

2022 FOOD CODE CHANGES OVERVIEW

The following is a summary of the changes made to the [2022 US FDA Food Code](#)

CHAPTER 1 PURPOSE AND DEFINITIONS	CODE REFERENCE	COMMENTS
Understanding the new definitions and terms could impact consumer advisory statements, allergen training, product handling, pesticide use, cook chill-specialized process plans and employee practices. Update standard operating procedures, training, etc. as needed.		
Shellstock is a live molluscan in the shell. In-shell product is nonliving, processed shellfish with one or both shells present. Shucked shellfish is such that both shells of this product are removed. Molluscan shellfish is inclusive of shellstock, in-shell product, and shucked shellfish.	1-201.10	These definitions are used in 3-202.17, 3-202.18, 3-203.11, 3-203.12 and 3-501.17. This may impact the way these products are labeled or described.
Intact meat: Cubing, pounding, and beef products vacuum tumbled with solutions are now included in the definition of products that are not considered intact meat. These products are <u>non-intact</u> .	1-201.10	This definition is used in 3-201.11 (E) Compliance with Food Law and in 3-401.11 Raw Animal Foods. This change may impact your SOP, training, and final cook temperatures for cooking certain types of meat.
Sesame added as the ninth major food allergen.	1-201.10	This new term is used in 2-103.11(O) and 3-602.11 This change will impact SOPs, training and labeling to include sesame as a declared allergen.
Revised the definition of the term “poisonous or toxic material” to include a new fifth category “Restricted Use Pesticide” (RUP).	1-201.10	This new term is used in 2-102.11, 7-202.12 and 7-206.11 Identify restricted use pesticides and ensure proper handling in your establishment. Restricted use pesticide is product applied only by a certified applicator or a person under the direct supervision of a certified applicator.
Term “ready to eat” (RTE) replaces “fruit and vegetables” with “plant foods” and revised to indicate what RTE food does not include in one section.	1-201.10	This new term is used in 3-401.13 and under the definition of RTE. A list of what is not included in “RTE” is in FDA Food Code 2022 Chapter 1. Purpose and Definitions Chapter 1-16 (A)
Phrase “which have the air expelled” deleted from the definition of the term “Reduced Oxygen Packaging” (ROP) specific to cook chill packaging.	1-201.10	ROP includes cook chill packaging in which cooked food is hot-filled into impermeable bags that are then sealed or crimped closed. The bagged food is rapidly chilled and refrigerated at temperatures that inhibit the growth of psychotropic pathogens. This change clarifies that mechanical air removal is not needed for a process to be considered ROP. Facilities should review procedures to determine if processes do or do not meet this new ROP definition.

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<p>New term “tobacco product” was added to have the meaning as stated in the Federal Food, Drug and Cosmetic Act §201(rr) (21U.S.C. 321(rr)).</p> <p>The FDC Act states: the term “tobacco product” means any product made or derived from tobacco, or containing nicotine from any source, that is intended for human consumption, including any component, part, or accessory of, a tobacco product.</p>	1-201.10	<p>This new term is used to replace the word “tobacco” wherever it is used in the Food Code.</p> <p>FDA has determined that electronic nicotine delivery systems (ENDS) products, such as vapes, are tobacco products.</p> <p>This may impact certain restrictions on tobacco use, when to wash hands, etc.</p>

CHAPTER 2 MANAGEMENT AND PERSONNEL	CODE REFERENCE	COMMENTS
<p>A new exception section (B) was added under SUPERVISION/RESPONSIBILITY. Referring to the permit holder; the permit holder shall be the person in charge (PIC) or designate a PIC to be present at the food establishment during all hours of operation.</p> <p>The new addition (B) states: B) This section does not apply to certain types of food establishments deemed by the regulatory authority to pose minimal risk of causing, or contributing to, foodborne illness based on the nature of the operation and extent of the food preparation. Pf</p>	<p>2-101.11</p> <p>NOTE: The FDA summary says that a new section (C) has been added. This appears to be an error. The new addition is section (B).</p>	<p>Regulators have the authority to exclude certain types of food establishments from PIC requirements.</p> <p>An example may be to not require a certified PIC for establishments only selling packaged food. If you feel your establishment falls under this exception, reach out to your regulatory authority.</p>
<p>Section (J) was added under DUTIES OF PERSON IN CHARGE.</p> <p>Food employees are properly maintaining the temperature of time/temperature control for safety (TCS) foods during thawing through daily oversight of the food employee’s routine monitoring of food temperatures.</p>	2-103.11 (J)	<p>PIC charge duties have expanded to include monitoring the thawing process. Update PIC SOPs and training as needed.</p> <p>Identify employees who may require additional training to perform these duties.</p>
<p>Section (O) amended to indicate what food allergy awareness includes.</p> <p>Food allergy awareness includes 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.</p>	2-103.11 (O)	<p>Allergen awareness employee training requirements/ standards have been defined. Update allergen SOPs and training as needed.</p>

