation.
(b) Satellite food service shall only be operated by a fully enclosed permanent food facility that meets the requirements for food preparation and service and that is responsible for servicing the satellite food service operation.
(c) Prior to conducting satellite food service, the permitholder of the permanent food facility shall submit to the enforcement agency written standard operating procedures that include all of the following information:
    (1) All food products that will be handled and dispensed.
    (2) The proposed procedures and methods of food preparation and handling.
    (3) Procedures, methods, and schedules for cleaning utensils, equipment, structures, and for the disposal of refuse.
    (4) How food will be transported to and from the permanent food facility and the satellite food service operation, and procedures to prevent contamination of foods.
    (5) How potentially hazardous foods will be maintained in accordance with Section 113996.
(d) All food preparation shall be conducted within a food compartment or fully enclosed facility approved by the enforcement officer.
(e) Satellite food service areas shall have overhead protection that extends over all food handling areas.
(f) Satellite food service operations that handle nonprepackaged food shall be equipped with approved handwashing facilities and warewashing facilities that are either permanently plumbed or self-contained.
(g) Notwithstanding subdivision (f), the local enforcement agency may approve the use of alternative warewashing facilities.
(h) During nonoperating hours and periods of inclement weather, food, food contact surfaces, and utensils shall be stored within any of the following:
    (1) A fully enclosed satellite food service operation.
    (2) Approved food compartments where food, food contact surfaces, and utensils are protected at all times from contamination, exposure of the elements, ingress of vermin, and temperature abuse.
    (3) A fully enclosed permanent food facility.

(i) Satellite food service activities shall be conducted by and under the constant and complete control of the permitholder of the fully enclosed permanent food facility, or the duly contracted personnel of, or third-party providers to, the permitholder.
(j) For purposes of permitting and enforcement, the permitholder of the permanent food facility and the permitholder of the satellite food service shall be the same.

**114069.** Only prepackaged nonpotentially hazardous food or uncut produce may be displayed or sold outdoors by a food facility if all of the following conditions are satisfied:
(a) Outdoor displays have overhead protection that extends over all food items.
(b) Food items from the outdoor display are stored inside the fully enclosed food facility at all times other than during business hours.
(c) Outdoor displays comply with Section 113980 and have been approved by the enforcement agency.
(d) Outdoor displays are under the control of the permitholder of the fully enclosed food facility and are checked periodically on a regular basis.

**114073.** Bulk milk container dispensing tubes shall be cut on the diagonal leaving no more than one inch protruding from the chilled dispensing head.

**114074.** If tableware is preset, exposed, and unused, extra settings shall either be removed when a consumer is seated or cleaned and sanitized before further use.

**114075.**
(a) Except for refilling a consumer's drinking cup or container without contact between the pouring utensil and the lip-contact area of the drinking cup or container, food employees shall not use tableware, including single-use articles, soiled by the consumer, to provide second portions or refills.
(b) Except as specified in subdivision (d), self-service consumers shall not be allowed to use soiled tableware, including single-use articles, to obtain additional food from the display and serving equipment.
(c) Consumers shall be notified that clean tableware is to be used when they return to self-service areas such as salad bars and buffets.
(d) Drinking cups and containers may be reused by self-service consumers if refilling of a consumer's drinking cup is done without contact between the pouring utensil and the lip contact area of the cup or container.
(e) Personal take-out beverage containers, such as thermally insulated bottles, nonspill coffee cups, and promotional beverage glasses, may be refilled by employees or the consumer if refilling is a contamination-free process as specified in subdivision (a).

**114077.** Condiments shall be protected from contamination by being kept in dispensers that are designed to provide protection, protected food displays provided with the proper utensils, original containers designed for dispensing, or individual packages or portions.

**114079.**
(a) Except as specified in subdivision (b), after being served or sold and in the possession of a consumer, food that is unused or returned by the consumer shall not be offered as food for human consumption.
(b) A container of food that is not potentially hazardous may be transferred from one consumer to another if the food is dispensed so that it is protected from contamination and the container is closed between uses, such as a narrow-neck bottle containing catsup, steak sauce, or wine, or if the food, such as crackers, salt, or pepper, is in an unopened original package and is maintained in sound condition, and if the food is checked periodically on a regular basis.

**114081.**

(a) Single-use articles and cleaned and sanitized multiservice utensils shall be handled, displayed, and dispensed so that contamination of food and lip-contact surfaces is prevented.

(b) Knives, forks, and spoons that are not prewrapped shall be presented so that only the handles are touched by employees and by consumers if consumer self-service is provided.

(c) Except as specified under subdivision (b), single-use articles that are intended for food or lip-contact shall be furnished for consumer self-service with the original individual wrapper intact or from an approved dispenser.

(d) Single-use articles shall not be reused.

**114083.** Soiled tableware shall be removed from consumer eating and drinking areas and handled so that clean tableware, food, and food-contact surfaces are not contaminated.

## ARTICLE 8. CONSUMER INFORMATION

**114087.**

(a) Food offered for human consumption shall be honestly presented in a way that does not mislead or misinform the consumer.

(b) Food or color additives, colored overwraps, lights or other misleading artificial means shall not be used to misrepresent the true appearance, color, or quality of a food.

**114089.**

(a) Food prepackaged in a food facility shall bear a label that complies with the labeling requirements prescribed by the Sherman Food, Drug, and Cosmetic Law (Part 5 (commencing with Section 109875)), 21 C.F.R. 101-Food Labeling, 9 C.F.R. 317-Labeling, Marking Devices, and Containers, and 9 C.F.R. 381-Subpart N Labeling and Containers, and as specified under Sections 114039 and 114039.1.

(b) Label information shall include the following:

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

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

(3) An accurate declaration of the quantity of contents.

(4) The name and place of business of the manufacturer, packer, or distributor.

(5) Except as exempted in the Federal Food, Drug, and Cosmetic Act Section 403(Q)(3)-(5) (21 U.S.C. Sec. 343(q)(3)-(5), incl.), nutrition labeling as specified in 21 C.F.R. 101-Food Labeling and 9 C.F.R. 317 Subpart B Nutrition Labeling.

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

(1) The manufacturer's or processor's label that was provided with the food.

(2) A card, sign, or other method of notification that includes the information specified under paragraphs (1), (2), and (5) of subdivision (b).

**114089.1.**

(a) Except as specified in subdivision (c) of Section 114089, every bakery product shall have a protective wrapping that shall bear a label that complies with the labeling requirements prescribed by the Sherman Food, Drug, and Cosmetic Law (Part 5 (commencing with Section 109875)).

(b) Bakery products sold directly to a restaurant, catering service, retail bakery, or sold over the counter directly to the consumer by the manufacturer or bakery distributor shall be exempt from the labeling provisions of this section.

(c) French style, hearth-baked, or hard-crusted loaves and rolls shall be considered properly wrapped if contained in an open-end bag that encloses the loaves or rolls.

**114090.**

(a) If required by law, consumer warnings shall be provided.

(b) Food facility's or manufacturer's dating information on foods may not be concealed or altered.

**114091.** In a licensed health care facility and a public or private school cafeteria, the following shall apply:

(a) Only pasteurized juice may be served.

(b) Only pasteurized fluid and dry milk and milk products complying with Grade A standards as specified in law shall be served.

(c) Pasteurized shell eggs or pasteurized liquid, frozen, or dry eggs or egg products shall be substituted for raw shell eggs in the preparation of foods such as Caesar salad, hollandaise or béarnaise sauce, mayonnaise, eggnog, ice cream, and egg-fortified beverages, and, except as specified in subdivision (e), recipes in which more than one egg is broken and the eggs are combined.

(d)

(1) Food shall not be reserved where the food was already served to patients or clients who are under contact precautions in medical isolation or quarantine or protective environment isolation.

(2) Food shall not be reserved to a patient or client in protective environment isolation.

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

(1) Raw foods of animal origin such as raw fish, raw-marinated fish, raw molluscan shellfish, and steak tartare.

(2) A partially cooked food of animal origin, such as lightly cooked fish, rare meat, soft-cooked eggs, that is made from raw shell eggs, and meringue.

(3) Raw seed sprouts.

(f) Subdivision (c) does not apply in any of the following instances:

(1) The raw eggs are combined immediately before cooking for one consumer's serving at a single meal, cooked as specified under Section 114004, and served immediately, such as an omelet, soufflé, or scrambled eggs.

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

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

(A) Identifies the food to be prepared.

(B) Prohibits contacting ready-to-eat food with bare hands.

(C) Includes specifications and practices that ensure salmonella enteritidis growth is controlled before and after cooking and is destroyed by cooking the eggs to an internal temperature of 145°F.

(D) Contains the information specified under a HACCP plan, including procedures that control cross-contamination of ready-to-eat food with raw eggs, and delineate cleaning and sanitization procedures for food-contact surfaces.

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

**114093.**

(a) Except as specified in subdivision (c) and paragraph (2) of subdivision (d) of Section 114004 and pursuant to subdivision (e) of Section 114091, if an animal food, including beef, eggs, fish, lamb, milk, pork, poultry, or shellfish, is served or sold raw, undercooked, or without otherwise being processed to eliminate pathogens, either in ready-to-eat form or as an ingredient in another ready-to-eat food, the permitholder shall inform consumers of the significantly increased risk of consuming those foods by way of a disclosure pursuant to subdivision (b) and reminder pursuant to subdivision (c), using brochures, deli case or menu advisories, label statements, table tents, placards, or other effective written means.

(b) "Disclosure" means a written statement that clearly includes either of the following:
  (1) A description of the animal-derived foods, such as "oysters on the half shell (raw oysters)," "raw-egg Caesar salad," and "hamburgers (can be cooked to order)."
  (2) Identification of the animal-derived foods marked by an asterisk denoting a footnote that states that the items are served raw or undercooked, or contain or may contain raw or undercooked ingredients.

(c) "Reminder" means a written statement that identifies the animal-derived foods by an asterisk that denotes a footnote that includes either of the following disclosure statements:
  (1) Written information regarding the safety of these food items is available upon request.
  (2) Consuming raw or undercooked meats, poultry, seafood, shellfish, or eggs may increase your risk of foodborne illness, especially if you have certain medical conditions.

**114093.1.**

(a) Any food facility that serves or sells over the counter directly to the consumer an unlabeled or nonprepackaged food that is a confectionery that contains alcohol in excess of one-half of 1 percent by weight shall provide written notice to the consumer of that fact.

(b) The notice shall be prominently displayed or be provided in some other manner, as determined by the department.

(c) The department shall adopt regulations to govern the notice required by this section in order to effectuate the purposes of this section.

**114094.**

(a) A food facility subject to Section 343(q)(5)(H) of Title 21 of the United States Code or subject to this section as it read on July 1, 2011, shall comply with the requirements of that section of the United States Code and the regulations adopted pursuant thereto.

(b) Notwithstanding the Sherman Food, Drug, and Cosmetic Law (Part 5 (commencing with Section 109875) of Division 104), and to the extent permitted by federal law:
  (1) Enforcement of this section shall be made pursuant to Section 113713.
  (2)
    (A) A violation of this section is, notwithstanding Section 114395, an infraction, punishable by a fine of not less than fifty dollars ($50) nor more than five hundred dollars ($500). A second violation within a five-year period from a prior violation shall be punishable by a fine of not less than one hundred dollars ($100) nor more than one thousand dollars ($1,000). For a third or subsequent violation within a five-year period, the fine shall be not less than two hundred fifty dollars ($250) nor more than two thousand five hundred dollars ($2,500). A food facility shall not be found to have committed a violation under this paragraph more than once during an inspection visit.
    (B) Alternatively, the enforcement agency may assess a civil penalty of an amount that is no less than or greater than the amounts specified for fines in this paragraph.

(c) Except for the civil penalties authorized by this section, this section shall not be construed to create or enhance any claim, right of action, or civil liability that did not exist under state law prior to January 1, 2009, or limit any claim, right of action, or civil liability that otherwise existed under state law prior to January 1, 2009. The only enforcement mechanism of this section is the department or local enforcement agency, as set forth in Section 113713.

(d) This section shall become operative only on and after the compliance date specified in the federal regulation implementing Section 343(q)(5)(H) of Title 21 of the United States Code.

**114094.5**

(a) A retail food facility shall not sell or offer for sale after the "use by" date, infant formula or baby food that is required to have this date on its packaging pursuant to the federal act, as defined in Section 109930, and federal regulations adopted pursuant to the federal act, including, but not limited to, Section 107.20 of Title 21 of the Code of Federal Regulations.

(b) Notwithstanding Section 114395, any retail food facility that violates this section is guilty of an infraction, punishable by a fine of not more than ten dollars ($10) per day for each item sold or offered for sale after the "use by" date. The fine shall be calculated based upon the number of days past the "use by" date that the product is either found being offered for sale, or if the product is sold, the date of sale as established by evidence of the proof of purchase, including, but not limited to, a sales receipt.

(c) An enforcement agency may assess administrative penalties on a retail food facility that violates this section in the amount of ten dollars ($10) per day for each item sold or offered for sale, in addition to other penalties authorized by law.

(d) For purposes of this section, the following definitions shall apply:

(1) "Baby food" shall have the meaning given to "baby foods" in paragraph (c) of Section 407.81 of Title 40 of the Code of Federal Regulations.

(2) "Infant formula" shall have the meaning given in subdivision (z) of Section 321 of Title 21 of the United States Code.

## CHAPTER 5. CLEANING AND SANITIZING OF EQUIPMENT AND UTENSILS

**114095.** All food facilities in which food is prepared or in which multiservice utensils and equipment are used shall provide manual methods to effectively clean and sanitize utensils as specified in Section 114099.

**114097.** Equipment food-contact surfaces and multiservice utensils shall be effectively washed to remove or completely loosen soils by the use of manual or mechanical methods necessary, such as the application of detergents containing wetting agents and emulsifiers, acid, alkaline, or abrasive cleaners, hot water, brushes, scouring pads, high pressure sprays, or ultrasonic devices.

**114099.**

(a) Manual warewashing sinks, except as specified in subdivision (c), shall have at least three compartments with two integral metal drainboards for manually washing, rinsing, and sanitizing equipment and utensils.

(b) Sink compartments shall be large enough to accommodate immersion of the largest equipment and utensils. If equipment or utensils are not designed to be washed in a warewashing sink, alternate approved methods as specified in Section 114099.3 shall be followed.

(c) A two compartment sink that is in use on January 1, 1996, need not be replaced when used as specified in Section 114099.3. The enforcement officer shall approve the continued use of a two-compartment sink even upon replacement if the installation of a three-compartment sink would not be readily achievable and where other approved sanitation methods are used.

**114099.1**.

(a) During manual or mechanical warewashing, food debris on equipment and utensils shall be scraped over a waste disposal unit, scupper, or garbage receptacle.

(b) If necessary for effective cleaning, utensils and equipment shall be preflushed, presoaked, or scrubbed with abrasives.

**114099.2.**

(a) Notwithstanding Section 114099, manual warewashing shall be accomplished by using a three-compartment sink.

(b) The temperature of the washing solution shall be maintained at not less than 100°F or the temperature specified by the manufacturer on the cleaning agent manufacturer's label instructions or as provided in writing by the manufacturer.

(c) The utensils shall then be rinsed in clear water before being immersed in a sanitizing solution.

(d) Manual sanitization shall be accomplished as specified in Section 114099.6.

(e) In-place sanitizing shall be accomplished as specified in Section 114099.6.
(f) Other methods may be used if approved by the enforcement agency.

**114099.3.** Alternative manual warewashing equipment may be used when there are special cleaning needs or constraints, such as when equipment is fixed or the utensils are large, and the enforcement agency has approved the use of the alternative equipment. Alternative manual warewashing equipment may include any of the following:

(a) High-pressure detergent sprayers.
(b) Low-or-line pressure spray detergent foamers.
(c) Other task-specific cleaning equipment.
(d) Brushes or other implements.
(e) (1) A two-compartment sink, if the permitholder limits the number of utensils cleaned and sanitized in the two-compartment sink, limits warewashing to batch operations for cleaning and sanitizing utensils, such as between cutting one type of raw meat and another or cleanup at the end of a shift, and does either of the following:
    (A) Makes up the cleaning and sanitizing solutions immediately before use and drains them immediately after use, as well as uses a detergent sanitizer to clean and sanitize in accordance with the manufacturer's label instructions where there is no distinct water rinse between the washing and sanitizing steps. The agent applied in the sanitizing step shall be the same detergent sanitizer that is used in the washing step
    (B) Use a hot water sanitization immersion step that incorporates a nondistinct water rinse.
  (2) A two-compartment sink shall not be used for warewashing operations where cleaning and sanitizing solutions are used for a continuous or intermittent flow of utensils in an ongoing warewashing process.

**114099.4.** If hot water is used for sanitization in manual warewashing operations, the sanitizing compartment of the sink shall be designed with an integral heating device that is capable of maintaining water at a temperature not less than 171°F and provided with a rack or basket to allow complete immersion of equipment and utensils into the hot water.

**114099.5.** In manual warewashing operations, a temperature measuring device shall be provided and readily accessible for frequently measuring the washing and sanitizing temperatures.

**114099.6.** Manual sanitization shall be accomplished in the final sanitizing rinse by one of the following:

(a) Immersion for at least 30 seconds where the water temperature is maintained at 171 degrees Fahrenheit or above.
(b) The application of sanitizing chemicals by immersion, manual swabbing, or brushing, using one of the following solutions:
  (1) Contact with a solution of 100 ppm available chlorine solution for at least 30 seconds.
  (2) Contact with a solution of 25 ppm available iodine for at least one minute.
  (3) Contact with a solution of 200 ppm quaternary ammonium for at least one minute.
  (4) Contact with a solution of ozone that meets the requirements of Section 180.940 of Title 40 of the Code of Federal Regulations and that is generated by a device located onsite at the food facility that meets all of the following requirements:
    (A) Complies with the Federal Insecticide, Fungicide, and Rodenticide Act (7 U.S.C. Sec. 136 et seq.).
    (B) Complies with federal device requirements as specified in Section 152.500 of Title 40 of the Code of Federal Regulations, and federal labeling requirements as specified in Section 156.10 of Title 40 of the Code of Federal Regulations.
    (C) Displays the United States Environmental Protection Agency device manufacturing facility registration number on the device.

(D) Is operated and maintained in accordance with the manufacturer's instruction, and manufactured using good manufacturing practices as specified in Part 110 of Title 21 of the Code of Federal Regulations.

(5) Contact with any chemical sanitizer that meets the requirements of Section 180.940 of Title 40 of the Code of Federal Regulations when used in accordance with the manufacturer's use directions.

(c) Other methods approved by the enforcement agency.

**114099.7.** Mechanical sanitization shall be accomplished in the final sanitizing rinse by one of the following:

(a) By being cycled through equipment that is used in accordance with the manufacturer's specifications and achieving a utensil surface temperature of 160*F as measured by an irreversible registering temperature indicator.

(b) The mechanical application of sanitizing chemicals by pressure spraying methods using one of the following solutions:

(1) Contact with a solution of 50 ppm available chlorine solution for at least 30 seconds.

(2) Contact with a solution of 25 ppm available iodine for at least one minute.

(3) Contact with any chemical sanitizer that meets the requirements of Section 180.940 of Title 40 of the Code of Federal Regulations when used in accordance with the following:

(A) The sanitizer manufacturer's use directions as specified on the product label.

(B) The machine manufacturer's specifications as provided in the manufacturers operating instructions.

(c) After being cleaned and sanitized, equipment and utensils shall not be rinsed before air drying or use unless:

(1) The rinse is applied directly from a potable water supply by a warewashing machine that meets the requirements of subdivision (b) of Section 114130 and is maintained and operated in accordance with the manufacturer's specifications.

(2) The rinse is applied only after the equipment and utensils have been sanitized by the application of hot water or by the application of a chemical sanitizer solution whose United States Environmental Protection Agency-registered, label use instructions require rinsing off the sanitizer after it is applied in an approved commercial warewashing machine.

**114101.**

(a) Mechanical machine warewashing shall be accomplished by using an approved machine installed and operated in accordance with the manufacturer's specifications.

(b) Soiled items to be cleaned in a warewashing machine shall be loaded in racks, trays, or baskets or onto conveyors in a position that exposes the items to the unobstructed spray during all cycles and allows the items to drain.

(c) The velocity, quantity, and distribution of the washwater, type, and concentration of detergent used therein, and the time the utensils are exposed to the water shall be sufficient to clean the utensils.

(d) Restricted food service facilities need not comply with Section 114130 if the domestic or commercial dishwasher utilized for warewashing is capable of providing heat to the surface of the utensils of a temperature of at least 160°F.