CHAPTER 3 FOOD	CODE REFERENCE	COMMENTS
<p>Amended to remove “labeled by” and replaced with “received from a food processing plant” to identify the type of beef and the source.</p> <p>Source of whole-muscle, intact beef is amended to clarify the methods for identifying the source and to identify intact beef steaks that are intended for consumption in an undercooked form without a consumer advisory.</p>	<p>3-201.11(E)(1)</p> <p>3-201.11(E)(3)(a)</p>	<p>Clarifies that labeling of beef as intact or non-intact is not required (consistent with USDA-FSIS regulations).</p> <p>Amendment is to ensure non-intact beef is not mistaken for, or used in the same manner as, intact meat.</p> <p>FDA has also developed an intact steak decision-tree to help food establishment operators determine whether a steak is intact or non-intact.</p> <p>www.fda.gov/media/163808/download</p>

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<p>Amended to include invoice as proper documentation for molluscan shellfish.</p> <p>Molluscan shellfish tags or labels shall remain attached to the container in which shellstock are received until the container is empty and (B) the date when the last molluscan shellfish from the container is sold or served shall be recorded on the tag, label or invoice. (C) The identity of the source of molluscan shellfish that are sold or served shall be maintained by retaining product tags, labels or invoices for 90 calendar days from the date that is recorded on the tag, label or invoice as specified.</p>	3-203.12 (B) (C)	<p>Invoices may now be used and held for 90 days as documentation for molluscan shellfish source and last sold/served.</p> <p>Update documentation SOPs and training if this applies to your processes.</p>
<p>Added new subpart on food donation.</p> <p>Added “food donation” as a new title, to indicate when food may be offered for donation.</p>	<p>3-204</p> <p>3-204.10</p>	<p>The term “food donation” has been added to the Food Code.</p> <p>Also applies to 8-101.10</p> <p>Review all food donation processes and ensure SOPs and training are in line with guidelines for storage, production and food handling.</p>
<p>Amended to add an additional exception when raw animal food does not need separation from RTE food.</p> <p>Food shall be protected from cross-contamination during storage, preparation, holding and display, except under specific procedures. These specific procedure exceptions include using separate equipment for each food type, arranging each type of food in equipment so cross-contamination of one type is prevented, preparing each type of food at different times in different areas, or when combined as ingredients.</p>	3-302.11(A) (1)	<p>Raw and RTE food may be combined as ingredients if intended to be consumed together. Example: sushi rolls.</p> <p>Revise SOPs and training as needed.</p>
<p>Amended to include reference for the use of produce wash testing devices.</p> <p>Fruits and vegetables may be washed by using chemicals as specified, and a test kit or other device that accurately measures the active ingredient concentration of the fruit and vegetable wash solution may be provided.</p>	3-302.15 (B)	<p>This amendment does not state that test kits or measuring devices shall be provided, but rather says they MAY be provided.</p> <p>However, it is commonly required by regulators that when using an EPA registered product that includes a “use concentration” on the label, the user should be able to test and verify they are following the label instructions.</p>
<p>Amended to revise risk designation from core to Priority Foundation (Pf).</p> <p>Food may not be stored in (B) toilet rooms.</p>	3-305.12 (B)	<p>It is now a Priority Foundation violation to store food in a toilet room. Guidance does not change; SOPs and training should include proper storage of food.</p> <p>This could impact scoring changes on inspections and assessments.</p>
<p>Deleted the names of specific types of non-intact meat and just use the term ‘non-intact’ as it is now defined.</p>	<p>3-401.11(A)(2)</p> <p>3-401.11(C)(2)</p>	<p>By deletion, it is clarified that intact beef does not have to be labeled as intact (aligns with FSIS which does not require this labeling). Amendment states: “the steak is prepared so that it remains intact”.</p> <p>Retailers should be aware of whether beef is intact or non-intact, but labeling for this is not required.</p>

CHAPTER 3 FOOD	CODE REFERENCE	COMMENTS
<p>Amended to add new section addressing manufactured food cooking instructions.</p> <p>Manufacturer Cooking Instructions:</p> <p>(A) Commercially packaged food that bears a manufacturer's cooking instructions shall be cooked according to those instructions before use in RTE foods or offered in unpackaged form for human consumption, unless the manufacturer's instructions specify that the food may be consumed without cooking. (B) Food for which the manufacturer has provided information that it has not been processed to control pathogens, when used in RTE foods or offered for human consumption, shall be cooked according to a time and temperature appropriate for the food.</p>	3-401.15	<p>Commercially packaged food that bears a manufacturer's cooking instructions, such as frozen peas, corn or other vegetables, shall be cooked according to those instructions before use in RTE foods or offered in unpackaged form for human consumption, unless the manufacturer's instructions specify that the food may be consumed without cooking.</p> <p>Be aware of manufacturer cooking instructions. SOPs and training should be revised as needed. This may impact the use of certain items, such as frozen peas, served as RTE food on salad bars or used in deli salads.</p>
<p>Amended to redesignate from a core item to a Priority foundation (Pf) item.</p> <p>Except as specified, TCS food shall be thawed: (A) under refrigeration that maintains the food temperature at 5°C (41°F) or less Pf; or (B) completely submerged under running water: (1) at a water temperature of 21°C (70°F) or below Pf, (2) with sufficient water velocity to agitate and float off loose particles in an overflow Pf, and (3) for a period of time that does not allow thawed portions of RTE food to rise above 5°C (41°F) Pf, or (4) for a period of time that does not allow thawed portions of a raw animal food requiring cooking as specified or (B) to be above 5°C (41°F), for more than 4 hours including: (a) the time the food is exposed to the running water and the time needed for preparation for cooking Pf, or (b) the time it takes under refrigeration to lower the FOOD temperature to 5°C (41°F) Pf; (C) as part of a cooking process if the food that is frozen is: (1) cooked as specified Pf, or (2) thawed in a microwave oven and immediately transferred to conventional cooking equipment with no interruption in the process Pf.</p>	3-501.13 (A-C)	<p>Improper thawing processes are now considered a Priority foundation violation. Guidance does not change; SOPs and training should include proper thawing processes.</p> <p>This could impact scoring changes on inspections and assessments.</p>

CHAPTER 3 FOOD	CODE REFERENCE	COMMENTS
<p>Added new subparagraph to address using time as a public health control for up to 4 hours for RTE produce or hermetically sealed food that becomes a TCS food only after it is cut, chopped or opened.</p> <p>If time without temperature control is used as the public health control, up to a maximum of 4 hours, (2) the food may have an initial temperature of 21°C (70°F) or less if; (c) it is a RTE fruit or vegetable that upon cutting is rendered a TCS food, or (d) it is a RTE, hermetically sealed food that upon opening is rendered a TCS food, and (e) the food temperature does not exceed 21°C (70°F) within a maximum time period of 4 hours from the time it was rendered a TCS food; and (f) the food is marked or otherwise identified to indicate the time that is 4 hours past the point in time when the food is rendered a TCS food.</p>	3-501.19 (B)(2)	<p>Foods that are not considered TCS until cut or opened (such as tomatoes, sealed products, canned tuna), may be held using time as a public health control up to 4 hours starting with an internal temperature of 21°C (70°F) or less.</p> <p>This procedure only permits holding these types of foods using time as a public health control for 4 hours (not 6 hours).</p> <p>Update SOPs and training to reflect using time as a public health control for these specific foods.</p> <p>All other types of TCS foods using time as a public health control for up to 4 hours must have an initial temperature of 5°C (41°F) or less when removed from cold holding temperature control, or 57°C (135°F) or greater when removed from hot holding temperature control; Pf</p>
<p>Adds “allergen labeling” to the list of label information on bulk food available for consumer self-dispensing.</p> <p>(C) Bulk FOOD that is available for CONSUMER self-dispensing shall be prominently labeled with the following information in plain view of the CONSUMER: (1) the manufacturer’s or processor’s label that was provided with the FOOD; or (2) a card, sign or other method of notification, that includes the information specified under subparagraphs (B)(1), (2), (5) and (6) of this section.</p> <p>B (5) The name of the food source for each major food allergen contained in the food unless the food source is already part of the common or usual name of the respective ingredient; Pf</p>	3-602.11	<p>Labels on bulk food for consumer self-dispensing may need to be modified to include major allergens if present in the food.</p> <p>There is an exemption to this labeling:</p> <p>(D) Bulk, unpackaged foods such as bakery products and unpackaged foods that are portioned to consumer specification need not be labeled if: (1) a health, nutrient content, or other claim is not made; (2) there are no state or local laws requiring labeling; and (3) the food is manufactured or prepared on the premises of the food establishment, at another food establishment, or a food processing plant that is owned by the same person and is regulated by the food agency that has jurisdiction.</p>

CHAPTER 4 EQUIPMENT, UTENSILS AND LINENS	CODE REFERENCE	COMMENTS
Amended to clarify that equipment that has been certified for conformance to an appropriate American National Standard is deemed to comply with the equipment sanitation provisions contained in Parts 4-1 and 4-2.	4-205.10	Food equipment should be certified based on a standard that is designated as American National Standards.