**114101.1.** A warewashing machine shall be provided with an easily accessible and readable data plate affixed to the machine by the manufacturer that indicates the machine's design and operating specifications including the temperatures required for washing, rinsing, and sanitizing, the pressure required for the fresh water sanitizing rinse, unless the machine is designed to use only a pumped sanitizing rinse, and the conveyor speed for conveyor machines or cycle time for stationary rack machines.

**114101.2.** A warewashing machine shall be equipped with a temperature measuring device that indicates the temperature of the water as the water enters the hot water sanitizing final rinse manifold or in the chemical sanitizing solution tank.

**114103.**

(a) Except as provided in subdivisions (b) and (c), all warewashing equipment shall be provided with two integral metal drainboards of adequate size and construction. One drainboard shall be attached at the point of entry for soiled equipment and utensils and one shall be attached at the point of exit for cleaned and sanitized equipment and utensils.

(b) Where a mechanical warewashing machine is used, there shall be two metal drainboards, one for soiled equipment and utensils, and one for clean equipment and utensils, located adjacent to the machine. The requirement for a drainboard for soiled equipment and utensils or the requirement for a drainboard for clean equipment and utensils, or both requirements, may be satisfied by using the drainboards that are part of the manual warewashing sinks if the sink is located adjacent to the machine.

(c) Pot and pan washers shall be equipped with drainboards as required in subdivision (a), or shall be equipped with approved alternative equipment that provides adequate and suitable space for soiled and clean equipment and utensils.

(d) Drainboards, utensil racks, or tables large enough to accommodate all soiled and cleaned items that may accumulate during hours of operation shall be provided for necessary utensil holding before cleaning and after sanitizing.

(e) Sinks and drainboards of warewashing equipment shall be sloped and drained to an approved liquid waste receptor.

**114105.** After cleaning and sanitizing, equipment and utensils shall be air dried or used after adequate draining before contact with food and shall not be cloth dried, except that utensils that have been air dried may be polished with cloths that are maintained clean and dry.

**114107.**

(a) Testing equipment and materials shall be provided to adequately measure the applicable sanitization method used during manual or mechanical warewashing.

(b) The concentration of the sanitizing solution shall be accurately determined to ensure proper dosage.

**114109.**

(a) Drying agents used in conjunction with sanitization shall contain only components that are listed as one of the following:

(1) Generally Recognized as Safe for use in food as specified in 21 C.F.R. 182 - Substances Generally Recognized as Safe, or 21 C.F.R. 184 - Direct Food Substances Affirmed as Generally Recognized as Safe.

(2) Generally Recognized as Safe for the intended use as specified in 21 C.F.R. 186 - Indirect Food Substances Affirmed as Generally Recognized as Safe.

(3) Approved for use as a drying agent under a prior sanction specified in 21 C.F.R. 181 - Prior-Sanctioned Food Ingredients.

(4) Specifically regulated as an indirect food additive for use as a drying agent as specified in 21 C.F.R. 175 -178, inclusive.

(5) Approved for use as a drying agent under the threshold of regulation process established by 21 C.F.R. 170.39.

(b) When sanitization is with chemicals, the approval required under paragraph (3) or (5) of subdivision (a) or the regulation as an indirect food additive required under paragraph (4) of subdivision (a), shall be specifically for use with chemical sanitizing solutions.

**114111.**

(a) If used, dry cleaning methods such as brushing, scraping, and vacuuming shall contact only surfaces that are soiled with dry nonpotentially hazardous food residues.

(b) Cleaning equipment used in dry cleaning food-contact surfaces shall not be used for any other purpose.

**114113.** Food shall only contact surfaces of equipment and utensils that are cleaned and sanitized.

**114115.**

(a) Equipment food-contact surfaces and utensils shall be clean to sight and touch.

(b) The food-contact surfaces of cooking equipment and pans shall be kept free of encrusted grease deposits and other soil accumulations.

(c) Nonfood-contact surfaces of equipment shall be kept free of an accumulation of dust, dirt, food residue, and other debris.

(d) Equipment shall be reassembled so that food-contact surfaces are not contaminated.

**114117.**

(a) Equipment food-contact surfaces and utensils shall be cleaned and sanitized at the following times:

(1) Except as specified in subdivision (b), before each use with a different type of raw food of animal origin such as beef, fish, lamb, pork, or poultry.

(2) Each time there is a change from working with raw foods to working with ready-to-eat foods.

(3) Between uses with raw produce and with potentially hazardous food.

(4) Before using or storing a food temperature measuring device.

(5) At any time during the operation when contamination may have occurred.

(b) Paragraph (1) of subdivision (a) does not apply if the food contact surface or utensil is in contact with a succession of different raw foods of animal origin, each requiring a higher cooking temperature as specified in Section 114004 than the previous food, such as preparing raw fish followed by cutting raw poultry on the same cutting board.

(c) Except as specified in subdivision (d), if used with potentially hazardous food, equipment food-contact surfaces and utensils shall be cleaned and sanitized throughout the day at least every four hours.

(d) Surfaces of utensils and equipment contacting potentially hazardous food may be cleaned and sanitized less frequently than every four hours if any of the following occurs:

(1) In storage, containers of potentially hazardous food and their contents are maintained at temperatures as specified in Section 113996 and the containers are cleaned and sanitized when they are empty.

(2) Utensils and equipment are used to prepare food in a refrigerated room or area that is maintained at or below 55°F. In that case, the utensils and equipment shall be cleaned and sanitized at the frequency that corresponds to the temperature as depicted in the following chart and the cleaning frequency based on the ambient temperature of the refrigerated room or area shall be documented and records shall be maintained in the food facility and made available to the enforcement agency upon request:

| **Temperature** | **Cleaning Frequency** |
|---|---|
| 41°F or less | 24 hours |
| > 41°F - 45°F | 20 hours |
| > 45°F - 50°F | 16 hours |
| > 50°F - 55°F | 10 hours |

(3) Containers in serving situations such as salad bars, delis, and cafeteria lines hold ready-to-eat potentially hazardous food that is maintained at the temperatures specified in subdivisions (a) to (c), inclusive, of Section 113996 are intermittently combined with additional supplies of the same food that is at the required temperature, and the

containers are cleaned and sanitized at least every 24 hours. Utensils and containers holding potentially hazardous foods in accordance with subdivision (d) of Section 113996 are cleaned when they are empty or when the remaining contents are disposed of.

(4) Temperature measuring devices are maintained in contact with food, such as when left in a container of deli food or in a roast, held at temperatures specified in Sections 113996 and 114004.

(5) Equipment is used for storage of packaged or unpackaged food, such as a reach-in refrigerator, and the equipment is cleaned at a frequency necessary to preclude accumulation of soil residues.

(6) The cleaning schedule is approved based on consideration of characteristics of the equipment and its use, the type of food involved, the amount of food residue accumulation, and the temperature at which the food is maintained during the operation and the potential for the rapid and progressive multiplication of pathogenic or toxigenic micro-organisms that are capable of causing foodborne disease.

(7) In-use utensils are intermittently stored in a container of water in which the water is maintained at 135°F or higher and the utensils and container are cleaned and sanitized at least every 24 hours or at a frequency necessary to preclude accumulation of soil residues.

(e) Except when dry cleaning methods are used as specified in Section 114111, surfaces of utensils and equipment contacting food that is not potentially hazardous shall be cleaned and sanitized in any of the following circumstances:

(1) At any time when contamination may have occurred.

(2) At least every 24 hours for iced tea dispensers and consumer self-service utensils such as tongs, scoops, or ladles.

(3) Before restocking consumer self-service equipment and utensils such as condiment dispensers and display containers.

(4) In equipment, such as ice bins and beverage dispensing nozzles and enclosed components of equipment such as ice makers, cooking oil storage tanks and distribution lines, beverage and syrup dispensing lines or tubes, coffee bean grinders, and water vending equipment, at a frequency specified by the manufacturer, or, absent manufacturer specifications, at a frequency necessary to preclude accumulation of soil or mold.

**114118.** Fabric implements shall be laundered and sanitized before or after use in direct contact with food.

**114119.** During pauses in food preparation or dispensing, food preparation and dispensing utensils shall be stored in the following manner:

(a) Except as specified under subdivision (b), in the food with their handles above the top of the food and the container.

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

(c) On a clean portion of the food preparation table or cooking equipment only if the in-use utensil and the food-contact surface of the food preparation table or cooking equipment are cleaned and sanitized at a frequency specified under Section 114117.

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

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

(f) In a container of water if the water is maintained at a temperature of at least 135°F and the container is cleaned at least every 24 hours or at a frequency necessary to preclude the accumulation of soil residues.

**114121.**

(a) Except as specified in subdivisions (b) and (c), returned empty containers intended for refilling with food or beverage shall be cleaned and refilled in an approved facility.

(b) Consumer-owned containers returned to the food facility for refilling may be refilled and returned to the same consumer if the container is refilled by an employee of the food facility or the owner of the container if the dispensing system includes a contamination free transfer process that cannot be bypassed by the container owner.

(c) Consumer-owned containers that are not food specific may be filled at a water vending machine or system.

**114123.** Except as specified in Section 114125, food preparation sinks, handwashing lavatories, and warewashing equipment shall not be used for the cleaning of maintenance tools, the preparation or holding of maintenance materials, or the disposal of mop water and similar liquid wastes.

**114125.**

(a) A warewashing sink shall not be used for handwashing except in food facilities that were not constructed or extensively remodeled since January 1, 1996, and where there are no facilities exclusively for handwashing in food preparation areas.

(b) If a warewashing sink is used to wash wiping cloths, wash produce, or thaw food, the sink shall be cleaned and sanitized before and after each time it is used to wash wiping cloths or wash produce or thaw food.

## CHAPTER 6. EQUIPMENT, UTENSILS, AND LINENS

### ARTICLE 1. DESIGN AND CONSTRUCTION

**114130.**

(a) Equipment and utensils shall be designed and constructed to be durable and to retain their characteristic qualities under normal use conditions.

(b) Except as specified in subdivision (c), all new and replacement food-related and utensil-related equipment shall be certified or classified for sanitation by an American National Standards Institute (ANSI) accredited certification program. In the absence of an applicable ANSI certified sanitation standard, food-related and utensil-related equipment shall be evaluated for approval by the enforcement agency.

(c) Restricted food service facilities need not comply with subdivision (b), depending on the extent of the food service activities, and if the enforcement officer determines that the equipment meets the characteristics of subdivision (a).

(d) All new and replacement electrical appliances shall meet applicable Underwriters Laboratories standards for electrical equipment as determined by an ANSI accredited certification program.

**114130.1.** Materials that are used in the construction of utensils and food-contact surfaces of equipment shall not allow the migration of deleterious substances or impart colors, odors, or tastes to food and under normal use conditions shall be safe, durable, corrosion-resistant, and nonabsorbent, sufficient in weight and thickness to withstand repeated warewashing, finished to have a smooth, easily cleanable surface, and resistant to pitting, chipping, crazing, scratching, scoring, distortion, and decomposition.

**114130.2.** Materials that are used to make single-use articles shall not allow the migration of deleterious substances or impart colors, odors, or tastes to food, and shall be safe and clean.

**114130.3.**

(a) Multiuse food-contact surfaces shall be all of the following:
  (1) Smooth.
  (2) Free of breaks, open seams, cracks, chips, inclusions, pits, and similar imperfections.
  (3) Free of sharp internal angles, corners, and crevices.
  (4) Finished to have smooth welds and joints.
  (5) Except as specified in subdivision (b), accessible for cleaning and inspection by one of the following methods:
  (A) Without being disassembled.
  (B) By disassembling without the use of tools.
    (C) By easy disassembling with the use of handheld tools commonly available to maintenance and cleaning personnel such as screwdrivers, pliers, open-end wrenches, and Allen wrenches.

(b) Paragraph (5) of subdivision (a) shall not apply to cooking oil storage tanks, distribution lines for cooking oils, or beverage syrup lines or tubes.

**114130.4.** Nonfood-contact surfaces of equipment that are exposed to splash, spillage, or other food soiling or that require frequent cleaning shall be constructed of a corrosion-resistant, nonabsorbent, and smooth material that allows easy cleaning and to facilitate maintenance and free of unnecessary ledges, projections, and crevices to allow for easy cleaning and to facilitate maintenance.

**114130.5.**

(a) Except for CIP equipment in operation before the effective date of this part, CIP equipment shall meet the characteristics of a food contact surface and shall be designed and constructed so that cleaning and sanitizing solutions circulate throughout a fixed system and contact all interior food-contact surfaces and the system is self-draining or capable of being completely drained of cleaning and sanitizing solutions.

(b) CIP equipment that is not designed to be disassembled for cleaning shall be designed with inspection access points to ensure that all interior food-contact surfaces throughout the fixed system are being effectively cleaned.

**114130.6.** Materials that are used in fabric implements shall not allow the migration of deleterious substances or impart colors, odors, or tastes to food and under normal use conditions shall be safe, durable, and sufficient in strength to withstand repeated cleaning or laundering and shall be resistant to fraying and deterioration.

**114132.**

(a) Except as specified in this section, wood and wood wicker shall not be used as a food-contact surface.

(b) Hard maple or an equivalently hard, close-grained wood may be used for cutting boards, cutting blocks, bakers' tables, utensils such as rolling pins, doughnut dowels, salad bowls, and chopsticks, wooden paddles used in confectionery operations for pressure scraping kettles when manually preparing confections at a temperature of 230°F or above, and cedar planks used for grilling or baking seafood.

(c) Whole, uncut, raw fruits and vegetables and nuts in the shell may be kept in wood shipping containers until the fruits, vegetables, or nuts are used.

(d) When wood or wood shipping containers become cracked, splintered, or otherwise damaged, they shall be refurbished or replaced.

**114133.**

(a) Except as specified in subdivision (b), copper and copper alloys such as brass may not be used in contact with a food that has a pH below six, such as vinegar, fruit juice, or wine, or for a fitting or tubing installed between a backflow prevention device and a carbonator.

(b) Copper and copper alloys may be used in contact with beer brewing ingredients that have a pH below six in the prefermentation and fermentation steps of a beer brewing operation, such as a brewpub or microbrewery.

**114135.** Sponges shall not be used in contact with cleaned and sanitized or in-use food-contact surfaces.

**114137.** Except for hot oil cooking or filtering equipment, "V" type threads shall not be used on food-contact surfaces.

**114139.** Cutting or piercing parts of can openers shall be readily removable for cleaning and for replacement.

**114141.** Lubricants shall be applied to food-contact surfaces that require lubrication in a manner that does not contaminate food or food-contact surfaces. Equipment shall be reassembled after lubrication so that food contact surfaces are not contaminated. Only approved food grade lubricants shall be used for this purpose.

**114143.** Notwithstanding any of the provisions of this part, neither the department nor any city, county, city and county air pollution control district, or air quality management district shall require the enclosure of an open-air barbecue or outdoor wood-burning oven if the enforcement officer determines that the barbecue or wood-burning oven meets all of the following requirements:

(a) The open-air barbecue or outdoor wood-burning oven is operated on the same premises as, in reasonable proximity to, and in conjunction with, a permanent food facility that is approved for food preparation, or a temporary food facility or a mobile food facility that is operating at a community event. The permitholder of the permanent food facility, temporary food facility or mobile food facility shall be deemed to be the permitholder of the open-air barbecue or outdoor wood-burning oven, and shall be responsible for ensuring that it is operated in full compliance with this part.

(b) The open-air barbecue or outdoor wood-burning oven is not operated in, or out of, any motor vehicle, or in any area or location that may constitute a fire hazard, as determined by the enforcement officer.

(c) The open-air barbecue or outdoor wood-burning oven is separated from public access to prevent food contamination or injury to the public by using ropes or other approved methods.

(d) If the open-air barbecue or outdoor wood-burning oven is a permanent structure, it shall be equipped with an impervious and easily cleanable floor surface that extends a minimum of five feet from the open-air barbecue or outdoor wood-burning oven facility on all open sides.

(e) Sanitary facilities, including, but not limited to, toilet facilities and handwashing facilities shall be available for use within 200 feet in travel distance of the open-air barbecue or outdoor wood-burning oven and shall comply with all provisions of this part.

**114145.** Vending machines shall meet all applicable requirements of this part and shall comply with the following:

(a) Each vending machine or machine location shall have posted in a prominent place a sign indicating the owner's name, address, and telephone number.

(b) Wet storage of prepackaged products is prohibited.

(c) Potentially hazardous food shall be dispensed to the consumer in the original package into which it was placed at the commissary or food processing plant. Bulk potentially hazardous food is prohibited.

(d) Single-use articles that are used in machines dispensing products in bulk shall be obtained in sanitary packages. The single-use articles shall be stored in the original package until introduced into the container magazine or dispenser of the vending machine.

(e) A record of cleaning and sanitizing shall be maintained by the operator in each machine and shall be current for at least the past 30 days.

(f) All vending machines shall be constructed in accordance with applicable NSF International or National Automatic Merchandizing Association standards, or the equivalent thereof.
(g) If located outside, a vending machine shall be provided with overhead protection.
(h) The dispensing compartment of a vending machine shall be equipped with a self-closing door or cover if the machine is located in an outside area that does not otherwise afford the protection of an enclosure against the rain, windblown debris, insects, rodents, and other contaminants that are present in the environment, or if the machine is available for self-service during hours when it is not under the full-time supervision of an employee.

## ARTICLE 2. VENTILATION

**114149.**

(a) All areas of a food facility shall have sufficient ventilation to facilitate proper food storage and to provide a reasonable condition of comfort for each employee, consistent with the job performed by the employee.
(b) Toilet rooms shall be vented to the outside air by means of an openable, screened window, an air shaft, or a light-switch-activated exhaust fan, consistent with the requirements of local building codes.

**114149.1.**

(a) Mechanical exhaust ventilation equipment shall be provided over all cooking equipment as required to effectively remove cooking odors, smoke, steam, grease, heat, and vapors. All mechanical exhaust ventilation equipment shall be installed and maintained in accordance with the California Mechanical Code, except that for units subject to Part 2 (commencing with Section 18000) of Division 13, an alternative code adopted pursuant to Section 18028 shall govern the construction standards.
(b) Restricted food service facilities shall be exempt from subdivision (a), but shall still provide ventilation to remove gases, odors, steam, heat, grease, vapors and smoke from the food facility. In the event that the enforcement officer determines that the ventilation must be mechanical in nature, the ventilation shall be accomplished by methods approved by the enforcement agency.
(c) This section shall not apply to cooking equipment when the equipment has been submitted to the local enforcement agency for evaluation, and the local enforcement agency has found that the equipment does not produce toxic gases, smoke, grease, vapors, or heat when operated under conditions recommended by the manufacturer. The local enforcement agency may recognize a testing organization to perform any necessary evaluations.
(d) Makeup air shall be provided at the rate of that exhausted.

**114149.2.**

(a) Every hood shall be installed to provide for thorough cleaning of all interior and exterior surfaces, including, but not limited to, the hood, filters, piping, lights, troughs, hangers, flanges, and exhaust ducts.
(b) Exhaust ventilation hood systems in food preparation and warewashing areas, including components such as hoods, fans, guards, and ducting, shall be designed to prevent grease or condensation from draining or dripping onto food, equipment, utensils, linens, and single-use articles.
(c) Filters or other grease extracting equipment shall be designed to be readily removable for cleaning and replacement if not designed to be cleaned in place.
(d) Every joint and seam shall be substantially tight. No solder shall be used, except for sealing a joint or seam.
(e) When grease gutters are provided they shall drain to a collecting receptacle fabricated, designed, and installed to be readily accessible for cleaning.
(f) Exhaust hood ducting shall meet the following requirements:
    (1) All seams in the duct shall be completely tight to prevent the accumulation of grease.

(2) The ducts shall have sufficient clean-outs to make the ducts readily accessible for cleaning.
(3) All ducts in the exhaust system shall be properly sloped.
(4) Intake and exhaust air ducts shall be cleaned and filters changed so they are not a source of contamination by dust, dirt, and other materials.

**114149.3.** Heating, ventilating, and air conditioning systems shall be designed and installed so that make-up air intake and exhaust vents do not cause contamination of food, food-contact surfaces, equipment, or utensils and do not create air currents that cause difficulty in maintaining the required temperatures of potentially hazardous foods.

## ARTICLE 3. LOCATION AND INSTALLATION

**114153.** Equipment for cooling and heating food and for holding cold and hot food shall be sufficient in number and capacity to ensure proper food temperature control during transportation and operation as specified in Section 113996.

**114157.**
(a) A thermometer shall be provided for each refrigeration unit.
(b) The thermometer shall be located to indicate the air temperature in the warmest part of the unit and, except for vending machines, shall be affixed to be readily visible.
(c) Except as specified in subdivision (d), cold or hot holding equipment used for potentially hazardous food shall be designed to include and shall be equipped with at least one integral or permanently affixed temperature measuring device that is located to allow easy viewing of the device's temperature display. Alternative hot or cold holding equipment can be equipped with approved product mimicking sensors placed in devices located in the warmest part of the mechanically refrigerated unit in lieu of an ambient air sensor.
(d) Subdivision (c) shall not apply to equipment for which the placement of a temperature measuring device is not a practical means for measuring the ambient air surrounding the food because of the design, type, and use of the equipment, such as calrod units, heat lamps, cold plates, bainmaries, steam tables, insulated food transport containers, and salad bars.
(e) Temperature measuring devices shall be easily readable and have a numerical scale, printed record, or digital readout in increments no greater than 2°F or over the intended range of use.

**114159.**
(a) Except for vending machines, an accurate, easily readable, metal probe thermometer suitable for measuring the temperature of food shall be readily available on the premises of each food facility holding potentially hazardous food.
(b) A food temperature measuring device with a suitable small-diameter probe that is designed to measure the temperature of thin masses shall be provided and readily accessible to accurately measure the temperature in thin foods such as meat patties and fish fillets.
(c) Food temperature measuring devices that are scaled only in Fahrenheit shall be accurate to +/-2 °F in the intended range of use. Food temperature measuring devices that are scaled only in Celsius or dually scaled in Celsius and Fahrenheit shall be accurate to +/-1°C in the intended range of use.
(d) Food temperature measuring devices shall not have sensors or stems constructed of glass, except that thermometers with glass sensors or stems that are encased in a shatterproof coating, such as candy thermometers, may be used.
(e) Food temperature measuring devices shall be calibrated in accordance with manufacturer’s specifications as necessary to ensure their accuracy.

**114161.**

(a) Except as specified in subdivision (b), equipment, a cabinet used for the storage of food, or a cabinet that is used to store cleaned and sanitized equipment, utensils, laundered linens, and single-use articles shall not be in any of the following locations:
  (1) In locker rooms.
  (2) In toilet rooms.
  (3) In refuse rooms.
  (4) In mechanical rooms.
  (5) Under sewer lines that are not shielded to intercept potential drips.
  (6) Under leaking water lines, including leaking automatic fire sprinkler heads, or under lines on which water has condensed.
  (7) Under open stairwells.
  (8) Under other sources of contamination.

(b) If a mechanical clothes washer or dryer is provided, it shall be located so that the washer or dryer is protected from contamination and located only where there is no exposed food, clean equipment, utensils, and linens, and unwrapped single-use articles.

**114163.**

(a) Except as specified in subdivision (b), all permanent food facilities that wash, rinse, soak, thaw, or similarly prepare foods shall be provided with a food preparation sink.
  (1) The food preparation sink shall have a minimum dimension of 18 inches by 18 inches in length and width and 12 inches in depth with an integral drainboard or adjacent table at least 18 inches by 18 inches in length and width.
  (2) The food preparation sink shall be located in the food preparation area, provided exclusively for food preparation, and accessible at all times.
  (3) The sink shall be equipped with an adequate supply of hot and cold running water through a mixing valve.

(b) (1) Food facilities that were approved for operation without a food preparation sink prior to January 1, 2007, need not provide a food preparation sink unless the food facility makes a menu change or changes their method of operation.
  (2) The enforcement officer may approve other methods where the installation of a food preparation sink would not be readily feasible.

**114165.** Dollies, pallets, racks, and skids used to store and transport large quantities of prepackaged foods received from a supplier in a cased or overwrapped lot shall be designed to be moved by hand or by conveniently available hand trucks or forklifts.

**114167.** Beverage tubing and cold-plate beverage cooling devices shall not be installed in contact with stored ice intended to be used for food or beverages. This section shall not apply to cold plates that are constructed integrally with an ice storage bin.

**114169.**

(a) Equipment that is fixed because it is not easily movable shall be installed so that it is:
  (1) Spaced to allow access for cleaning along the sides, behind, and above the equipment.
  (2) Spaced from adjoining equipment, walls, and ceilings a distance of not more than one millimeter or one thirty-second inch.
  (3) Sealed to adjoining equipment or walls, if the equipment is exposed to spillage or seepage.

(b) Except as specified in subdivisions (c) and (d), floor-mounted equipment that is not easily movable shall be sealed to the floor or elevated on legs that provide at least a six-inch clearance between the floor and the equipment.

(c) Notwithstanding subdivision (b), this section shall not apply to display shelving units, display refrigeration units, and display freezer units located in the consumer shopping areas of a food facility if the floor under the units is maintained clean.

(d) Table-mounted equipment that is not easily movable shall be installed to allow cleaning of the equipment and areas underneath and around the equipment by being sealed to the table or elevated on legs that provide at least a four-inch clearance between the table and the equipment.

**114171.** Liquid waste drain lines shall not pass through an ice machine or ice storage bin.

**114172.** All pressurized cylinders shall be securely fastened to a rigid structure.

## ARTICLE 4. MAINTENANCE AND OPERATION

**114175.** Equipment and utensils shall be kept clean, fully operative, and in good repair.

**114177.** Surfaces such as cutting blocks and boards that are subject to scratching and scoring shall be resurfaced if they can no longer be effectively cleaned and sanitized, or discarded if they are not capable of being resurfaced.

**114178.**

(a) Except as specified in subdivision (d), cleaned equipment and utensils, laundered linens, and single-use articles shall be stored in a clean, dry location where they are not exposed to splash, dust, or other contamination, and at least six inches above the floor.

(b) Clean equipment and utensils shall be stored as specified in subdivision (a) and shall be stored covered or inverted in a self-draining position that allows air drying.

(c) Single-use articles shall be stored as specified under subdivision (a) and shall be kept in the original protective package or stored by using other means that afford protection from contamination until used.

(d) Items that are kept in closed packages may be stored less than six inches above the floor on dollies, pallets, racks, and skids that are designed as to be easily movable.

**114179.**

(a) Except as specified in subdivision (b), cleaned and sanitized equipment, utensils, laundered linens, and single-use articles shall not be stored in any of the following locations:
   (1) In locker rooms.
   (2) In toilet rooms.
   (3) In refuse rooms.
   (4) In mechanical rooms.
   (5) Under sewer lines that are not shielded to intercept potential drips.
   (6) Under leaking water lines including leaking automatic fire sprinkler heads or under lines on which water has condensed.
   (7) Under open stairwells.
   (8) Under other sources of contamination.

(b) Laundered linens and single-use articles that are packaged or in a storage compartment may be stored in a locker room.

**114180.**

(a) A reservoir that is used to supply water to a device such as a produce fogger shall be maintained in accordance with manufacturer's specifications and cleaned in accordance with manufacturer's specifications or according to the procedures specified in subdivision (b), whichever is more stringent.

(b) Cleaning procedures shall include at least the following steps and shall be conducted at least once a week:
   (1) Draining and complete disassembly of the water and aerosol contact parts.
   (2) Brush-cleaning the reservoir, aerosol tubing, and discharge nozzles with a suitable detergent solution.

(3) Flushing the complete system with water to remove the detergent solution and particulate accumulation.
(4) Rinsing by immersing, spraying, or swabbing the reservoir, aerosol tubing, and discharge nozzles with an approved sanitizer as specified in Section 114099.6.

(c) No fogging devices installed after the effective date of this part shall use a reservoir for holding water for fogging, but shall employ water under pressure for fogging or misting of foods.

**114182.** Electrical power shall be supplied at all times to operate the approved exhaust, lighting, electric water heaters and refrigeration units, and any other accessories and appliances that may be installed in a food facility.

## ARTICLE 5. LINENS

**114185.** Except for linen used in fabric implements, linen shall not be used in contact with food unless they are used to line a container for the service of foods and the linens are replaced each time the container is refilled for a new consumer and laundered prior to reuse.

**114185.1.**

(a) Wiping cloths that are in use for cleaning food spills shall not be used for any other purpose.
(b) Cloths used for wiping food spills shall be dry and used for cleaning food spills from tableware and carry-out containers or used only once, or if used repeatedly, held in a sanitizing solution of an approved concentration as specified in Section 114099.6.
(c) Dry or wet cloths that are used with raw foods of animal origin shall be kept separate from cloths used for other purposes, and wet cloths used with raw foods of animal origin shall be kept in a separate sanitizing solution.
(d) Wet wiping cloths used with a freshly made sanitizing solution and dry wiping cloths shall be free of food debris and visible soil.
(e) Working containers of sanitizing solutions for storage of in-use wiping cloths shall be used in a manner to prevent contamination of food, equipment, utensils, linens, or single-use articles.

**114185.2.** Clean linens shall be free of food residues and other soiling matter.

**114185.3.**

(a) Linens that do not come in direct contact with food shall be laundered when they become wet, sticky, or visibly soiled.
(b) Cloth gloves shall be laundered before being used with a different type of raw food of animal origin such as beef, lamb, pork, fish and poultry.
(c) Cloth napkins shall be laundered between each use.
(d) Wet wiping cloths shall be laundered daily.
(e) Dry wiping cloths shall be laundered as necessary to prevent contamination of food and clean serving utensils.

**114185.4.**

(a) Adequate and suitable space shall be provided for the storage of clean linens.
(b) Soiled linens shall be kept in clean, nonabsorbent receptacles or clean, washable laundry bags and stored and transported to prevent contamination of food, clean equipment, clean utensils, and single-use articles.

**114185.5.**

(a) Laundry facilities on the premises of a food facility shall be used only for the washing and drying of items used in the operation of the establishment.

(b) If work clothes or linens are laundered on the premises, a mechanical clothes washer and dryer shall be provided and used.

(c) If wiping cloths are laundered on the premises, they shall be laundered in a mechanical clothes washer and dryer or in a warewashing sink that is cleaned and sanitized before and after each time it is used to wash wiping cloths or wash produce or thaw food.

## CHAPTER 7. WATER, PLUMBING, AND WASTE

### ARTICLE 1. WATER

**114189.** The enforcement agency may monitor and enforce the potable drinking water standards in the California Safe Drinking Water Act (Chapter 4 commencing with Section 116275) for purposes of enforcing this part and compliance with any requirements with regard to potable water, as defined in Section 113869.

**114189.1.** Chemicals used as boiler water additives shall meet the requirements specified in 21 C.F.R. 173.310.

**114190.** All plumbing and plumbing fixtures shall be installed in compliance with applicable local plumbing ordinances, shall be maintained so as to prevent any contamination, and shall be kept clean, fully operative, and in good repair.

**114192.**

(a) Except as provided in subdivision (d), an adequate, protected, pressurized, potable supply of hot water and cold water shall be provided. Hot water shall be supplied at a minimum temperature of at least 120°F measured from the faucet, unless otherwise specified in this part. The water supply shall be from a water system approved by the health officer or the local enforcement agency.

(b) Any hose used for conveying potable water shall be constructed of nontoxic materials, shall be used for no other purpose, and shall be clearly labeled as to its use. The hose shall be stored and used so as to be kept free of contamination.

(c) The potable water supply shall be protected with a backflow or back siphonage protection device when required by applicable plumbing codes. Exposed piping of a nonpotable water system shall be identified so that it is readily distinguishable from piping that carries potable water.

(d) A food facility may provide only warm water if the water supply is used only for handwashing, as required in Section 113953.

**114192.1.**

(a) Water under pressure shall be permanently plumbed to all fixtures, equipment, and nonfood equipment that are required to use water, except for water supplied to nonpermanent food facilities.

(b) Water under pressure shall be provided at a sufficient level as specified by the Uniform Plumbing Code and manufacturer's specifications for equipment and fixtures in the food facility.

**114193.**

(a) All steam tables, ice machines and bins, food preparation sinks, warewashing sinks, display cases, walk-in refrigeration units, and other similar equipment that discharge liquid waste shall be drained by means of indirect waste pipes, and all wastes drained by them shall discharge through an airgap into a floor sink or other approved type of receptor.

(b) Drainage from reach-in refrigeration units shall be conducted in a sanitary manner to a floor sink or other approved device by an indirect connection or to a properly installed and functioning evaporator.
(c) Indirect waste receptors shall be located to be readily accessible for inspection and cleaning.
(d) Warewashing machines may be connected directly to the sewer immediately downstream from a floor drain, or they may be drained through an approved indirect connection.
(e) Warewashing sinks in use on January 1, 1996, that are directly plumbed may be continued in use. This section does not require warewashing sinks to be indirectly plumbed when the local building official determines that the sink should be directly plumbed.

**114193.1.** An air gap between the water supply inlet and the flood level rim of the plumbing fixture, equipment, or nonfood equipment shall be at least twice the diameter of the water supply inlet and may not be less than one inch.

**114195.**
(a) The water source and system shall be of sufficient capacity to meet the peak water demands of the food facility.
(b) Hot water generation and distribution systems shall be sufficient to meet the peak hot water demands throughout the food facility.

## ARTICLE 2. LIQUID WASTE

**114197.** Liquid waste shall be disposed of through the approved plumbing system and shall discharge into the public sewerage or into an approved private sewage disposal system.

**114199.** Equipment compartments that are subject to accumulation of moisture due to conditions such as condensation, food or beverage drip, or water from melting ice, shall be sloped to an outlet that allows for complete draining.

**114201.**
(a) If provided, a grease trap or grease interceptor shall not be located in a food or utensil handling area unless specifically approved by the enforcement agency.
(b) Grease traps and grease interceptors shall be easily accessible for servicing.
(c) Notwithstanding subdivision (a), those food facilities approved with a grease trap or grease interceptor that are in operation before the effective date of this part are not required to comply with this section.

## ARTICLE 3. MOBILE WATER AND WASTEWATER TANKS

**114205.**
(a) Nonpermanent food facilities that handle nonprepackaged food shall be equipped with potable water and wastewater tanks, unless approved temporary water and wastewater connections are provided.
(b) Permanent food facilities shall be in compliance with Sections 114190 to 114201, inclusive.

**114207.** Materials that are used in the construction of potable water and wastewater tanks and appurtenances shall be safe, durable, corrosion-resistant, nonabsorbent, and finished to have a smooth, easily cleanable surface.

**114209.** Potable water tanks and wastewater tanks shall be sloped to an outlet that ensures complete drainage of the tank and designed and constructed so as to be easily and completely drained.

**114211.**

(a) The water system shall be designed and constructed using materials that enable water to be introduced without contamination.

(b) All tanks, line couplings, valves, and all other plumbing shall be designed, installed, maintained, and constructed of materials that will not contaminate the water supply, food, utensils, or equipment.

(c) All waste lines shall be connected to wastewater tanks with watertight seals.

(d) Any connection to a wastewater tank shall preclude the possibility of contaminating any food, food-contact surface, or utensil.

**114213.**

(a) Any potable water or wastewater tank mounted within a mobile food facility or mobile support unit shall have an air vent overflow provided in a manner that will prevent potential flooding of the interior of the facility.

(b) If provided, a water tank vent shall terminate in a downward direction and shall be covered with 16 mesh per square inch screen or equivalent when the vent is in a protected area or a protective filter when the vent is in an area that is not protected from windblown dirt and debris.

**114215.** Hoses used in conjunction with nonpermanent food facilities shall meet all of the following requirements:

(a) A hose used for conveying potable water from a water tank shall be:

(1) Safe.

(2) Durable, corrosion-resistant, and nonabsorbent.

(3) Resistant to pitting, chipping, crazing, scratching, scoring, distortion, and decomposition.

(4) Finished with a smooth interior surface.

(5) Protected from contamination at all times.

(6) Clearly and durably identified as to its use if not permanently attached.

(b) Liquid waste lines shall not be the same color as hoses used for potable water.

(c) Hoses used on a mobile food facility or a mobile support unit and potable water tank connectors shall have matching connecting devices. Devices for external cleaning shall not be used for potable water purposes on the mobile food facility. Hoses and faucets equipped with quick connect and disconnect devices for these purposes shall be deemed to meet the requirements of this subdivision. Exterior hose-connection valves shall be attached to mobile food facilities or mobile support units and shall be located above the ground with an approved water connection.

**114217.**

(a) A potable water tank of sufficient capacity to furnish an adequate quantity of potable water for food preparation, warewashing, and handwashing purposes shall be provided for nonpermanent food facilities.

(b) At least five gallons of water shall be provided exclusively for handwashing for each nonpermanent food facility. Any water need for other purposes shall be in addition to the five gallons for handwashing.

(c) Except as specified in subdivision (d), at least 25 gallons of water shall be provided for food preparation and warewashing.

(d) At least 15 gallons of water shall be provided for nonpermanent food facilities that conduct limited food preparation.

(e) The water delivery system shall deliver at least one gallon per minute to each sink basin.

**114219.** A potable water tank shall be enclosed from the filling inlet to the discharge outlet and emptied to ensure complete drainage of the tank.

**114221.**

(a) Water tanks shall be designed with an access port for inspection and cleaning. The access port shall be in the top of the tank and flanged upward at least one-half inch and equipped with a port

cover assembly that is provided with a gasket and a device for securing the cover in place and flanged to overlap the opening and sloped to drain.

(b) Notwithstanding subdivision (a), water tanks that are not accessible for inspection may comply with this section by submitting written operational procedures for the cleaning and sanitizing of the potable water tank. The enforcement agency shall review and approve the procedures prior to implementation and an approved copy shall be kept on the mobile food facility during hours of operation.

**114223.** A fitting with "V" type threads on a water tank inlet or outlet shall be allowed only when a hose is permanently attached.

**114225.**

(a) Potable water tanks shall be installed in a manner that will allow water to be filled with an easily accessible inlet.

(b) A potable water tank's inlet and outlet shall be positioned so that they are protected from contaminants such as waste discharge, dust, oil, or grease.

(c) Nonpermanent food facilities shall be provided with a connection of a size and type that will prevent its use for any other service and shall be constructed so that backflow and other contamination of the water supply is prevented.

**114227.** A filter that does not pass oil or oil vapors shall be installed in the air supply line between the compressor and potable water system when compressed air is used to pressurize the water tank system.

**114229.** If not in use, a potable water tank and hose inlet and outlet fitting shall be protected using a cap and keeper chain, quick disconnect, closed cabinet, closed storage tube, or other approved protective cover or device.

**114231.** A nonpermanent food facility's potable water tank inlet shall be three-fourths inch in inner diameter or less and provided with a hose connection of a size or type that will prevent its use for any other service.

**114233.** A water tank, pump, and hoses shall be flushed and sanitized before being placed in service after construction, repair, modification, and periods of nonuse.

**114235.** A person shall operate a water tank, pump, and hoses so that backflow and other contamination of the water supply are prevented.

**114238.** A water tank, pump, and hoses used for conveying potable water shall not be used for any other purpose.

**114239.**

(a) Potable water tanks may be constructed in a manner that will allow for a potable water tank to be removed from within the nonpermanent food facility compartments for refilling or replacing.

(b) Refilling of a potable water tank shall be conducted through an approved and sanitary method, such as at the commissary.

(c) Storage of any prefilled water tank, or empty and clean water tanks, or both, shall be within the nonpermanent food facility or in an approved manner that will protect against contamination.

**114240.**

(a) Wastewater tanks shall be of a capacity commensurate with the level of food handling activity.

(b) Wastewater tanks shall have a minimum capacity that is 50 percent greater than the potable water tanks. In no case shall the wastewater capacity be less than 7.5 gallons. Where potable water for the preparation of a food or beverage is supplied, an additional wastewater tank capacity equal to at least 15 percent of the water supply shall be provided.

(c) Additional wastewater tank capacity may be required where wastewater production is likely to exceed tank capacity.
(d) Where ice is utilized in the storage, display, or service of food or beverages, an additional minimum wastewater holding tank shall be provided with a capacity equal to one-third of the volume of the ice cabinet to accommodate the drainage of ice melt.
(e) Wastewater tanks on nonpermanent food facilities shall be equipped with a shut-off valve.

**114241.**
(a) Wastewater tanks may be constructed in a manner that will allow the wastewater tank to be removed from within the approved nonpermanent food facility compartments for replacing.
(b) Retail food operations shall cease during removal and replacement of tanks.
(c) Sewage and other liquid wastes shall be removed from a nonpermanent food facility at an approved waste servicing area or by an approved sewage transport vehicle in such a way that a public health hazard or nuisance is not created.

**114242.** Wastewater tanks shall be thoroughly flushed and drained in a sanitary manner during the servicing operation.

## ARTICLE 4. REFUSE

**114244.**
(a) Each food facility shall be provided with any facilities and equipment necessary to store or dispose of all waste material.
(b) Waste receptacles shall be provided for use by consumers.
(c) A receptacle shall be provided in each area of the food facility or premises where refuse is generated or commonly discarded, or where recyclables or returnables are placed.