CHAPTER 4 EQUIPMENT, UTENSILS AND LINENS	CODE REFERENCE	COMMENTS
Amended to add the risk designation of Priority foundation (Pf) item that was inadvertently left off in the 2017 Food Code. Cleaning agents that are used to clean equipment and utensils shall be provided and available for use during all hours of operation. Pf (B) Except for those that are generated on-site at the time of use, chemical sanitizers that are used to sanitize equipment and utensils, shall be provided and available for use during all hours of operation. Pf	4-303.11	The lack of cleaning agents and sanitizers used to clean equipment and utensils is now a Priority foundation violation. Guidance does not change. SOPs and training should include cleaning agents and sanitizers available at all times. This could impact scoring changes on inspections and assessments.
Amended to revise risk designation from core to Priority foundation (Pf) item. 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, may not be located: (2) in toilet rooms; Pf	4-401.11(A) (2) 4-903.12 (A) (2)	Guidance does not change. SOPs should include proper storage of food and equipment. Ensure cabinets used for the storage of food, or to store cleaned and sanitized equipment, utensils, laundered linens and single use articles, are not located in toilet rooms. This could impact scoring changes on inspections and assessments.

CHAPTER 5 WATER, PLUMBING, AND WASTE	CODE REFERENCE	COMMENTS
Amended to revise the hot water temperature at the hand sink from at least 38°C (100°F) to at least 29.4°C (85°F).	5-202.12 (A)	Revise standard operating procedures (SOPs) of hot water temperature at the hand sink from at least 38°C (100°F) to at least 29.4°C (85°F). SOP for handwashing can be revised from washing with water at 38°C (100°F) to washing with water at least 29.4°C (85°F). Handwashing sink must be capable of delivering running water that is at least 29.4°C (85°F).
Amended to delete the exception and allowance of chemically treated towelettes for handwashing when for temporary use.	5-203.11 (C)	Remove use of chemically treated towelettes for handwashing from all general and crisis SOPs and training.

CHAPTER 6 PHYSICAL FACILITIES	CODE REFERENCE	COMMENTS
Amended to allow pet dogs in outdoor dining areas, where approved.	6-501.115 (D)	If your establishment would like to allow pet dogs in outdoor dining areas, seek approval from regulatory authority. When developing a plan for approval there are key areas to consider including: vaccination status of the dog, restraining dog, alerting signage, preparing food for dogs, emergency protocol and maintaining the outdoor dining area.

CHAPTER 7 POISONOUS OR TOXIC MATERIALS	CODE REFERENCE	COMMENTS
Amended to include the prohibition of storage, transport, or dispensing of, equipment, utensils, linens, single-service, or single-use articles, in containers previously used for storing toxic chemicals. The section previously only mentioned the prohibition of storing food in these containers.	7-203.11	Update SOPs and training to include prohibition of storage, transport or dispensing of equipment, utensils, linens, single-service, or single-use articles and food, in containers previously used for storing toxic chemicals.

CHAPTER 8 COMPLIANCE AND ENFORCEMENT	CODE REFERENCE	COMMENTS
<p>Amended to include “or donated” in the application of this Code in public health protection.</p> <p>Regulatory shall apply this code to promote its underlying purpose, of safeguarding public health and ensuring that food is safe, unadulterated and honestly presented, when offered to the consumer or donated.</p>	8-101.10 (A)	<p>Follow food receiving, storage and preparation guidelines, for donated foods as you would food for service to consumers. Update SOPs and training as needed.</p> <p>Refer to new Subpart 3-204 for food donation requirements.</p>
<p>Amended to include a new paragraph (A) addressing maintenance of approved variance at the food establishment.</p> <p>If the regulatory authority grants a variance or a HACCP plan is otherwise required, the permit holder shall: (A) maintain the approved variance at the food establishment.</p>	8-103.12 (A)	<p>Ensure approved specialized process or HACCP plans are maintained at each establishment.</p> <p>Update plans and get approval from regulatory authority as procedures change and/or as required.</p>

This synopsis of the FDA’s “Summary of Changes in the 2022 FDA Food Code” is intended only for informational purposes and does not constitute legal or regulatory advice. Specific questions on adoption of these changes or regulatory interpretation should be directed to regulatory authority or legal counsel. For questions related directly to this summary, please contact your local Ecolab representative.