**114245.**
(a) An area designated for refuse, recyclables, returnables, and a redeeming machine for recyclables or returnables shall be located so that it is separate from food, equipment, utensils, linens, and single-service and single-use articles and a public health hazard or nuisance is not created.
(b) Receptacles and waste handling units for refuse, recyclables, and returnables shall not be located so as to create a public health hazard or nuisance or interfere with the cleaning of adjacent space.

**114245.1.**
(a) All refuse, recyclables, and returnables shall be kept in nonabsorbent, durable, cleanable, leakproof, and rodentproof containers and shall be contained so as to minimize odor and insect development by covering with close-fitting lids or placement in a disposable bag that is impervious to moisture and then sealed.
(b) Refuse containers inside a food facility need not be covered during periods of operation.
(c) All refuse shall be removed and disposed of in a sanitary manner as frequently as may be necessary to prevent the creation of a nuisance.
(d) Storage areas, enclosures, and receptacles for refuse, recyclables, and returnables shall be maintained in good repair.
(e) Refuse, recyclables, and returnables shall be removed from the premises at a frequency that will minimize the development of objectionable odors and other conditions that attract or harbor insects and rodents.

**114245.2.** Cardboard or other packaging material that does not contain food residues and that is awaiting regularly scheduled delivery to a recycling or disposal site may be stored outside without being in a covered receptacle if it is stored so that it does not create a rodent harborage problem.

**114245.3.** If located within the food facility, a storage area for refuse, recyclables, and returnables shall meet the requirements for floors, walls, ceilings, and vermin exclusion as specified in this part.

**114245.4.** If provided, an outdoor storage area or enclosure used for refuse, recyclables, and returnables shall be constructed of nonabsorbent material such as concrete or asphalt and shall be easily cleanable, durable, and sloped to drain.

**114245.5**. Receptacles and waste handling units for refuse and recyclables shall be installed so that accumulation of debris and insect and rodent attraction and harborage are minimized and effective cleaning is facilitated around and, if the unit is not installed flush with the base pad, under the unit.

**114245.6.**

(a) Receptacles and waste handling units for refuse, recyclables, and returnables shall be thoroughly cleaned in a way that does not contaminate food, equipment, utensils, linens, or single-service and single-use articles, and wastewater shall be disposed of as specified under Section 114241.

(b) Soiled receptacles and waste handling units for refuse, recyclables, and returnables shall be cleaned at a frequency necessary to prevent them from developing a buildup of soil or becoming attractants for insects and rodents.

**114245.7.**

(a) Except as specified in subdivision (b), suitable cleaning implements and supplies such as high pressure pumps, hot water, steam, and detergent shall be provided as necessary for effective cleaning of receptacles and waste handling units for refuse, recyclables, and returnables.

(b) If approved, off-premises-based cleaning services may be used if on-premises cleaning implements and supplies are not provided.

## CHAPTER 8. PHYSICAL FACILITIES

### ARTICLE 1. TOILET FACILITIES

**114250.** Clean toilet rooms in good repair shall be provided and conveniently located and accessible for use by employees during all hours of operation. The number of toilet facilities required shall be in accordance with applicable local building and plumbing ordinances. Toilet tissue shall be provided in a permanently installed dispenser at each toilet.

**114250.1.**

(a) Food facilities located within amusement parks, stadiums, arenas, food courts, fairgrounds, and similar premises shall not be required to provide toilet facilities for employee use within each food facility if approved toilet facilities are located within 200 feet in travel distance of each food facility and are readily available for use by employees. Food facilities subject to this section shall be provided with approved handwashing facilities for employee use.

(b) Notwithstanding subdivision (a), food facilities approved prior to the effective date of this part with toilet facilities within 300 feet are not required to meet the 200 foot requirement.

### ARTICLE 2. LIGHTING

**114252.** In every room and area in which any food is prepared, manufactured, processed, or prepackaged, or in which equipment or utensils are cleaned, sufficient natural or artificial lighting shall be provided to produce the following light intensity, while the area is in use:

(a) At least 10-foot candles for the following:
  (1) At a distance of 30 inches above the floor, in walk-in refrigeration units and dry food storage areas.
  (2) At a working surface on which alcoholic beverages are prepared or where utensils used in the preparation or service of alcoholic beverages are cleaned.
  (3) Inside equipment, such as reach-in or under-the-counter refrigerators.

(b) At least 20-foot candles for the following:
  (1) At a surface where food is provided for consumer self-service or where fresh produce or prepackaged foods are sold or offered for consumption.
  (2) In server stations where food is prepared.
  (3) At a distance of 30 inches above the floor in areas used for handwashing, warewashing, and equipment and utensil storage, and in toilet rooms.
  (4) In all areas and rooms during periods of cleaning.

(c) Except in server stations where food is prepared, at least 50-foot candles at a surface where a food employee is working with food or working with utensils or equipment such as knives, slicers, grinders, or saws where employee safety is a factor.

**114252.1.**

(a) Except as specified in subdivision (b), light bulbs shall be shielded, coated, or otherwise shatter-resistant in areas where there is nonprepackaged ready-to-eat food, clean equipment, utensils, and linens, or unwrapped single-use articles.

(b) Shielded, coated, or otherwise shatter-resistant bulbs need not be used in areas used only for storing prepackaged food in unopened packages, if the integrity of the packages cannot be affected by broken glass falling onto them and the packages are capable of being cleaned of debris from broken bulbs before the packages are opened.

(c) Infrared and other heat lamps shall be protected against breakage by a shield surrounding and extending beyond the bulb so that only the face of the bulb is exposed, or by using approved coated shatter resistant bulbs.

## ARTICLE 3. POISONOUS AND TOXIC MATERIALS

**114254.** Only those insecticides, rodenticides, and other pesticides that are necessary and specifically approved for use in a food facility may be used. The use shall be in accordance with the manufacturer's instructions.

**114254.1.**

(a) Containers of poisonous or toxic materials and personal care items shall bear a legible manufacturer's label.

(b) Working containers used for storing poisonous or toxic materials such as cleaners and sanitizers taken from bulk supplies shall be clearly and individually identified with the common name of the material.

**114254.2.**

(a) Except as specified in subdivision (b), poisonous or toxic materials shall be stored or displayed so they cannot contaminate food, equipment, utensils, linens, and single-use articles by separating the poisonous or toxic materials by spacing or partitioning and locating the poisonous or toxic materials in an area that is not above food, equipment, utensils, linens, and single-use articles.

(b) Equipment and utensil cleaners and sanitizers may be stored in warewashing areas for availability and convenience if the materials are stored to prevent contamination of food, equipment, utensils, linens, and single-use articles.

**114254.3.** A container previously used to store poisonous or toxic materials shall not be used to store, transport, or dispense food, utensils, or single-use articles.

## ARTICLE 4. EMPLOYEE STORAGE AREAS

**114256.**

(a) Areas designated for employees to eat and drink shall be located so that food, equipment, linens, and single-use articles are protected from contamination.

(b) Lockers or other suitable facilities shall be located in a designated room or area where contamination of food, equipment, utensils, linens, and single-use articles cannot occur.

**114256.1.**

(a) Lockers or other suitable facilities shall be provided and used for the orderly storage of employee clothing and other possessions.

(b) Dressing rooms or dressing areas shall be provided and used by employees if the employees regularly change their clothes in the facility.

(c) Restricted food service facilities and nonpermanent food facilities shall not be required to comply with subdivision (a), but no person shall store clothing or personal effects in any area used for the storage and preparation of food.

**114256.2.** Medicines that are in a food facility for the employees' use shall be labeled and stored so as to prevent the contamination of food, equipment, utensils, linens, and single-use articles. This section does not apply to medicines that are stored or displayed for retail sale.

**114256.4.** First aid supplies that are in a food facility for the employees' use shall be labeled with a legible manufacturer's label and stored in a kit or a container that is located to prevent the contamination of food, equipment, utensils, linens, and single-use articles.

## ARTICLE 5. PREMISES AND FACILITIES

**114257.** All premises of a food facility shall be kept clean fully operative, and in good repair.

**114257.1.** The premises of a food facility shall be free of litter and items that are unnecessary to the operation or maintenance of the facility, such as equipment that is nonfunctional or no longer used.

## ARTICLE 6. VERMIN AND ANIMALS

**114259.** A food facility shall at all times be constructed, equipped, maintained, and operated as to prevent the entrance and harborage of animals, birds, and vermin, including, but not limited to, rodents and insects.

**114259.1.** The premises of each food facility shall be kept free of vermin.

**114259.2.** Passthrough window service openings shall be limited to 216 square inches each. The service openings shall not be closer together than 18 inches. Each opening shall be provided with a solid or screened window, equipped with a self-closing device. Screening shall be at least 16 mesh per square inch. Pass through windows of up to 432 square inches are approved if equipped with an air curtain device. The counter surface of the service openings shall be smooth and easily cleanable.

**114259.3.**

(a) Insect control devices that are used to electrocute or stun flying insects shall be designed to retain the insect within the device.

(b) Insect control devices shall be installed so that the devices are not located over a food or utensil handling area and dead insects and insect fragments are prevented from being impelled onto or falling on nonprepackaged food, clean equipment, utensils, linens, and unwrapped single-use articles.

**114259.4.**

(a) Except as specified in subdivision (b), food employees shall not care for or handle animals that may be present, such as patrol dogs, service animals, or pets that are allowed as specified in subdivision (b) of Section 114259.5.

(b) Food employees with service animals may handle or care for their service animals if they wash their hands as required in this part. Food employees may handle or care for fish in aquariums or molluscan shellfish or crustacea in display tanks if they wash their hands as required in this part.

**114259.5.**

(a) Except as specified in this section, live animals may not be allowed in a food facility.

(b) Live animals may be allowed in any of the following situations if the contamination of food, clean equipment, utensils, linens, and unwrapped single-use articles cannot result:

(1) Edible fish or decorative fish in aquariums, shellfish or crustacea on ice or under refrigeration, and shellfish and crustacea in display tank systems.

(2) Animals intended for consumption if the live animals are kept separate from all food and utensil handling areas, are held in sanitary conditions, are slaughtered in a separate room designed solely for that purpose and separated from other food and utensil handling areas, and maintained in an area that has ventilation separate from food and utensil handling areas.

(3) Dogs under the control of a uniformed law enforcement officer or of uniformed employees of private patrol operators and operators of a private patrol service who

are licensed pursuant to Chapter 11.5 (commencing with Section 7580) of Division 3 of the Business and Professions Code, while those employees are acting within the course and scope of their employment as private patrol persons.

(4) In areas that are not used for food preparation and that are usually open for consumers, such as dining and sales areas, service animals that are controlled by a disabled employee or person, if a health or safety hazard will not result from the presence or activities of the service animal.

(5) Pets in the common dining areas of restricted food service facilities at times other than during meals if all of the following conditions are satisfied:

(A) Effective partitioning and self-closing doors separate the common dining areas from food storage or food preparation areas.

(B) Condiments, equipment, and utensils are stored in enclosed cabinets or removed from the common dining areas when pets are present.

(C) Dining areas including tables, countertops, and similar surfaces are effectively cleaned before the next meal service.

(6) In areas that are not used for food preparation, storage, sales, display, or dining, in which there are caged animals or animals that are similarly restricted, such as in a variety store that sells pets or a tourist park that displays animals.

(7) If kept at least 20 feet (6 meters) away from any mobile food facility, temporary food facility, or certified farmers' market.

(c) Those persons and operators described in paragraphs (3) and (4) of subdivision (b) are liable for any damage done to the premises or facilities by the dog.

(d) Pet dogs under the control of a person in an outdoor dining area if all of the following conditions are satisfied:
  (1) The owner of the food facility elects to allow pet dogs in its outdoor dining area.
  (2) A separate outdoor entrance is present where pet dogs enter without going through the food establishment to reach the outdoor dining area and pet dogs are not allowed on chairs, benches, seats, or other fixtures.
  (3) The outdoor dining area is not used for food or drink preparation or the storage of utensils. A food employee may refill a beverage glass in the outdoor dining area from a pitcher or other container.
  (4) Food and water provided to pet dogs shall only be in single-use disposable containers.
  (5) Food employees are prohibited from having direct contact with pet dogs while on duty. A food employee who does have that prohibited direct contact shall wash his or her hands as required by Section 113953.3.
  (6) The outdoor dining area is maintained clean. Surfaces that have been contaminated by dog excrement or other bodily fluids shall be cleaned and sanitized.
  (7) The pet dog is on a leash or confined in a pet carrier and is under the control of the pet dog owner.
  (8) The food facility owner ensures compliance with local ordinances related to sidewalks, public nuisance, and sanitation.
  (9) Other control measures approved by the enforcement agency.

(e) Live or dead fish bait may be stored if contamination of food, clean equipment, utensils, linens, and unwrapped single-use articles cannot result.

## CHAPTER 9. PERMANENT FOOD FACILITIES

**114265.** All permanent food facilities shall meet the applicable requirements in Chapters 1 to 8, inclusive, and Chapter 13, unless specifically exempted from any of these provisions.

### ARTICLE 1. FLOORS, WALLS, AND CEILINGS

**114266.**

(a) Each permanent food facility shall be fully enclosed in a building consisting of permanent floors, walls, and an overhead structure that meet the minimum standards as prescribed by this part. Food facilities that are not fully enclosed on all sides and that are in operation on January 1, 1985, shall not be required to meet the requirements of this section until the facility is remodeled or has a significant menu change or significant change in its method of operation.

(b) Notwithstanding subdivision (a), this section does not require the enclosure of dining areas or any other operation approved for outdoor food service.

(c) Notwithstanding subdivision (a), a produce stand that was in operation prior to January 1, 2007, shall have no more than one side open to the outside air during business hours.

**114268.**

(a) Except in sales areas and as otherwise specified in subdivision (d), the floor surfaces in all areas in which food is prepared, prepackaged, or stored, where any utensil is washed, where refuse or garbage is stored, where janitorial facilities are located in all toilet and handwashing areas, except with respect to areas relating to guestroom accommodations and the private accommodations of owners and operators in restricted food service facilities, shall be smooth and of durable construction and nonabsorbent material that is easily cleanable.

(b) Floor surfaces shall be coved at the juncture of the floor and wall with a 3/8 inch minimum radius coving and shall extend up the wall at least 4 inches, except in areas where food is stored only in unopened bottles, cans, cartons, sacks, or other original shipping containers.

(c) Public or private schools constructed or remodeled after the effective date of this part shall comply with subdivision (b). Public and private schools constructed before the effective date of this part need not comply with subdivision (b), provided that the existing floor surfaces are maintained in good repair and in a sanitary condition.

(d) Except for dining and serving areas, the use of sawdust, wood shavings, peanut hulls, or similar materials is prohibited.

(e) This section shall not prohibit the use of approved dust-arresting floor sweeping and cleaning compounds during floor cleaning operations or the use of antislip floor finishes or materials in areas where necessary for safety reasons.

**114268.1.**

(a) Except as specified in subdivision (b), only dustless methods of cleaning such as wet cleaning, vacuum cleaning, mopping with treated dust mops, or sweeping using a broom and dust-arresting compounds shall be used in food facilities.

(b) Spills or drippage on floors that occur between normal floor cleaning times may be cleaned without the use of dust-arresting compounds and, in the case of liquid spills or drippage, with the use of a small amount of absorbent compound such as sawdust or diatomaceous earth applied immediately before spot cleaning.

**114269.**

(a) Upon new construction or extensive remodeling, floor drains shall be installed in floors that are water-flushed for cleaning and in areas where pressure spray methods for cleaning equipment are used. Floor surfaces in areas pursuant to this subdivision shall be sloped 1:50 to the floor drains.

(b) Upon new construction or extensive remodeling, floor sinks or equivalent devices shall be installed to receive discharges of water or other liquid waste from equipment.

**114271.**

(a) Except as provided in subdivision (b), the walls and ceilings of all rooms shall be of a durable, smooth, nonabsorbent, and easily cleanable surface.

(b) This section shall not apply to any of the following areas:

(1) Walls and ceilings of bar areas in which alcoholic beverages are sold or served directly to the consumers, except wall areas adjacent to bar sinks and areas where food is prepared.

(2) Areas where food is stored only in unopened bottles, cans, cartons, sacks, or other original shipping containers.

(3) Dining and sales areas.

(4) Offices.

(5) Restrooms that are used exclusively by the consumers, except that the walls and ceilings in the restrooms shall be of a nonabsorbent and washable surface.

(6) Dressing rooms, dressing areas, or locker areas.

(c) Acoustical paneling may be utilized if it is installed not less than six feet above the floor. The paneling shall meet the other requirements of this section.

(d) Conduits of all types shall be installed within walls as practicable. When otherwise installed, they shall be mounted or enclosed so as to facilitate cleaning.

(e) Attachments to walls and ceilings, such as light fixtures, mechanical room ventilation system components, vent covers, wall mounted fans, decorative items, and other attachments, shall be easily cleanable.

**114272.** Mats and duckboards shall be designed to be removable and easily cleanable.

## ARTICLE 2. TOILET FACILITIES

**114276.**

(a) A permanent food facility shall provide clean toilet facilities in good repair for use by employees.

(b) (1) A permanent food facility shall provide clean toilet facilities in good repair for consumers, guests, or invitees when there is onsite consumption of foods or when the food facility was constructed after July 1, 1984, and has more than 20,000 square feet of floor space.

(2) Notwithstanding Section 113984.1, toilet facilities that are provided for use by consumers, guests, or invitees shall be in a location where consumers, guests, and invitees do not pass through food preparation, food storage, or utensil washing areas to reach the toilet facilities.

(3) For purposes of this section, a building subject to paragraph (1) that has a food facility with more than 20,000 square feet of floor space shall provide at least one separate toilet facility for men and one separate toilet facility for women.

(4) For purposes of this section, the gas pump area of a service station that is maintained in conjunction with a food facility shall not be considered as property used in connection with the food facility or be considered in determining the square footage of floor space of the food facility.

(c) (1) Toilet rooms shall be separated by well-fitted, self-closing doors that prevent the passage of flies, dust, or odors.

(2) Toilet room doors shall be kept closed except during cleaning and maintenance operations.

(d) Handwashing facilities, in good repair, shall be provided as specified in Sections 113953 and 113953.3.

(e) A city, county, or city and county may enact ordinances that are more restrictive than this section.

(f) (1) Except as provided in paragraph (1) of subdivision (b), a food facility that was constructed before January 1, 2004, that has been in continuous operation since January 1, 2004, and that provides space for the consumption of food on the premises shall either provide clean toilet facilities in good repair for consumers, guests, or invitees on property used in connection with, or in, the food facility or prominently post a sign within the food facility in a public area stating that toilet facilities are not provided.

(2) The first violation of paragraph (1) shall result in a warning. Subsequent violations shall constitute an infraction punishable by a fine of not more than two hundred fifty dollars ($250).

(3) The requirements of this section for toilet facilities that are accessible to consumers, guests, or invitees on the property may be satisfied by permitting access by those persons to the toilet and handwashing facilities that are required by this part.

## ARTICLE 3. JANITORIAL FACILITIES

**114279.**

(a) At least one curbed cleaning facility or janitorial sink equipped with hot and cold water and a drain shall be provided and conveniently located for the cleaning of mops or similar wet floor cleaning tools and for the disposal of mop water and similar liquid waste.

(b) Restricted food service facilities shall be exempt from subdivision (a) if hot water is available for janitorial purposes and wastewater from janitorial activities is disposed of through an approved sewage disposal system.

**114281.** A room, area, or cabinet separated from any food preparation or storage area, or warewashing or storage area shall be provided for the storage of cleaning equipment and supplies.

**114282.** After use, mops shall be placed in a position that allows them to air-dry without soiling walls, equipment, or supplies.

## ARTICLE 4. PREMISES

**114285.**

(a) Except as specified in subdivision (b), a private home, a room used as living or sleeping quarters, or an area directly opening into a room used as living or sleeping quarters shall not be used for conducting food facility operations.

(b) (1) Nonperishable, prepackaged food may be given away, sold, or handled from a private home. No food that has exceeded the labeled shelf life date recommended by the manufacturer shall be deemed to be nonperishable food.

(2) For purposes of this subdivision, "nonperishable food" means a food that is not a potentially hazardous food, and that does not show signs of spoiling, becoming rancid, or developing objectionable odors during storage at ambient temperatures.

(c) Restricted food service facilities are exempt from subdivision (a) provided that no sleeping accommodations shall be allowed in any area where food is prepared or stored.

**114286.**

(a) No sleeping accommodations shall be maintained or kept in any room where food is prepared, stored, or sold.

(b) Living or sleeping quarters located on the premises of a food facility shall be separated from rooms and areas used for food facility operations by complete partitioning. Except for restricted food service facilities, no door or other opening shall be permitted in the partition that separates the food facility from the living or sleeping quarters.

## ARTICLE 5. PREPACKAGED NONPOTENTIALLY HAZARDOUS FOODS

**114289.**

(a) Notwithstanding any law to the contrary, a permanent food facility that has less than 300 square feet of display area and that sells only prepackaged food that is not potentially hazardous food shall be exempt from the requirements of this part except as set forth in subdivision (c).

(b) Notwithstanding any law to the contrary, a premises set aside for beer or wine tasting, as that term is defined in Section 23356.1 or 23357.3 of the Business and Professions Code, that complies with Section 118375, for the purposes of wine or beer tasting, regardless of whether there is a charge for the wine or beer tasting, if no other beverage, except for bottles of wine or beer and prepackaged nonpotentially hazardous beverages, is offered for sale or for onsite consumption, and crackers, pretzels, or prepackaged food that is not potentially hazardous food is offered for sale or for onsite consumption shall be subject to the requirements set forth in paragraph (1) of subdivision (c). These facilities shall not have a food display area greater than 25 square feet.

(c) (1) A facility or premises with a food display area of 25 square feet or less shall comply with all of the following:

(A) Sections 113980, 114047, 114049, 114390, 114393, 114395, 114397, and 114399.

(B) Chapter 1 (commencing with Section 113700).

(C) Chapter 2 (commencing with Section 113728).

(2) A permanent food facility with a food display area greater than 25 square feet, but less than 300 square feet, shall comply with all of the following:

(A) Sections 113980, 114047, 114049, 114250, 114266, 114381, 114387, 114390, 114393, 114395, 114397, 114399, 114405, 114407, 114409, 114411, and 114413.

(B) Chapter 1 (commencing with Section 113700).
(C) Chapter 2 (commencing with Section 113728).

**114289.5.** The enforcement agency may recover the costs of investigation and enforcement of this article.

## CHAPTER 10. MOBILE FOOD FACILITIES

**114294.**

(a) All mobile food facilities and mobile support units shall meet the applicable requirements in Chapter 1 (commencing with Section 113700) to Chapter 8 (commencing with Section 114250), inclusive, Chapter 12.6 (commencing with Section 114377), and Chapter 13 (commencing with Section 114380), unless specifically exempted from any of these provisions as provided in this chapter.
(b) The enforcement agency shall initially approve all mobile food facilities and mobile support units as complying with the provisions of this chapter and may require reapproval if deemed necessary.
(c) Each mobile food facility that is either a special purpose commercial modular and coach as defined by Section 18012.5 or a commercial modular coach as defined by Section 18001.8 shall be certified by the Department of Housing and Community Development, consistent with Chapter 4 (commencing with Section 18025) of Part 2 of Division 13, and regulations promulgated pursuant to that chapter. In addition, the enforcement agency shall approve all equipment installation prior to operation.

**114295.**

(a) Except as specified in subdivision (b), all mobile food facilities shall operate in conjunction with a commissary, mobile support unit, or other facility approved by the enforcement agency.
(b) This section does not apply to mobile food facilities that operate at community events as defined in Section 113755 and that remain in a fixed position during food preparation and its hours of operation, if potable water and liquid waste disposal facilities are available to mobile food facilities requiring potable water.
(c) Mobile food facilities shall be stored at or within a commissary or other location approved by the enforcement agency in order to have protection from unsanitary conditions.
(d) Mobile support units shall be operated from and stored at a designated commissary and shall be subject to permitting and plan review.
(e) Notwithstanding any other provisions of this section, a mobile food facility that is engaged in food preparation, other than limited food preparation, as defined in Section 113818, shall not operate in conjunction with a mobile support unit.

**114297.**

(a) Mobile food facilities shall be cleaned and serviced at least once daily during an operating day.
(b) Except as specified in subdivision (c), all mobile food facilities shall report to the commissary or other approved facility on a daily basis.
(c) Mobile food facilities that are serviced by a mobile support unit and that do not report to a commissary on a daily basis shall be stored in a manner that protects the mobile food facility from contamination. All food shall be stored at the commissary or other approved facility at the end of the operating day.
(d) Mobile support units shall report to a commissary or other approved facility for cleaning, servicing, and storage at least daily.

**114299.**

(a) Except as specified in subdivision (c), the business name or name of the operator, city, state, ZIP Code, and name of the permittee, if different from the name of the food facility, shall be legible,

clearly visible to consumers, and permanently affixed on the consumer side of the mobile food facility and on a mobile support unit.

(b) The business name shall be in letters at least 3 inches high. Letters and numbers for the city, state, ZIP Code, and permitholder name, if different from the business name, shall not be less than one inch high. The color of each letter and number shall contrast with its background.

(c) Notwithstanding subdivision (a), motorized mobile food facilities and mobile support units shall have the required identification on two sides.

**114301.**

(a) Except to the extent that an alternative construction standard is explicitly prescribed by this section, construction standards for mobile food facilities that are subject to Part 2 (commencing with Section 18000) of Division 13 shall be governed by that part.

(b) Mobile food facility equipment, including, but not limited to, cooking equipment, the interior of cabinet units, and compartments, shall be designed and made of materials that result in smooth, readily accessible, and easily cleanable surfaces.

(1) Unfinished wooden surfaces are prohibited.

(2) Construction joints and seams shall be tightly fitted and sealed so as to be easily cleanable. Silicone sealant or equivalent waterproof compounds shall be acceptable, provided that the gap is smaller than one-quarter inch and applied smooth so as to prevent the entrance of liquid waste or vermin.

(3) Except as specified in Section 114314, nonportable equipment shall be an integral part of the primary unit.

(c) Mobile food facilities that handle potentially hazardous foods, except for prepackaged frozen ready-to-eat foods, whole fish, and whole aquatic invertebrates, shall be equipped with refrigeration units as defined in Section 113885.

(d) All new and replacement gas-fired appliances shall meet applicable ANSI standards. All new and replacement electrical appliances shall meet applicable Underwriters Laboratory standards. However, for units subject to Part 2 (commencing with Section 18000) of Division 13, these appliances shall comply with standards prescribed by Sections 18028, 18029.3, and 18029.5.

(e) Space around pipes, conduits, or hoses that extend through cabinets, floors, or outer walls shall be sealed. The closure shall be smooth and easily cleanable.

(f) Equipment in which spillage is likely to occur shall have a drip tray fitted so that spillage drains into a waste tank.

(g) All equipment shall be installed so as to be easily cleanable, prevent vermin harborage, and provide adequate access for service and maintenance.

(1) Equipment shall be spaced apart or sealed together for easy cleaning. There shall be a minimum of four inches of unobstructed space provided for sanitary maintenance beneath counter mounted equipment or between the sides of adjacent equipment.

(2) Portable equipment or machinery need not comply with the minimum leg height requirement.

(3) Threads, nuts, or rivets shall not be exposed where they interfere with cleaning. Threads, nuts, or rivets that interfere with cleaning shall be sealed or capped.

(4) All floor mounted equipment shall be sealed to the floor to prevent moisture from getting under the equipment, or it shall be raised at least six inches off the floor by means of an easily cleanable leg and foot.

(h) Floors, walls, and ceilings of all enclosed food preparation areas shall be constructed so that the surfaces are impervious, smooth, and easily cleanable. Floor surfaces shall provide employee safety from slipping. The juncture of the floor and wall shall be coved with a 3/8 inch minimum radius coving, with the floor surface extending up the wall at least four inches.

(i) Notwithstanding Section 114143, ground or floor surfaces where cooking processes are conducted from a grill, barbecue, or other unenclosed cooking unit on a mobile food facility shall be impervious, smooth, easily cleanable, and shall provide employee safety from slipping.

Ground or floor surfaces in compliance with this section shall extend a minimum of five feet on all open sides of where cooking processes are conducted.

**114303.**

(a) Employee entrance doors to food preparation areas shall be self-closing and kept closed when not in use.

(b) The mobile food facility, and all equipment and utensils shall be protected from potential contamination and kept clean, in good repair, and free of vermin.

(c) During transportation, storage, and operation of a mobile food facility, food, food-contact surfaces, and utensils shall be protected from contamination.

(d) The permit holder of an unenclosed mobile food facility handling nonprepackaged food shall develop and follow written operational procedures for food handling and the cleaning and sanitizing of food-contact surfaces and utensils. The enforcement agency shall review and approve the procedures prior to implementation and an approved copy shall be kept on the mobile food facility during periods of operation.

**114305.**

(a) During operation, no food intended for retail shall be conveyed, held, stored, displayed, or served from any place other than a mobile food facility, except for the restocking of product in a manner approved by the enforcement agency.

(b) Food preparation counter space shall be provided commensurate with the food operation, adjacent to all cooking equipment.

(c) Except as specified in subdivision (d), food products remaining after each day's operation shall be stored in an approved commissary or other approved facility.

(d) Potentially hazardous foods held at or above 135°F on a mobile food facility or mobile support unit shall be destroyed at the end of the operating day.

**114306.**

(a) A single operating site mobile food facility is restricted to produce, prepackaged food, and limited food preparation.

(b) Notwithstanding Section 113984, a mobile food facility operating within a fully enclosed structure shall not be required to provide a secondary food compartment over food preparation areas.

(c) A single operating site mobile food facility that is required to provide warewashing and handwashing facilities shall provide a warewashing sink and handwashing sink per site or operation. A warewashing and handwashing sink contained in a facility to which this subdivision applies shall be conveniently located so as to be accessible during all hours of operation. Additional handwashing sinks may be required pursuant to paragraph (1) of subdivision (b) of Section 113953.

(d) Notwithstanding Section 114095, a warewashing sink may be shared by not more than four mobile food facilities operating as a single operating site mobile food facility that is required to provide a warewashing sink, if the sink is conveniently located so as to be accessible during all hours of operation.

(e) For purposes of permitting and enforcement, the permitholder of each single operating site mobile food facility location shall be the same.

**114307.** Mobile food facilities that operate at community events and that remain fixed during food preparation and its hours of operation may:

(a) Include a staffed counter that serves hot and cold beverages and ice that are not potentially hazardous food and that are dispensed from approved bulk dispensing units.

(b) Store supplies and food that are not potentially hazardous in unopened containers adjacent to the mobile food facility or in a nearby temporary storage unit. "Unopened container" means a factory

sealed container that has not been previously opened and that is suitably constructed to be resistant to contamination from moisture, dust, insects, and rodents.

(c) Operate an open-air barbecue adjacent to the mobile food facility if approved by the enforcement agency.

**114309.**

(a) Mobile food facilities and mobile support units shall be exempt from the requirements of Sections 114250, 114256.1, and 114279.

(b) Nothing in this chapter shall be deemed to require any person to replace or modify an existing mobile food facility approved for operation prior to adoption of this part, so long as the facility is operated in accordance with the conditions of approval. Plans and specifications may be required by the enforcement agency if it determines that they are necessary to assure compliance with this part.

(c) Mobile food facilities equipped with a one-compartment sink or two-compartment sink that was approved for operation prior to adoption of this part need not provide a three-compartment sink.

**114311.** Mobile food facilities not under a valid permit as of January 1, 1997, from which nonprepackaged food is sold shall provide handwashing facilities. The handwashing facilities shall be separate from the warewashing sink.

(a) The handwashing sink shall have a minimum dimension of nine inches by nine inches in length and width and five inches in depth and be easily accessible by food employees.

(b) The handwashing facility shall be separated from the warewashing sink by a metal splashguard with a height of at least six inches that extends from the back edge of the drainboard to the front edge of the drainboard, the corners of the barrier to be rounded. No splashguard is required if the distance between the handwashing sink and the warewashing sink drainboards is 24 inches or more.

(c) This section shall not apply to mobile food facilities handling only whole produce or the bulk dispensing of nonpotentially hazardous beverages.

**114313.**

(a) Except as specified in subdivisions (b) and (c), a mobile food facility where nonprepackaged food is cooked, blended, or otherwise prepared shall provide a warewashing sink with at least three compartments with two integral metal drainboards.

  (1) The dimensions of each compartment shall be large enough to accommodate the cleaning of the largest utensil and either of the following:

    (A) At least 12 inches wide, 12 inches long, and 10 inches deep.

    (B) At least 10 inches wide, 14 inches long, and 10 inches deep.

  (2) Each drainboard shall be at least the size of one of the sink compartments. The drainboards shall be installed with at least one-eighth inch per foot slope toward the sink compartment, and fabricated with a minimum of one-half inch lip or rim to prevent the draining liquid from spilling onto the floor.

  (3) The sink shall be equipped with a mixing faucet and shall be provided with a swivel spigot capable of servicing all sink compartments.

(b) If all utensils and equipment of a mobile food facility are washed and sanitized on a daily basis at the approved commissary or other approved food facility, and the mobile food facility provides and maintains an adequate supply of spare preparation and serving utensils in the mobile food facility as needed to replace those that become soiled or contaminated, then the mobile food facility shall not be required to provide a warewashing sink to only handle any of the following:

  (1) Nonpotentially hazardous foods that do not require preparation other than heating, baking, popping, portioning, bulk dispensing, assembly, or shaving of ice.

  (2) Steamed or boiled hot dogs.

  (3) Tamales in the original, inedible wrapper.

(c) An unenclosed mobile food facility that prepares potentially hazardous beverages for immediate service in response to an individual consumer order shall do one of the following:

(1) Provide a three-compartment sink described in subdivision (a).
(2) Provide at least one two-compartment sink that complies with subdivision (e) of Section 114099.3.
(3) Provide a one-compartment sink with at least one integral metal drainboard, an adequate supply of spare preparation and serving utensils to replace those that become soiled or contaminated, and warewashing facilities that comply with subdivision (a) in reasonable proximity to, and readily accessible for use by, food employees at all times.

**114314.**
(a) Handwashing sinks and warewashing sinks for unenclosed mobile food facilities shall be an integral part of the primary unit or on an approved auxiliary conveyance that is used in conjunction with the mobile food facility.
(b) Warewashing sinks for unenclosed mobile food facilities shall be equipped with overhead protection made of wood, canvas, or other materials that protect the sinks from bird and insect droppings, dust, precipitation, and other contaminant

**114315.**
(a) A food facility shall be operated within 200 feet travel distance of an approved and readily available toilet and handwashing facility, or as otherwise approved by the enforcement agency, to ensure that restroom facilities are available to facility employees whenever the mobile food facility is stopped to conduct business for more than a one-hour period.
(b) This section does not limit the authority of a local governing body to adopt, by ordinance or resolution, additional requirements for the public safety, including reasonable time, place, and manner restrictions pursuant to its authority under subdivision (b) of Section 22455 of the Vehicle Code.

**114317.** The exterior of a mobile food facility and the surrounding area, as relating to the operation of food service, shall be maintained in a sanitary condition.

**114319.**
(a) Spare tires, related automotive equipment, or special tools relating to the mechanical operation of the mobile food facility shall not be stored in the food preparation or food storage areas.
(b) A separate cabinet or drawer shall be installed for the storage of insecticides or other poisonous substances in accordance with Section 114254, if these substances are used. All poisonous chemicals shall be kept in this cabinet or drawer in their original containers and in a manner that offers no contamination hazard to food or utensils.
(c) During periods of inoperation, food and utensils shall be stored in one of the following methods:
(1) Within approved food storage facilities at the commissary or other approved facility.
(2) In food compartments approved by the enforcement agency where the food is protected at all times from contamination, exposure to the elements, ingress of rodents and other vermin, and temperature abuse.

**114321.** Mobile food facilities that are occupied during normal business operations shall have a clear, unobstructed height over the aisleway portion of the unit of at least 74 inches from floor to ceiling, and a minimum of 30 inches of unobstructed horizontal aisle space. This section shall not apply to vehicles under permit prior to January 1, 1996.

**114322.** Compressor units that are not an integral part of food equipment, auxiliary engines, generators, and similar equipment shall be installed in an area that is completely separated from food preparation and food storage and that is accessible from outside the unit for proper cleaning and maintenance.

**114323.**
(a) A first-aid kit shall be provided and located in a convenient area in an enclosed case.

(b) Mobile food facilities that operate at more than one location in a calendar day shall be equipped to meet all of the following requirements:

(1) All utensils in a mobile food facility shall be stored so as to prevent their being thrown about in the event of a sudden stop, collision, or overturn. A safety knife holder shall be provided to avoid loose storage of knives in cabinets, boxes, or slots along counter aisles. Knife holders shall be designed to be easily cleanable and be manufactured of materials approved by the enforcement agency.

(2) Coffee urns, deep fat fryers, steam tables, and similar equipment shall be equipped with positive closing lids that are fitted with a secure latch mechanism that will prevent excessive spillage of hot liquids into the interior of a mobile food facility in the event of a sudden stop, collision, or overturn. As an alternative to this requirement, a coffee urn may be installed in a compartment that will prevent excessive spillage of coffee in the interior of the unit.

(3) Metal protective devices shall be installed on the glass liquid level sight gauges on all coffee urns.

(c) Light bulbs and tubes shall be covered with a completely enclosed plastic safety shield or its equivalent, and installed so as to not constitute a hazard to personnel or food.

(d) All liquefied petroleum equipment shall be installed to meet applicable fire authority standards, and this installation shall be approved by the fire authority. However, for units subject to Part 2 (commencing with Section 18000) of Division 13, this equipment and its installation shall comply with standards prescribed by Sections 18028 and 18029.5.

(e) A properly charged and maintained minimum 10 BC-rated fire extinguisher to combat grease fires shall be properly mounted and readily accessible on the interior of any mobile food facility that is equipped with heating elements or cooking equipment.

(f) (1) Except for units subject to Part 2 (commencing with Section 18000) of Division 13, a second means of exit shall be provided in the side opposite the main exit door, or in the roof, or the rear of the unit, with an unobstructed passage of at least 24 inches by 36 inches. The interior latching mechanism shall be operable by hand without special tools or key. The exit shall be labeled "Safety Exit" in contrasting colors with letters at least one inch high.

(2) For units subject to Part 2 (commencing with Section 18000) of Division 13, the size, latching, and labeling of the second means of exit shall comply with standards prescribed by Sections 18028 and 18029.5.

(g) All gas-fired appliances shall be properly insulated in a manner that will prevent excessive heat buildup and injury.

**114325.**

(a) Except on a mobile food facility that only utilizes the water for handwashing purposes, a water heater or an instantaneous heater capable of heating water to a minimum of 120°F, interconnected with a potable water supply, shall be provided and shall operate independently of the vehicle engine. On a mobile food facility that only utilizes the water for handwashing purposes, a minimum one-half gallon-capacity water heater or an instantaneous water heater capable of heating water to a minimum of 100 °F, interconnected with a potable water supply, shall be provided and shall operate independently of the vehicle engine.

(b) A water heater with a minimum capacity of four gallons shall be provided for mobile food facilities that have a warewashing sink.

(c) A mobile food facility equipped with a three-gallon-capacity water heater that is in compliance with this section on January 1, 2014, is in compliance with this section after that date.

**114326.** All commissaries and other approved facilities servicing mobile support units, mobile food facilities, and vending machines shall meet the applicable requirements in this part and any of the following to accommodate all operations necessary to support mobile support units, mobile food facilities, and vending machines:

(a) Adequate facilities shall be provided for the sanitary disposal of liquid waste from the mobile food facility or mobile support unit being serviced.
(b) Adequate facilities shall be provided for the handling and disposal of garbage and refuse originating from a mobile food facility or mobile support unit.
(c) Potable water shall be available for filling the water tanks of each mobile food facility and mobile support unit that requires potable water. Faucets and other potable water sources shall be constructed, located, and maintained so as to minimize the possibility of contaminating the water being loaded.
(d) Hot and cold water, under pressure, shall be available for cleaning mobile food facilities and mobile support units.
(e) Adequate facilities shall be provided for the storage of food, utensils, and other supplies.
(f) Notwithstanding Section 113984, commissaries that service mobile food facilities that conduct limited food preparation shall provide a food preparation area.
(g) Servicing areas at commissaries shall be provided with overhead protection, except that areas used only for the loading of water or the discharge of sewage and other liquid waste through the use of a closed system of hoses need not be provided with overhead protection.
(h) Servicing areas used for cleaning shall be sloped and drained to an approved wastewater system.
(i) Adequate electrical outlets shall be provided for mobile food facilities and mobile support units that require electrical service.

**114327.**
(a) Mobile support units shall be subject to plan review and be approved by the enforcement agency. Requirements shall be based on proposed method of operation and number of mobile food facilities serviced.
(b) Mobile support units shall meet all applicable requirements ofthis part and the following:
    (1) Interior floor, sides, and top shall be free of cracks, seams, or linings where vermin may harbor, and shall be constructed of a smooth, washable, impervious material capable of withstanding frequent cleaning with approved sanitizing agents.
    (2) Be constructed and operated so that no liquid wastes can drain onto any street, sidewalk, or premises.
    (3) If used to transport potentially hazardous food, approved equipment to maintain food at the required temperatures shall be provided.
    (4) Food, utensils, and supplies shall be protected from contamination.
    (5) A separate storage area shall be provided for all poisonous substances, detergents, bleaches, cleaning compounds, and all other injurious or poisonous materials.
(c) Mobile support units shall not be approved for warewashing.

## CHAPTER 10.5. NONPROFIT CHARITABLE TEMPORARY FOOD FACILITIES

**114332.** This article governs sanitation requirements for nonprofit charitable temporary food facilities.

**114332.1.** Nonprofit charitable temporary food facilities may operate up to four times annually. These four time periods shall not exceed 72 hours each.

**114332.2.**
(a) Except where all food and beverage is prepackaged, handwashing and warewashing facilities approved by the enforcement officer shall be provided for nonprofit charitable temporary food facilities. Each nonprofit charitable temporary food facility shall be equipped with a handwashing facility. Based on local environmental conditions, location, and similar factors, the local enforcement agency may, in lieu of warewashing facilities, allow a nonprofit charitable temporary food facility operating no more than four hours per day at a single event to provide an adequate

supply of utensils and spare utensils when they have been properly washed and sanitized at an approved food facility and are stored and kept free of becoming soiled or contaminated.

(b) Facilities for the sanitary disposal of all liquid waste shall be subject to the approval of the enforcement officer.

(c) At least one toilet facility for each 15 employees shall be provided within 60 meters (200 feet) of each nonprofit charitable temporary food facility.

(d) Food contact surfaces shall be smooth, easily cleanable, and nonabsorbent.

**114332.3.**

(a) No potentially hazardous food or beverage stored or prepared in a private home may be offered for sale, sold, or given away from a nonprofit charitable temporary food facility. Potentially hazardous food shall be prepared in a food establishment or on the premises of a nonprofit charitable temporary food facility.

(b) All food and beverage shall be protected at all times from unnecessary handling and shall be stored, displayed, and served so as to be protected from contamination.

(c) Potentially hazardous food and beverage shall be maintained at or below 7 degrees Celsius (45 degrees Fahrenheit) or at or above 57.2 degrees Celsius (135 degrees Fahrenheit) at all times.

(d) Ice used in beverages shall be protected from contamination and shall be maintained separate from ice used for refrigeration purposes.

(e) All food and food containers shall be stored off the floor on shelving or pallets located within the facility.

(f) Smoking is prohibited in nonprofit charitable temporary food facilities.

(g) (1) Except as provided in paragraph (2), live animals, birds, or fowl shall not be kept or allowed in nonprofit charitable temporary food facilities.

(2) Paragraph (1) does not prohibit the presence, in any room where food is served to the public, guests, or patrons, of a guide dog, signal dog, or service dog, as defined by Section 54.1 of the Civil Code, accompanied by a totally or partially blind person, deaf person, person whose hearing is impaired, or handicapped person, or dogs accompanied by persons licensed to train guide dogs for the blind pursuant to Chapter 9.5 (commencing with Section 7200) of Division 3 of the Business and Professions Code.

(3) Paragraph (1) does not apply to dogs under the control of uniformed law enforcement officers or of uniformed employees of private patrol operators and operators of a private patrol service who are licensed pursuant to Chapter 11.5 (commencing with Section 7580) of Division 3 of the Business and Professions Code, while these employees are acting within the course and scope of their employment as private patrol persons.

(4) The persons and operators described in paragraphs (2) and (3) are liable for any damage done to the premises or facilities by the dog.

(5) The dogs described in paragraphs (2) and (3) shall be excluded from food preparation and utensil wash areas. Aquariums and aviaries shall be allowed if enclosed so as not to create a public health problem.

(h) All garbage shall be disposed of in a sanitary manner.

(i) Employees preparing or handling food shall wear clean clothing and shall keep their hands clean at all times.

**114332.4.** The enforcement officer may establish additional structural or operational requirements as necessary to ensure that food is of a safe and sanitary quality.

**114332.5.** Open-air barbecue facilities may be operated adjacent to nonprofit charitable temporary food facilities, and shall be subject to the requirements of Article 9 (commencing with Section 114185).

**114332.7.** Nothing in this article shall prevent a local enforcement agency from performing inspections of, or requiring permits for, any nonprofit charitable temporary food facility to ensure compliance with food safety provisions contained in this chapter.

## CHAPTER 11. TEMPORARY FOOD FACILITIES

**114335.**

(a) Temporary food facilities that operate at a swap meet are limited to only prepackaged nonpotentially hazardous food and whole uncut produce, and shall meet the applicable requirements in Chapter 1 (commencing with Section 113700) to Chapter 8 (commencing with Section 114250), inclusive, Chapter 12.6 (commencing with Section 114377), and Chapter 13 (commencing with Section 114380), unless specifically exempted from any of these provisions.

(b) Temporary food facilities that operate at a community event shall meet the applicable requirements in Chapter 1 (commencing with Section 113700) to Chapter 8 (commencing with Section 114250), inclusive, Chapter 12.6 (commencing with Section 114377), and Chapter 13 (commencing with Section 114380), unless specifically exempted from any of these provisions.

(c) Food facility requirements shall be determined by the enforcement agency based on the food service activity to be conducted, the type of food that is to be prepared or served, the length of the event, and the extent of food preparation that is to be conducted at a community event within a temporary food facility.

(d) Notwithstanding subdivision (a), the enforcement agency may allow temporary food facilities at a swap meet, depending on the food service activity to be conducted, the type of food that is to be prepared or served, the duration of the swap meet, and the extent of food preparation that is to be conducted at the swap meet.

**114337.** The name of the facility, city, state, ZIP Code, and name of the operator shall be legible and clearly visible to patrons. The facility name shall be in letters at least three inches high, and shall be of a color contrasting with the surface on which it is posted. Letters and numbers for the city, state, and ZIP Code, may not be less than one inch in height.

**114339.**

(a) No home canned or home processed foods shall be permitted within a temporary food facility.

(b) Notwithstanding subdivision (a), nonpotentially hazardous beverages and baked goods may be offered for sale, sold, or given away by a nonprofit charitable organization or by an established club or organization that operates under the authorization of a school or educational facility for fundraising purposes at community events.

**114341.**

(a) Notwithstanding Section 113984, all food preparation at a community event shall be conducted within the temporary food facility or other approved food facility.

(b) Barbecues, grills or other equipment approved for outdoor cooking may be located adjacent to the temporary food facility if local building and fire codes prohibit cooking inside the temporary food facility.

(c) Grills and barbecues or other approved cooking equipment shall be separated from public access by using ropes or other approved methods to prevent contamination of the food and injury to the public.

**114343.**

(a) Except as otherwise provided in Section 113996, during operating hours of the temporary food facility, potentially hazardous food may be held at a temperature not to exceed 45°F for up to 12 hours in any 24-hour period.

(b) At the end of the operating day, potentially hazardous food that is held at 45°F shall be destroyed in a manner approved by the enforcement agency.

(c) At the end of the operating day, potentially hazardous food that is held at or above 135°F shall be destroyed in a manner approved by the enforcement officer.

**114345.** Temporary food facilities may include a staffed counter that serves hot and cold beverages and ice that are not potentially hazardous food and that are dispensed from approved bulk dispensing units

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**114347.** Temporary food facilities that handle nonprepackaged food shall provide floors constructed of concrete, asphalt, tight wood, or other similar cleanable material kept in good repair.

**114349.**

(a) Temporary food facilities shall be equipped with overhead protection for all food preparation, food storage, and warewashing areas. Overhead protection shall be made of wood, canvas, or other materials that protect the facility from precipitation, dust, bird and insect droppings, and other contaminants.

(b) Temporary food facilities that handle nonprepackaged food must also protect food from contamination in one of the following ways:

(1) Enclosure of the food facility with 16 mesh per square inch screens.

(2) Limiting display and handling of nonprepackaged food in food compartments.

(3) Other alternative, effective means approved by the enforcement officer.

(c) Notwithstanding Section 113984, this section does not apply to temporary food facilities that are approved for limited food preparation if flying insects, vermin, birds, and other pests are absent due to the location of the facility or other limiting conditions.

**114351.**

(a) Notwithstanding Section 114095, a warewashing sink may be shared by no more than four temporary food facilities that handle nonprepackaged food if the sink is centrally located and is adjacent to the sharing facilities.

(b) Notwithstanding subdivision (a), based on the number and types of utensils used, the local enforcement agency may allow up to eight temporary food facilities to share a warewashing sink when easily accessible and located within 100 feet of each temporary food facility.

(c) Based on local environmental conditions, location, and similar factors, the local enforcement agency may, in lieu of a warewashing sink, allow a temporary food facility operating no more than four hours per day at a single event to provide an adequate supply of utensils and spare utensils when they have been properly washed and sanitized at an approved food facility and are stored and kept free of becoming soiled or contaminated.

**114353.** A temporary food facility shall provide only single-use articles for use by the consumer.

**114354.**

(a) Food-related and utensil-related equipment used in conjunction with a temporary food facility shall be approved by the enforcement agency.

(b) Cold and hot holding equipment shall be provided to insure proper temperature control during transportation, storage, and operation of the temporary food facility.

(c) Equipment shall be located and installed to prevent food contamination.

**114355.** Ice used for refrigeration purposes shall not be used for consumption in food or beverages.

**114356.**

(a) Notwithstanding Section 114047, during periods of operation, supplies and nonpotentially hazardous food, in unopened containers may be stored adjacent to the temporary food facility or in unopened containers in an approved nearby temporary storage unit. An "unopened container" means a factory sealed container that has not been previously opened and that is suitably constructed to be resistant to contamination from moisture, dust, insects, and rodents.

(b) During periods of inoperation, food shall be stored within a fully enclosed temporary food

facility, within a permanent food facility or other facility approved by the enforcement agency, or in approved food compartments where the food is protected at all times from contamination, exposure to the elements, ingress of rodents and other vermin, and temperature abuse.

**114358.**

(a) Notwithstanding Section 113953, handwashing facilities for temporary food facilities that operate for three days or less may include a container capable of providing a continuous stream of water from an approved source that leaves both hands free to allow vigorous rubbing with soap and warm water for 10 to 15 seconds, inclusive.

(b) Temporary food facilities that handle only prepackaged food and comply with Section 113952 shall not be required to provide a handwashing facility, except as required in Section 114359.

(c) A catch basin shall be provided to collect wastewater, and the wastewater shall be properly disposed of according to Section 114197.

(d) Handwashing facilities shall be equipped with handwashing cleanser and single-use sanitary towels.

(e) A separate receptacle shall be available for towel waste.

**114359.**

(a) At least one toilet facility for each 15 employees shall be provided within 200 feet of each temporary food facility.

(b) Each toilet facility shall be provided with approved handwashing facilities.

**114361.** Temporary food facilities that operate for more than one day shall be cleaned and serviced by methods approved by the enforcement agency.

**114363.** Based upon local environmental conditions, location, and other similar factors, the enforcement officer may establish additional structural or operational requirements, or both, as necessary to ensure that foods are of a safe and sanitary quality.

## CHAPTER 11.5 COTTAGE FOOD OPERATIONS

**114365.**

(a)

(1)

(A) A “Class A” cottage food operation shall not be open for business unless it is registered with the local enforcement agency and has submitted a completed, self-certification checklist approved by the local enforcement agency. The self-certification checklist shall verify that the cottage food operation conforms to this chapter, including the following requirements:

(i) No cottage food preparation, packaging, or handling may occur in the home kitchen concurrent with any other domestic activities, such as family meal preparation, dishwashing, clothes washing or ironing, kitchen cleaning, or guest entertainment.

(ii) No infants, small children, or pets may be in the home kitchen during the preparation, packaging, or handling of any cottage food products.

(iii) Kitchen equipment and utensils used to produce cottage food products shall be clean and maintained in a good state of repair.

(iv) All food contact surfaces, equipment, and utensils used for the preparation, packaging, or handling of any cottage food products shall be washed, rinsed, and sanitized before each use.

(v) All food preparation and food and equipment storage areas shall be maintained free of rodents and insects.

(vi) Smoking shall be prohibited in the portion of a private home used for the preparation, packaging, storage, or handling of cottage food products and related ingredients or equipment, or both, while cottage food products are being prepared, packaged, stored, or handled.

(B)

(i) The department shall post the requirements described in subparagraph (A) on its Internet Web site.

(ii) The local enforcement agency shall issue a registration number to a “Class A” cottage food operation that meets the requirements of subparagraph (A).

(C)

(i) Except as provided in (ii), a “Class A” cottage food operation shall not be subject to initial or routine inspections.

(ii) For purposes of determining compliance with this chapter, a representative of a local enforcement agency may access, for inspection purposes, the registered area of a private home where a cottage food operation is located only if the representative has, on the basis of a consumer complaint, reason to suspect that adulterated or otherwise unsafe food has been produced by the cottage food operation or that the cottage food operation has violated this chapter.

(iii) Access under this subparagraph is limited to the registered area and solely for the purpose of enforcing or administering this chapter.

(iv) A local enforcement agency may seek recovery from a “Class A” cottage food operation of an amount that does not exceed the local enforcement agency’s reasonable costs of inspecting the “Class A” cottage food operation for compliance with this chapter, if the “Class A” cottage food operation is found to be in violation of this chapter.

(2)

(A) A “Class B” cottage food operation shall not be open for business unless it obtains a permit from the local enforcement agency in a manner approved by the local enforcement agency to engage in the direct and indirect sale of cottage food products.

(B)

(i) A “Class B” cottage food operation shall comply with the requirements described in clauses (i) to (vi), inclusive, of subparagraph (A) of paragraph (1) in addition to the other requirements of this chapter.

(ii) The local enforcement agency shall issue a permit number after an initial inspection has determined that the proposed “Class B” cottage food operation and its method of operation conform to this chapter.

(C) Except as provided in this subparagraph, a “Class B” cottage food operation shall not be subject to more than one inspection per year by the local enforcement agency.

(D) A “Class A” cottage food operation shall renew its registration annually.

(i) For purposes of determining compliance with this chapter, a representative of a local enforcement agency, for inspection purposes, may access the permitted area of a private home where a cottage food operation is located only if the representative has, on the basis of a consumer complaint, reason to suspect that adulterated or otherwise unsafe food has been produced by the cottage food operation, or that the cottage food operation has violated this chapter.

(ii) Access under this subparagraph is limited to the permitted area and solely for the purpose of enforcing or administering this chapter.

(E)

(i) A “Class B” cottage food operation shall be authorized to engage in the indirect sales of cottage food products within the county in which the “Class B” cottage food operation is permitted.

(ii) A county may agree to allow a “Class B” cottage food operation permitted in another county to engage in the indirect sales of cottage food products in the county.

(b)

(1) A registration or permit, once issued, is nontransferable. A registration or permit shall be valid only for the person, location, type of food sales, and distribution activity specified by that registration or permit, and, unless suspended or revoked for cause, for the time period indicated.

(2) The registration or permit or an accurate copy thereof shall be retained by the operator onsite at the time of either direct or indirect cottage food sale.

**114365.2.** A cottage food operation that is registered or has a permit issued pursuant to Section 114365 shall be considered a restricted food service facility for purposes of, and subject to, Sections 113953.3, 114259.5, 114285, and 114286. A cottage food operation that is registered or has a permit also shall be subject to Sections 113967, 113973, 113980, 114259.5, 114405, 114407, 114409, 114411, and 114413, and to all of the following requirements:

(a) A person with a contagious illness shall refrain from work in the registered or permitted area of the cottage food operation.

(b) A person involved in the preparation or packaging of cottage food products shall keep his or her hands and exposed portions of his or her arms clean and shall wash his or her hands before any food preparation or packaging activity in a cottage food operation.

(c) Water used during the preparation of cottage food products shall meet the potable drinking water standards described in Section 113869, or in accordance with the local regulatory authority. A cottage food operation shall not be required to have an indirect sewer connection. Water used during the preparation of cottage food products includes all of the following:

(1) The washing, sanitizing, and drying of any equipment used in the preparation of a cottage food product.

(2) The washing, sanitizing, and drying of hands and arms.

(3) Water used as an ingredient.

(d) A person who prepares or packages cottage food products shall complete a food processor course approved by the department and posted on the department’s Internet Web site to protect the public health within three months of becoming registered and every three years during operation. The course shall not exceed four hours in length. The department shall work with the local enforcement agency to ensure that cottage food operators are properly notified of the location, date, and time of the classes offered.

(e) A cottage food operation shall properly label all cottage food products in compliance with the Federal Food, Drug, and Cosmetic Act (21 U.S.C. Sec. 343 et seq.). Additionally, to the extent permitted by federal law, the label shall include, but is not limited to, all of the following:

(1) The words “Made in a Home Kitchen” or “Repackaged in a Home Kitchen,” as applicable, with a description of any purchased whole ready-to-eat product not used as an ingredient in 12-point type on the cottage food product’s primary display panel.

(2) The name commonly used for the food product or an adequately descriptive name.

(3) The name of the cottage food operation which produced the cottage food product.

(4) The registration or permit number of the “Class A” or “Class B” cottage food operation, respectively, which produced the cottage food product and the name of the county of the local enforcement agency that issued the permit or registration number.

(5) The ingredients of the cottage food product, in descending order of predominance by weight, if the product contains two or more ingredients.

**114365.5.**

(a) The department shall adopt and post on its Internet Web site a list of not potentially hazardous foods and their ethnic variations that are approved for sale by a cottage food operation. A cottage food product shall not be potentially hazardous food, as defined in Section 113871.

(b) This list of nonpotentially hazardous foods shall include, but not be limited to, all of the following:

(1) Baked goods without cream, custard, or meat fillings, such as breads, biscuits, churros, cookies, pastries, and tortillas.
(2) Candy, such as brittle and toffee.
(3) Chocolate-covered nonperishable foods, such as nuts and dried fruit.
(4) Dried fruit.
(5) Dried pasta.
(6) Dry baking mixes.
(7) Fruit pies, fruit empanadas, and fruit tamales.
(8) Granola, cereals, and trail mixes.
(9) Herb blends and dried mole past.
(10) Honey and sweet sorghum syrup.
(11) Jams, jellies, preserves, and fruit butter that comply with the standard described in Part 150 of Title 21 of the Code of Federal Regulations.
(12) Nut mixes and nut butter.
(13) Popcorn,
(14) Vinegar and mustard.
(15) Roasted coffee and dried tea.
(16) Waffle cones and pizelles.

(c)

(1) The State Public Health Officer may add or delete food products to or from the list described in subdivision (b), which shall be known as the approved food products list. Notice of any change to the approved food products list shall be posted on the department's Web site for purposes of this chapter. Any change to the approved food products list shall become effective 30 days after the notice is posted. The notice shall state the reason for the change, the authority for the change, and the nature of the change. The notice will provide an opportunity for written comment by indicating the address to which to submit the comment and the deadline by which the comment is required to be received by the department. The address to which the comment is to be submitted may be an electronic site. The notice shall allow at least 20 calendar days for comments to be submitted. The department shall consider all comments submitted before the due date. The department may withdraw the proposed change at any time by notification on the program Internet Web site or through notification by other electronic means. The approved food products list described in subdivision (b), and any updates to the list, shall not be subject to the administrative rulemaking requirements of Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code.

(2) The State Public Health Officer shall not remove any items from the approved food products list unless the State Public Health Officer also posts information on the program Internet Web site explaining the basis upon which the removed food item has been determined to be potentially hazardous.

**114365.6**

(a) The State Public Health Officer shall provide technical assistance, and develop, maintain, and deliver commodity-specific training related to the safe processing and packaging of cottage food products to local enforcement agencies.

(b) Local enforcement agencies may collect a surcharge fee in addition to any permit fee collected for "Class B" cottage food operations. The surcharge fee shall not exceed the reasonable costs that the department incurs through the administration of the training described in subdivision (a) to protect the public health. The surcharge fees collected shall be transmitted to the department in a manner established by the department to be

deposited in the Food Safety Fund. The department shall use the surcharge fees only to develop and deliver the training described in subdivision (a) to local enforcement agency personnel on an ongoing basis.

## CHAPTER 12. CERTIFIED FARMERS' MARKETS

**114370.** Certified farmers' markets shall meet the applicable general sanitation requirements in Section 113980 and as provided in this chapter.

**114371.** Certified farmers' markets shall meet all of the following requirements:

(a) All food shall be stored at least six inches off the floor or ground or under any other conditions that are approved. Tents, canopies, or other overhead coverings are not required for fresh whole produce sales displays or storage, except when specifically required pursuant to this chapter. Flavored nuts and dried fruits that are being sold on a bulk or nonprepackaged basis shall be displayed and dispensed by the producer from covered containers. All processed food products being sold shall be in compliance with Section 113735 and the applicable provisions of Section 110460, 114365, or 114365.2.

(b) Food preparation is prohibited at certified farmers' markets with the exception of food samples. Trimming whole produce for sale shall not be considered food preparation. Distribution of food samples may occur provided that the following sanitary conditions exist:

(1) Samples shall be kept in clean, nonabsorbent, and covered containers intended by the manufacturer for use with foods. Any cutting or distribution of samples shall only occur under a tent, canopy, or any other overhead covering.

(2) All food samples shall be distributed by the producer in a manner that is sanitary and in which each sample is distributed without the possibility of a consumer touching the remaining samples.

(3) Clean, disposable plastic gloves shall be used when cutting food samples.

(4) Fresh, whole produce intended for sampling shall be washed or cleaned in another manner of any soil or other material by potable water in order that it is wholesome and safe for consumption.

(5) Notwithstanding Section 114205, available potable water may be required for handwashing and sanitizing; the need determined and manner approved by the enforcement agency.

(6) Potentially hazardous food samples shall be maintained at or below 45°F and shall be disposed of within two hours after cutting. A certified farmers' market or enforcement officer may cause immediate removal and disposal, or confiscate and destroy, any potentially hazardous food samples found not in compliance with this paragraph.

(7) Wastewater shall be disposed of in a facility connected to the public sewer system or in a manner approved by the enforcement agency.

(8) Utensils and cutting surfaces shall be smooth, nonabsorbent, and easily cleanable, or single-use articles shall be utilized. If the producer uses only single-use articles or maintains an adequate supply of clean replacement articles readily available at the site at the time of use, warewashing facilities shall not be required.

(c) Approved toilet and handwashing facilities shall be available within 200 feet travel distance of the premises of the certified farmers' market or as approved by the enforcement officer.

(d) No live animals, birds, or fowl shall be kept or allowed, and no individual shall bring a live animal, bird, or fowl within 20 feet of any area where food is stored or held for sale within a certified farmers' market. This subdivision does not apply to guide dogs, signal dogs, or service dogs when used in accordance with the federal Americans with Disabilities Act of 1990 (42 U.S.C. Sec. 12101 et. seq.), and as provided in Section 36.104 of Title 28 of the Code of Federal Regulations. All guide dogs, signal dogs, and service dogs shall be used and properly identified in accordance with Section 54.1 and subdivision (b) of Section 54.2 of the Civil Code, and Sections 30850, 30851, and 30852 of the Food and Agricultural Code.

(e) All garbage and refuse shall be stored and disposed of in a manner approved by the enforcement officer.

(f) Smoking of cigarettes, cigars, pipe tobacco, and other nicotine products shall not be permitted within 25 feet of the common commerce area comprised of sales personnel and shopping customers of the certified farmers' market.

(g) Notwithstanding Chapter 10 (commencing with Section 114294), vendors selling food adjacent to, and under the jurisdiction and management of, a certified farmers' market may store, display, and sell from a table or display fixture apart from the mobile food facility in a manner approved by the enforcement agency.

(h) Temporary food facilities may be operated as a separate community event adjacent to and in conjunction with certified farmers' markets. The organization in control of the community event at which these temporary food facilities operate shall comply with Section 114381.1.

(i) All harvested, cut, wrapped, or otherwise processed meat, poultry, and fish products shall be from approved sources as set forth in Section 113735, and shall be properly labeled or have documentation present at the point of sale that demonstrates compliance with this requirement. All harvested, cut, wrapped, or otherwise processed meat, poultry, and fish products offered for sale shall be transported, stored, displayed, and maintained at a temperature of 41°F or colder. The temperature holding capabilities of the storage containers used shall be sufficient to maintain safe product temperatures. Storage containers for meat, poultry, and fish products shall be insulated and have interior surfaces that are smooth, nonabsorbent, and easily cleanable. All meat, poultry, and fish products shall be stored in a manner that reduces the risk of cross-contamination.

**114373.** Raw shell eggs may be stored and displayed without refrigeration if all of the following conditions are met:

(a) The eggs were produced by poultry owned by the seller and collected on the seller's property.

(b) The eggs are not placed in direct sunlight during storage or display.

(c) Retail egg containers are prominently labeled "refrigerate after purchase" or the seller posts a conspicuous sign advising consumers that the eggs are to be refrigerated as soon as practical after purchase.

(d) Retail egg containers are conspicuously identified as to the date of the pack.

(e) The eggs have been cleaned and sanitized.

(f) The eggs are not checked, cracked, or broken.

(g) Any eggs that are stored and displayed at temperatures of 90°F or below and that are unsold after four days from the date of pack shall be stored and displayed at an ambient temperature of 45°F or below, diverted to pasteurization, or destroyed in a manner approved by the enforcement agency.

(h) Any eggs that are stored and displayed at temperatures above 90°F that are unsold after four days from the date of pack shall be diverted to pasteurization or destroyed in a manner approved by the enforcement agency.

## CHAPTER 12.5. FARM STANDS AND COMMUNITY FOOD PRODUCTION

**114375.** Farm stands shall be in conformity with the definition and provisions of Section 113778.2 and meet all of the following requirements:

(a) Food preparation is prohibited at farm stands with the exception of food samples which may only occur if conducted in accordance with paragraphs (1) to (8), inclusive, of subdivision (b) of Section 114371.

(b) Approved toilet and handwashing facilities consistent with Article 4 (commencing with Section 113310) of Chapter 11 of Part 6 shall be available for use by farm stand operators or their employees when food sampling is conducted pursuant to subdivision (a).

(c) Food sales from farm stands shall be limited to the following:

(1) Whole produce and shell eggs as described in paragraph (6) of subdivision (c) of Section 113789.
(2) Nonpotentially hazardous prepackaged food products from an approved source that were grown or produced in close proximity to the farm stand and in a manner consistent with the intent of Chapter 10.5 (commencing with Section 47000) of Division 17 of the Food and Agricultural Code.
(3) Any nonpotentially hazardous prepackaged food products, including bottled water and soft drinks, from an approved source that has not been grown or produced in close proximity to the farm stand shall be limited to a 50-square-foot storage and sales area.

(d) No live animals, birds, or fowl shall be kept or allowed within 20 feet of any area where food is stored or held for sale. This subdivision does not apply to guide dogs, signal dogs, or service dogs when used in the manner specified in Section 54.1 of the Civil Code.
(e) All garbage and refuse shall be stored and disposed of in an appropriate manner.
(f) All prepackaged processed food products shall meet the applicable requirements provided in Section 113980 and be stored in an approved vermin proof area or container when the farm stand facility is closed.

**114376**.

(a) A community food producer may sell or provide whole uncut fruits or vegetables, or unrefrigerated shell eggs, directly to the public, to a permitted food facility, or a cottage food operation if the community food producer meets all of the following requirements:
(1) Agricultural products shall be grown or produced in compliance with subdivision (b) of Section 113735.
(2) Agricultural products that are packaged shall have the package labeled with the name and address of the community food producer.
(3) Conspicuous signage shall be provided in lieu of a product label if the agricultural product is being sold by the community food producer on the site of production. The signage shall include, but not be limited to, the name and address of the community food producer.
(4) Best management practices, as described by the Department of Food and Agriculture, regarding small farm food safety guidelines on, but not limited to, safe production, processing, and handling of both nonpotentially hazardous and potentially hazardous foods.
(5) Egg production shall be limited to 15 dozen eggs per month.

(b)
(1) A gleaner may sell or provide whole uncut fruits or vegetables, or unrefrigerated shell eggs, produced by a community food producer directly to the public without registration if the gleaner meets all of the requirements specified in subdivisions (a) and (d).
(2) A gleaner may donate whole uncut fruits or vegetables, or unrefrigerated shell eggs, produced by a community food producer to a food bank or food kitchen without registration if it meets both of the following requirements:
(A) Best management practices, as described by the Department of Food and Agriculture regarding small farm food safety guidelines on handling of both nonpotentially hazardous and potentially hazardous foods.
(B) Record retention requirements specified in subdivision (d).

(c) Unless otherwise authorized by a local ordinance adopted by a local jurisdiction, a local city or county health enforcement office shall not require a community food producer to register with the city or county or meet requirements in addition to those required in subdivisions (a) and (d) if the community food producer meets any of the following conditions:
(1) Agricultural products are sold at the outlet or location, including, but not limited to, premises, controlled by the community food producer pursuant to paragraph (6) of subdivision (c) of Section 113789.
(2) Agricultural products are donated to a food bank or food kitchen that provides food at no cost to consumers.
(3) Agricultural products are sold in a food facility permitted by a federal, state, or local health agency.

(d) A community food producer or gleaner that sells or provides whole uncut fruits or vegetables, or unrefrigerated shell eggs, directly to the public pursuant to this section shall retain records related to the sale or provision of the food for 30 days, which shall include the type of food sold and the date of sale.

(e) A food bank or food kitchen that receives whole uncut fruits or vegetables, or unrefrigerated shell eggs, donated by a community food producer or gleaner pursuant to this section shall retain records related to the donation of the food for 30 days, which shall include the type of food received, the date of receipt, and the name and contact information of the community food producer or gleaner that donated the food.

**114376.5.**

(a) An enforcement officer, as defined in Section 113774, may enter into and inspect the operations of a community food producer or gleaner in response to a food safety recall or food safety complaint. The enforcement officer may recover reasonable costs associated with an inspection from the community food producer or gleaner.

(b) (1) An enforcement officer may issue a community food producer or gleaner a cease and desist order for violations of Section 114376, upon which the community food producer or gleaner shall be prohibited from further sales until the operations of the community food producer or gleaner have been reinspected and cleared by the enforcement officer's agency.

(2) At any time within 15 calendar days after issuance of the cease and desist order, the community food producer or gleaner may request in writing a hearing before a hearing officer to show cause why the prohibition of further sales is not warranted. The hearing shall be held within 15 calendar days of the receipt of a request for a hearing. A failure to request a hearing within 15 calendar days shall be deemed a waiver of the right to a hearing.

(c) Violations of Section 114376 shall be subject to the penalties specified in Section 114395.

## CHAPTER 12.6. TRANS FATS

**114377.**

(a) Every food facility shall maintain on the premises the label for any food or food additive that is, or includes, any fat, oil, or shortening, for as long as this food or food additive is stored, distributed, or served by, or used in the preparation of food within, the food facility. The label described in this subdivision refers to the label that is required by applicable federal and state law to be on the food or food additive at the time of purchase by the food facility.

(b) (1) Commencing January 1, 2010, no oil, shortening, or margarine containing artificial trans fat for use in spreads or frying, except for the deep frying of yeast dough or cake batter, may be stored, distributed, or served by, or used in the preparation of any food within, a food facility.

(2) Commencing January 1, 2011, no food containing artificial trans fat, including oil and shortening that contains artificial trans fat for use in the deep frying of yeast dough or cake batter, may be stored, distributed, or served by, or used in the preparation of any food within, a food facility.

(c) Subdivision (b) shall not apply to food sold or served in a manufacturer's original, sealed package.

(d) For purposes of this section, a food contains artificial trans fat if the food contains vegetable shortening, margarine, or any kind of partially hydrogenated vegetable oil, unless the label required on the food, pursuant to applicable federal and state law, lists the trans fat content as less than 0.5 grams per serving.

(e) This section shall not apply to public elementary, middle, junior high, or high school cafeterias.

(f) Notwithstanding Section 114395, a violation of this section shall be punishable by a fine of not less than twenty-five dollars ($25) or more than one thousand dollars ($1,000).

## CHAPTER 12.7. FISHERMEN'S MARKETS

**114378.** A fishermen's market shall meet the applicable requirements of Chapter 1 (commencing with Section 113700), Chapter 2 (commencing with Section 113728), Chapter 3 (commencing with Section 113945), Chapter 4 (commencing with Section 113980), Chapter 5 (commencing with Section 114095), Chapter 6 (commencing with Section 114130), Chapter 7 (commencing with Section 114189), Chapter 8 (commencing with Section 114250), and Chapter 13 (commencing with Section 114380), unless exempted as provided in this chapter.

**114378.1.**

(a) Fish sold in a fishermen's market shall be raw and may be displayed whole or eviscerated. A fisherman selling fish in a fishermen's market shall only sell raw edible aquatic plants or fish that he or she caught legally, or that was caught by one or two other licensed commercial fishermen. If a fisherman sells fish caught by another licensed commercial fisherman, the fisherman shall provide a copy of that other fisherman's commercial license and contact information upon the request of the enforcement agency.

(b) A fishermen's market may provide a separate service that fillets, cuts, or packages fish for customers who purchase direct sales of fish within the fishermen's market as a temporary food facility, mobile food facility, or other facility approved by the enforcement agency. A separate health permit is required and applicable requirements for that category of permit shall be met.

(c) Fish parts from the day's operations may be used for bait by a licensed commercial fisherman or registered aquaculturists.

(d) Ice used for refrigeration purposes shall not be used for consumption in food or beverages.

(e) Notwithstanding subdivision (b) and Section 113818, raw fish may be eviscerated at a fishermen's market.

**114378.2.**

A fishermen's market shall meet all of the following requirements:

(a) Each fishermen's market food booth shall post the name of the fisherman, vessel or farm, and acceptable market name of fish sold so they are legible and clearly visible to patrons.

(b) Notwithstanding Section 113953, handwashing facilities for a fishermen's market food both that operates for three consecutive days or less may include a container capable of providing a continuous stream of water from an approved source that leaves both hands free to allow vigorous rubbing with soap and warm water for 10 to 15 seconds, inclusive. A catch basin shall be provided to collect wastewater, and the wastewater shall be properly disposed of according to Section 114197.

(c) Handwashing facilities shall be equipped with handwashing cleanser and single-use sanitary towels. A separate receptacle shall be available for towel waste.

(d) Notwithstanding Section 114205, potable water shall be available for handwashing and sanitizing as approved by the enforcement agency.

(e) Approved toilet and handwashing facilities shall be available within 200 feet of the premises of a fishermen's market or as approved by the enforcement agency.

(f) All garbage and refuse shall be stored and disposed of in a manner approved by the enforcement agency.

(g) Wastewater shall be disposed of in a facility connected to the public sewer system or in a manner approved by the enforcement agency.

(h) Floors shall be constructed of concrete, asphalt, tight wood, or other similar cleanable material kept in good repair.

(i) Overhead protection shall be provided over the evisceration process, food storage, food display, and warewashing areas. Overhead protection shall be made of wood, canvas, or other materials that protect the facility from precipitation, dust, bird and insect droppings, and other contaminants.

(j) Notwithstanding Section 114095, approved warewashing facilities may be shared if the sink is centrally located and is adjacent to the sharing facilities. The enforcement agency may also approve use of warewashing facilities within a permanent facility if it is located within 200 feet of the premises of the fishermen's market or as approved by the enforcement agency.

(k) Food-related and utensil-related equipment shall be located and installed to prevent food contamination.

(*l*) During periods of inoperation, food, food equipment, and utensils shall be stored within a fully enclosed facility approved by the enforcement agency, or in approved food compartments where the food, food equipment, and utensils are protected at all times from contamination, exposure to the elements, ingress of rodents or other vermin, and temperature abuse.

**114378.3.**

(a) A permit application and site plan shall be submitted to the enforcement agency at least two weeks prior to the operation of a fishermen's market. Only California-licensed commercial fishermen or an entity representing two or more California-licensed commercial fishermen or California-licensed commercial fishermen and California-registered aquaculturists may act as the responsible person and sole permitholder for a fishermen's market. The site plan shall include all of the following:

(1) A map with proposed locations of the fishermen's market food booths, boundaries of the fishermen's market, restrooms, refuse containers, potable water supply faucets, wastewater disposal facilities, and all shared warewashing and handwashing facilities as applicable.

(2) Details of the materials and methods used to construct the food booths.

(3) Foods that will be handled and dispensed.

(4) Procedures for food handling, food temperature control, refuse management, cleaning and sanitizing utensils and equipment, and cleaning structures and premises.

(5) Procedures for transporting food to and from the fishermen's market and actions taken to prevent contamination.

(6) List of names of licensed commercial fishermen or registered aquaculturists, copies of their licenses or registrations, and a document authorizing the organizer to act as the responsible person and permitholder on their behalf.

(b) A fishermen's market may operate adjacent to, or in conjunction with, a food facility or a community event. In those situations, the fishermen's market is only subject to the limitations and requirements of a fishermen's market. The other food facilities remain subject to the limitations and requirements, including separate permit requirements, that are applicable to the type of facility being operated.

## CHAPTER 13. COMPLIANCE AND ENFORCEMENT

### ARTICLE 1. PLAN REVIEW AND PERMITS

**114380.**

(a) A person proposing to build or remodel a food facility shall submit complete, easily readable plans drawn to scale, and specifications to the enforcement agency for review, and shall receive plan approval before starting any new construction or remodeling of any facility for use as a retail food facility.

(b) Plans and specifications may also be required by the enforcement agency if the agency determines that they are necessary to assure compliance with the requirements of this part, including, but not limited to, a menu change or change in the facility's method of operation.

(c)

(1) All new school food facilities or school food facilities that undergo modernization or remodeling shall comply with all structural requirements of this part. Upon submission of plans by a school authority, the Office of the State Architect and the local enforcement agency shall review and approve all new and remodeled school facilities for compliance with all applicable requirements.

(2) Except when a determination is made by the enforcement agency that the nonconforming structural conditions pose a public health hazard, existing public and private school cafeterias and licensed health care facilities shall be deemed to be in compliance with this part pending replacement or renovation.

(d) Except when a determination is made by the enforcement agency that the nonconforming structural conditions pose a public health hazard, existing food facilities that were in compliance with the law in effect on June 30, 2007, shall be deemed to be in compliance with the law pending replacement or renovation. If a determination is made by the enforcement agency that a structural condition poses a public health hazard, the food facility shall remedy the deficiency to the satisfaction of the enforcement agency.

(e) The plans shall be approved or rejected within 20 working days after receipt by the enforcement agency and the applicant shall be notified of the decision. Unless the plans are approved or rejected within 20 working days, they shall be deemed approved. The building department shall not issue a building permit for a food facility until after it has received plan approval by the enforcement agency. Nothing in this section shall require that plans or specifications be prepared by someone other than the applicant.

**114381.**

(a) A food facility shall not be open for business without a valid permit.

(b) A permit shall be issued by the enforcement agency when investigation has determined that the proposed facility and its method of operation meets the specifications of the approved plans or conforms to the requirements of this part.

(c) A permit, once issued, is nontransferable. A permit shall be valid only for the person, location, type of food sales, or distribution activity and, unless suspended or revoked for cause, for the time period indicated.

(d) Any fee for the permit or registration or related services, including, but not limited to, the expenses of inspecting and impounding any utensil suspected of releasing lead or cadmium in violation of Section 108860 as authorized by Section 114393, review of HACCP plans, and alternative means of compliance shall be determined by the local governing body. Fees shall be sufficient to cover the actual expenses of administering and enforcing this part. The moneys collected as fees shall only be expended for the purpose of administering and enforcing this part.

(e) A permit shall be posted in a conspicuous place in the food facility or in the office of a vending machine business.

(f) Any person requesting the enforcement agency to undertake activity pursuant to Sections 114149.1 and 114419.3 shall pay the enforcement agency's costs incurred in undertaking the activity. The enforcement agency's services shall be assessed at the current hourly cost recovery rate.

**114381.1.** In addition to the permit issued to each food facility participating in a community event or swap meet, a permit shall be obtained by the person or organization responsible for facilities that are shared by two or more food facilities.

(a) The permit application and site plan shall be submitted to the enforcement agency at least two weeks prior to operation of any food facility.

(b) The site plan shall show the proposed locations of the food facilities, restrooms, refuse containers, potable water supply faucets, waste water disposal facilities, and all shared warewashing and handwashing facilities.

**114381.2.** A permit application shall be submitted to the enforcement agency by each temporary food facility operator that includes all of the following:

(a) A site plan that indicates the proposed layout of equipment, food preparation tables, food storage, warewashing, and handwashing facilities.
(b) Details of the materials and methods used to construct the temporary food facility.
(c) All food products that will be handled and dispensed.
(d) The proposed procedures and methods of food preparation and handling.
(e) Procedures, methods, and schedules for cleaning utensils, equipment, and structures, and for the disposal of refuse.
(f) How food will be transported to and from a permanent food facility or other approved food facility and the temporary food facility, and steps taken to prevent contamination of foods.
(g) How potentially hazardous foods will be maintained at or below 41°F or at or above 135°F.

**114387.** Any person who operates a food facility shall obtain all necessary permits to conduct business, including, but not limited to, a permit issued by the enforcement agency. In addition to the penalties under Article 2 (commencing with Section 114390), violators who operate without the necessary permits shall be subject to closure of the food facility and a penalty not to exceed three times the cost of the permit.

## ARTICLE 2. ENFORCEMENT

**114390.**

(a) Enforcement officers shall enforce this part and all regulations adopted pursuant to this part.
(b) (1) For purposes of enforcement, any authorized enforcement officer may, during the facility's hours of operation and other reasonable times, enter, inspect, issue citations to, and secure any sample, photographs, or other evidence from a food facility or any facility suspected of being a food facility, or a vehicle transporting food to or from a retail food facility, when the vehicle is stationary at an agricultural inspection station, a border crossing, or at any food facility under the jurisdiction of the enforcement agency, or upon the request of an incident commander.
(2) If a food facility is operating under an HACCP plan, the enforcement officer may, for the purpose of determining compliance with the plan, secure as evidence any documents, or copies of documents, relating to the facility's adherence to the HACCP plan. Inspection may, for the purpose of determining compliance with this part, include any record, file, paper, process, HACCP plan, invoice, or receipt bearing on whether food, equipment, or utensils are in violation of this part.
(c) Notwithstanding subdivision (a), an employee may refuse entry to an enforcement officer who is unable to present official identification showing the enforcement officer's picture and enforcement agency name. In the absence of the identification card, a business card showing the enforcement agency's name plus a picture identification card such as a driver's license shall meet this requirement.
(d) It is a violation of this part for any person to refuse to permit entry or inspection, the taking of samples or other evidence, access to copy any record as authorized by this part, to conceal any samples or evidence, withhold evidence concerning them, or interfere with the performance of the duties of an enforcement officer, including making verbal or physical threats or sexual or discriminatory harassment.
(e) A written report of the inspection shall be made and a copy shall be supplied or mailed to the owner, manager, or operator of the food facility.

**114393.**

(a) Based upon inspection findings or other evidence, an enforcement officer may impound food, equipment, or utensils that are found to be, or suspected of being, unsanitary or in such disrepair

that food, equipment, or utensils may become contaminated or adulterated, and inspect, impound, or inspect and impound any utensil that is suspected of releasing lead or cadmium in violation of Section 108860. The enforcement officer may attach a tag to the food, equipment, or utensils that shall be removed only by the enforcement officer following verification that the condition has been corrected.

(b) No food, equipment, or utensils impounded pursuant to subdivision (a) shall be used unless the impoundment has been released.

(c) Within 30 days, the enforcement agency that has impounded the food, equipment, or utensils pursuant to subdivision (a) shall commence proceedings to release the impounded materials or to seek administrative or legal remedy for its disposition.

**114395.** Except as otherwise provided in this part, any person who violates any provision of this part or regulation adopted pursuant to this part is guilty of a misdemeanor. Each offense shall be punished by a fine of not less than twenty-five dollars ($25) or more than one thousand dollars ($1,000) or by imprisonment in the county jail for a term not exceeding six months, or by both fine and imprisonment.

**114397.** The owner, manager, or operator of any food facility is responsible for any violation by an employee of any provision of this part or any regulation adopted pursuant to this part. Each day the violation occurs shall be a separate and distinct offense.

**114399.** A violation of any provision of this part or regulation adopted pursuant to this part relating to facilities held in common or shared by more than one food facility shall be deemed a violation for which the owner, manager, or operator of each food facility is responsible.

## ARTICLE 3. PERMIT SUSPENSION OR REVOCATION

**114405.**

(a) A permit may be suspended or revoked by a local enforcement officer for a violation of this part. Any food facility for which the permit has been suspended shall close and remain closed until the permit has been reinstated. Any food facility for which the permit has been revoked shall close and remain closed until a new permit has been issued.

(b) Whenever a local enforcement officer finds that a food facility is not in compliance with the requirements of this part, a written notice to comply shall be issued to the permitholder. If the permitholder fails to comply, the local enforcement officer shall issue to the permitholder a notice setting forth the acts or omissions with which the permitholder is charged, and informing him or her of a right to a hearing, if requested, to show cause why the permit should not be suspended or revoked. A written request for a hearing shall be made by the permitholder within 15 calendar days after receipt of the notice. A failure to request a hearing within 15 calendar days after receipt of the notice shall be deemed a waiver of the right to a hearing. When circumstances warrant, the hearing officer may order a hearing at any reasonable time within this 15-day period to expedite the permit suspension or revocation process.

(c) The hearing shall be held within 15 calendar days of the receipt of a request for a hearing. Upon written request of the permitholder, the hearing officer may postpone any hearing date, if circumstances warrant the action.

**114407.** The hearing officer shall issue a written notice of decision to the permitholder within five working days following the hearing. In the event of a suspension or revocation, the notice shall specify the acts or omissions with which the permitholder is charged, and shall state the terms of the suspension or that the permit has been revoked.

**114409.**

(a) If any imminent health hazard is found, unless the hazard is immediately corrected, an enforcement officer may temporarily suspend the permit and order the food facility immediately closed.

(b) Whenever a permit is suspended as the result of an imminent health hazard, the enforcement officer shall issue to the permitholder a notice setting forth the acts or omissions with which the permitholder is charged, specifying the pertinent code section, and informing the permitholder of the right to a hearing.

(c) At any time within 15 calendar days after service of a notice pursuant to subdivision (b), the permitholder may request in writing a hearing before a hearing officer to show cause why the permit suspension is not warranted. The hearing shall be held within 15 calendar days of the receipt of a request for a hearing. A failure to request a hearing within 15 calendar days shall be deemed a waiver of the right to a hearing.

**114411.** The enforcement agency may, after providing opportunity for a hearing, modify, suspend, or revoke a permit for serious or repeated violations of any requirement of this part or for interference in the performance of the duty of the enforcement officer.

**114413.** A permit may be reinstated or a new permit issued if the enforcement agency determines that the conditions that prompted the suspension or revocation no longer exist.

## ARTICLE 4. VARIANCE

**114417.** The department may issue a variance for only the provisions set forth in Section 113936, if in the opinion of the department, the alternative practice or procedure is equivalent to the respective requirements of this part and the alternative practice or procedure does not result in a health hazard.

**114417.1.**

(a) Within 180 days after the effective date of this part, the department shall develop the form of application that an applicant for a variance must submit. The department may amend the form as it deems appropriate. The application shall contain, at a minimum, the following information:

  (1) A detailed description of the requested variance, including citation to the relevant subdivisions specified in Section 113936.

  (2) An analysis of the science-based rationale upon which the proposed alternate practice or procedure is based, to include, if and as appropriate, microbial challenge and process validation studies demonstrating how potential health hazards dealt with in those subdivisions that are relevant to the requested variance will be addressed.

  (3) A description of the specific procedures, processes, monitoring steps, and other relevant protocols that will be implemented pursuant to the variance to address potential health hazards dealt with in those subdivisions specified in Section 113936 that are relevant to the requested variance.

  (4) An HACCP plan, if required pursuant to Section 114419, that includes all applicable information relevant to the requested variance.

(b) An application for a variance shall be submitted to the department, and must be accompanied at the time of submission by the fees specified in subdivision (c).

(c) Each application for a variance shall be accompanied at the time of submission by payment of fees sufficient to pay the necessary costs of the department as specified in Section 113717. Any overpayment by the applicant in excess of the recovery rate and other costs incurred shall be repaid to the applicant within 30 calendar days after final action is taken by the department on the application.

**114417.2.**

(a) Upon receipt of an application for a variance, the department shall determine whether the application is substantially complete and in compliance with Section 114417.1. Within 45 calendar days after submission of a complete application that complies with Section 114417.1, the department shall determine whether the alternate practice or procedure described in the application is satisfactory and at least the equivalent of the requirements of this part relating to preventing a health hazard.

(b) In the event that the department grants the variance, it shall issue to the applicant a variance letter that shall include, but not be limited to, the information specified in Section 114417.3.

(c) The department shall transmit a copy of its variance letter to all local enforcement agencies.

**114417.3.** Each variance letter shall include, have attached to it, or reference each of the following:

(a) The information specified in Section 114417.1. That information may be presented verbatim, in summary form, or by means of attachment.

(b) Detailed findings by the department as to the nature and extent of the potential hazards, if any, that might be implicated with respect to the requirements specified in this part, and the manner in which the alternate practice or procedure specified in the variance will address those hazards.

(c) The specifics of any operating restrictions or requirements upon which the granting of the variance is conditioned.

(d) If appropriate, the particular events, locations, and operations for which the variance is granted.

**114417.4.** A variance letter shall be valid solely with respect to those food facilities, events, locations, and operations expressly set forth and only on the specific terms and conditions upon which the variance is granted. A variance granted by the department shall be binding on every local enforcement agency.

**114417.5**. The permitholder shall retain a copy of the variance letter on file at the food facility at all times and shall make it available for inspection by the enforcement officer.

**114417.6.** If the department grants a variance, or if an HACCP plan is required pursuant to Section 114419, the permitholder shall do both of the following:

(a) Comply with the HACCP plan and procedures that are submitted as specified in Sections 114419.1 and 114419.2 and approved as a condition for the granting of the variance.

(b) Maintain and provide to the enforcement agency, upon request, records specified under a HACCP plan, or otherwise pursuant to the variance letter, that demonstrate that the following are routinely employed:

(1) Procedures for monitoring critical control points.

(2) Monitoring of the critical control points.

(3) Verification of the effectiveness of an operation or process.

(4) Necessary corrective actions if there is a failure at a critical control point.

**114417.7.**

(a) The department may suspend or revoke a variance if either of the following occurs:

(1) The department determines that the variance poses a hazard due to changes in scientific knowledge or the nature and extent of any hazard that might result.

(2) There is a finding that the food facility is not complying with specific terms and conditions pursuant to which the variance was granted.

(b) The department may suspend or revoke a variance upon the grounds specified in this section only after giving the permitholder written notice of the proposed suspension or revocation, which shall include the specific reasons why the variance is proposed to be suspended or revoked. The permitholder shall be given an opportunity to be heard, in person, in writing, or through a representative, at least 24 hours before the variance can be suspended or revoked.

## ARTICLE 5. HACCP EXEMPTIONS

**114419.**

(a) Food facilities may engage in any of the following activities only pursuant to an HACCP plan as specified in Section 114419.1:
  (1) Smoking food as a method of food preservation rather than as a method of flavor enhancement.
  (2) Curing food.
  (3) Using food additives or adding components such as vinegar as a method of food preservation rather than as a method of flavor enhancement, or to render a food so that it is not potentially hazardous.
  (4) Operating a molluscan shellfish life support system display tank used to store and display shellfish that are offered for human consumption.
  (5) Custom processing animals that are for personal use as food and not for sale or service in a food facility.
  (6) Preparing food by another method that is determined by the enforcement agency to require an HACCP plan.

(b) Food facilities may engage in the following only pursuant to an HACCP plan that has been approved by the department:
  (1) Using acidification or water activity to prevent the growth of Clostridium botulinum.
  (2) Packaging potentially hazardous food using a reduced-oxygen packaging method as specified in Section 114057.1, except if the food facility uses a reduced-oxygen packaging method to package hazardous food that always complies with the following standards with respect to packaging the hazardous food:
    (A) The food is labeled with the production time and date.
    (B) The food is held at 41 degrees Fahrenheit or lower during refrigerated storage.
    (C) The food is removed from its package in the food facility within 48 hours after packaging.

**114419.1.** For a food facility that is required under Section 114419 to have an HACCP plan, the plan and specifications shall indicate all of the following:

(a) A flow diagram of the specific food for which the HACCP plan is requested, identifying critical control points and providing information on the following:
  (1) Ingredients, materials, and equipment used in the preparation of that food.
  (2) Formulations or recipes that delineate methods and procedural control measures that address the food safety concerns involved.

(b) A food employee and supervisory training plan that addresses the food safety issues of concern.

(c) A statement of standard operating procedures for the plan under consideration including clearly identifying the following:
  (1) Each critical control point.
  (2) The critical limits for each critical control point.
  (3) The method and frequency for monitoring and controlling each critical control point by the food employee designated by the person in charge.
  (4) The method and frequency for the person in charge to routinely verify that the food employee is following standard operating procedures and monitoring critical control points.
  (5) Action to be taken by the person in charge if the critical limits for each critical control point are not met.
  (6) Records to be maintained by the person in charge to demonstrate that the HACCP plan is properly operated and managed.

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

**114419.2.**

(a) Applicable HACCP training shall be provided and documented for food employees who work in the preparation of food for which an HACCP plan has been implemented. Training given to food employees shall be documented as to date, trainer, and subject.

(b) Verification of critical limits specified in an HACCP plan shall be conducted by a laboratory approved by the department prior to implementation of the HACCP plan. Documentation of laboratory verification shall be maintained with the HACCP plan for the duration of its implementation.

(c) No verification of the effectiveness of a critical limit shall be required if the critical limits used in the HACCP plan do not differ from the critical limits set forth in this part.

(d) The person operating a food facility pursuant to a HACCP plan shall designate at least one person to be responsible for verification of the HACCP plan. Training for the designated person shall include the seven principles of HACCP and the contents of the HACCP plan as described in Section 114419.1. HACCP training records of the designated person shall be retained for the duration of employment, or a period of not less than two years, whichever is greater.

(e) Critical limit monitoring equipment shall be suitable for its intended purpose and shall be calibrated as specified by its manufacturer. The food facility shall maintain all calibration records for a period not less than two years.

**114419.3.**

(a) Except as specified in Section 114419, nothing in this section shall be deemed to require the enforcement agency to review or approve an HACCP plan.

(b) The enforcement agency shall collect fees sufficient only to cover the costs for review, inspections, and any laboratory samples taken.

(c) An HACCP plan may be disapproved if it does not comply with HACCP principles.

(d) The enforcement agency may suspend or revoke its approval of an HACCP plan without prior notice if the agency finds any of the following:

(1) The plan poses a public health risk due to changes in scientific knowledge or the hazards present.

(2) The food facility does not have the ability to follow its HACCP plan.

(3) The food facility does not consistently follow its HACCP plan.

(e) Within 30 days of written notice of suspension or revocation of approval, the food facility may request a hearing to present information as to why the HACCP plan suspension or revocation should not have taken place or to submit HACCP plan changes.

(f) The hearing shall be held within 15 working days of the receipt of a request for a hearing. Upon written request of the permitholder, the hearing officer may postpone any hearing date, if circumstances warrant that action.

(g) The hearing officer shall issue a written notice of decision within five working days following the hearing. If the decision is to suspend or revoke approval, the reason for suspension or revocation shall be included in the written decision.

**114421.**

(a) Each food facility that identifies a trade secret shall provide in writing to the enforcement agency the information they consider to be a trade secret.

b) The enforcement agency shall treat as confidential, to the extent allowed by law, information that meets the criteria specified in law for a trade secret and is contained on inspection report forms and in the plans and specifications submitted as specified under Section 114419.1.

**114423.** A microbial challenge study may be submitted to the enforcement agency for review for purposes of verifying that a food does not constitute a potentially hazardous food.

## ARTICLE 6. EXEMPTIONS

**114425.** Raw duck that otherwise would be readily perishable shall be exempt from Section 113996 for a period not to exceed two hours, if the duck will subsequently be cooked at or above a temperature of 350°F for at least 60 minutes.

(a) Whole Chinese-style roast duck shall be exempt from Section 113996 for a period not to exceed four hours after the duck is prepared, if the methods used to prepare the food inhibit the growth of microorganisms that can cause food infections or food intoxications. Nothing in this section shall be construed to supersede any provisions of this part, except the provisions specified in this section.

(b) For the purposes of this section, "Chinese-style roast duck" shall include, but not be limited to, Chinese-style barbecue duck, dry hung duck, and Peking duck. "Chinese-style roast duck" means duck which is prepared as follows:
   (1) The abdominal cavity is cleaned.
   (2) The duck is marinated.
   (3) The cavity is closed prior to cooking.
   (4) The duck is roasted at a temperature of 350°F or more for at least 60 minutes.

**114427.** The Mercado La Paloma, located at 3655 South Grand Avenue in Los Angeles, operated by Esperanza Community Housing Corporation, which is a public market open only on one side that meets the following criteria, shall be exempt from Section 114266:

(a) All facilities inside the Mercado La Paloma have overhead protection that extends over all food items.

(b) All facilities inside the Mercado La Paloma are enclosed on at least two sides.

(c) All facilities inside the Mercado La Paloma are under the constant and complete control of the operator.

(d) During periods of inoperation, food, utensils, and related items shall be stored so as to be adequately protected at all times from contamination, exposure to the elements, ingress of vermin, and temperature abuse.

(e) During all hours of operation, air curtains shall be in operation over all unclosed door openings to the outside to exclude flying pests.

**114429.**

(a) Notwithstanding Sections 113996 and 114343 and if permitted by federal law, a food facility may sell Korean rice cakes that have been at room temperature for no more than 24 hours.

(b) At the end of the operating day, Korean rice cakes that have been at room temperature for no more than 24 hours shall be destroyed in a manner approved by the enforcement agency.

(c) For purposes of this section, a "Korean rice cake" is defined as a confection that contains rice powder, salt, sugar, various edible seeds, oil, dried beans, nuts, dried fruits, and dried pumpkin. The ingredient shall not include any animal fats or any other products derived from animals.

(d) All manufacturers of Korean rice cakes shall place a label on the Korean rice cake as prescribed by Section 111223.

**114429.3**

(a) Notwithstanding Sections 113996 and 114343 and if permitted by federal law, a food facility may sell Vietnamese rice cakes that have been at no more than 70 degrees Fahrenheit for no more than 24 hours.

(b) Vietnamese rice cakes that have been at no more than 70 degrees Fahrenheit but have been stored for more than 24 hours shall be destroyed in a manner approved by the enforcement agency.

(c) All Vietnamese rice cakes shall bear a label meeting the requirements of Section 111223.

**114429.5.**

(a) Notwithstanding Sections 113996 and 114343, and if permitted by federal law, a food facility may sell Asian rice-based noodles that have been kept at room temperature for no more than four hours.

(b) Asian rice-based noodles that have been kept at room temperature shall be consumed or cooked within four hours of the date and time labeled on the product. Asian rice-based noodles that have been kept at room temperature shall be segregated for destruction from other Asian rice-based noodles in a manner approved by the local enforcement agency after four hours of the date and time labeled on the product.

(c) At the end of the operating day, Asian rice-based noodles that have been kept at room temperature for more than four hours shall be destroyed in a manner approved by the local enforcement agency.

(d) (1) For purposes of this section, an "Asian rice-based noodle" means a rice-based pasta that contains rice powder, water, wheat starch, vegetable cooking oil, and optional ingredients to modify the pH or water activity, or to provide a preservative effect. The ingredients shall not include any animal fats or any other products derived from animals. An Asian rice-based noodle is prepared by using a traditional method that includes cooking by steaming at not less than 130 degrees Fahrenheit, for not less than four minutes.

(2) If the Asian rice-based noodles maintain a pH of not more than 4.6, as measured at a temperature of 76 degrees Fahrenheit, a water activity of 0.85 or below, or have been determined by the department to be a nonpotentially hazardous food based on formulation and supporting laboratory documentation submitted to the department by the manufacturer, the restrictions provided in subdivisions (a) to (c), inclusive, shall not apply to the Asian rice-based noodles.

## ARTICLE 7. FOOD FACILITY FOOD DONATIONS

**114432.** Any food facility may donate food to a food bank or to any other nonprofit charitable organization for distribution to persons free of charge.

**114433.** No food facility that donates food as permitted by Section 114432 shall be subject to civil or criminal liability or penalty for violation of any laws, regulations, or ordinances regulating the labeling or packaging of the donated product or, with respect to any other laws, regulations, or ordinances, for a violation occurring after the time of the donation.

**114434.** The immunities provided in Section 114433 and by Section 1714.25 of the Civil Code are in addition to any other immunities provided by law, including those provided by Chapter 5 (commencing with Section 58501) of Part 1 of Division 21 of the Food and Agricultural Code.

## ARTICLE 8. CHILD DAY CARE FACILITIES, COMMUNITY CARE FACILITIES, AND RESIDENTIAL FACILITIES FOR THE ELDERLY

**114437.** If and when a specific appropriation is made available, the State Department of Social Services shall develop new regulations regarding food preparation provisions for child day care facilities, community care facilities, and residential care facilities for the elderly that would carry out the intent of this part to ensure the health and safety of individuals and that would not adversely affect those facilities that are safely operated. In developing proposed food preparation provisions for child day care facilities, the State Department of Social Services shall consult with the department and the State Department of Education.