



2022 Food Code

US Food and Drug Administration (FDA)

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2022

Food Code

U.S. Food and Drug Administration



U.S. Department of Health and Human Services
U.S. Food and Drug Administration
U.S. Public Health Service
College Park, MD 20740

FDA

**U.S. FOOD & DRUG
ADMINISTRATION**

CENTER FOR FOOD SAFETY & APPLIED NUTRITION

FDA/CFSAN Retail Food Policy Team



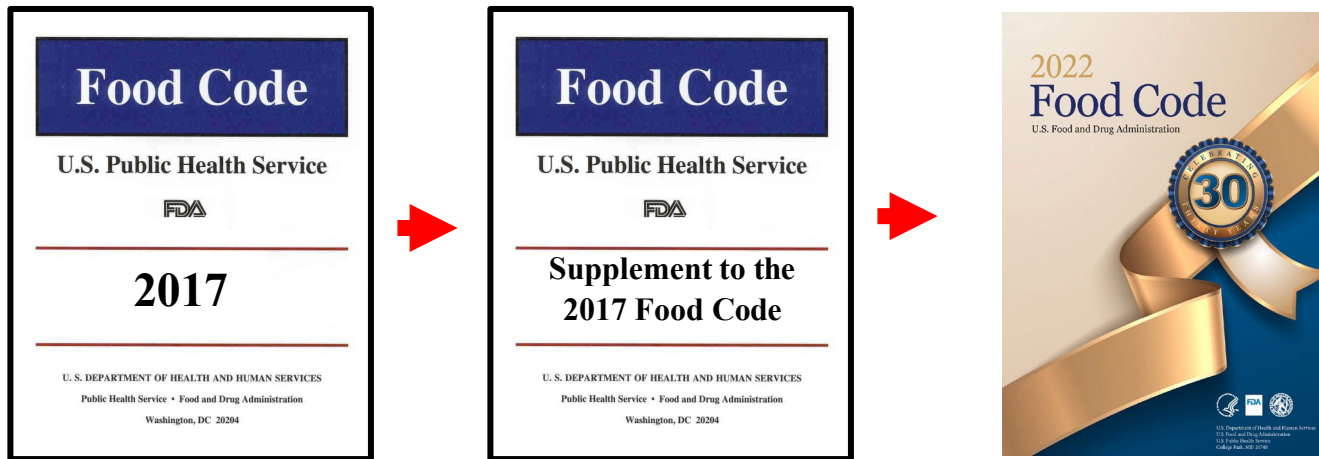
The FDA Food Code

- Provides FDA's current thinking on food safety and sanitation in the retail food sector.
- Can be uniformly adopted as a statute, regulation or ordinance for the retail, food service and vending segment of the food industry.
- Result of the efforts and recommendations of many collaborating individuals, agencies, and organizations.
- Embraces the concept that our quality of life, state of health, and the public welfare are directly affected by how we collectively provide and protect our food.

Adoption / National Model

- Uniform national standards for retail food safety to reduce complexity and ensure better compliance.
- The process for updating laws and regulations at the state and local level is made more efficient by eliminating redundant processes for establishing food safety criteria.
- A more standardized approach to inspection and audits of food establishments can be established.

FDA Food Code



Changes to the 2017 Food Code go into its Supplement and eventually incorporated into the 2022 “Full Edition”

www.fda.gov/foodcode

www.fda.gov/foodcode

Availability and Summary of Changes

Amendatory Terms

- **Add** - means a new provision has been inserted in the Food Code.
- **Redesignate** - means to modify a Food Code provision by reformatting the text of the provision into a new structural nomenclature designation.
- **Remove** - means an existing provision is being taken out of the Food Code.
- **Revise** - means an existing Food Code provision is replaced in part, or in its entirety.

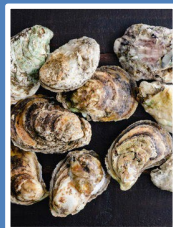
CHAPTER 1

Changes to Defined Terms ¶1-201(B)

Revised Definitions

- “**Certification number**” to include all the certification and permit codes that may be found on a shellfish tag or label.
- “**Commingle**” to align with the NSSP Model Ordinance.
- “**Molluscan shellfish**” to clarify that the term is inclusive of shellstock, in-shell product, and shucked shellfish.
- “**Shellstock**” to clarify that it is live molluscan shellfish in the shell.
- “**Shucked shellfish**” to clarify that both shells of this product are removed.

Molluscan Shellfish



Shellstock



Shucked Shellfish



In-shell Product

New Definition “In-shell product”

“**In-shell Product**” means non-living, processed shellfish with one or both shells present.

Revised “Intact meat”

Revised the definition of “Intact Meat” to clarify that beef products that are vacuum tumbled with solutions, cubed or pounded are also not considered intact meat.

Revised “Mechanically tenderized”

To be consistent with the USDA FSIS description of “mechanically tenderized”.



Revised "Poisonous or toxic materials"

Added previously defined term "Restricted use pesticide" (RUPs) as the 5th category in the definition of "Poisonous or toxic materials"

Revised “Ready-to-eat food”

- Amended (2)(c) to replace “Fruits and vegetables” with “Plant foods”
- Amended to add new (3) to address the new §3-401.15 Manufacturer Cooking Instructions.

Revised “Reduced oxygen packaging” (2)(d) Cook chill

Removed the phrase “which have the air expelled” from the definition of ROP in ¶1-201.10(B) in subparagraph (2)(d) specific to cook chill packaging.

- Corresponding change made to language in Annex 6 Food Processing Criteria

New Definition “Tobacco product”

“Tobacco product” has the meaning stated in the Federal Food, Drug and Cosmetic Act §201(rr).

Made corresponding changes:

- Throughout the Code - wherever the term “tobacco” used, replaced with term “tobacco products”

CHAPTER 2

Management and Personnel

Amended sub ¶¶ 2-201.11(D)(1) and (D)(2)

Employees with diagnosed, asymptomatic NTS should be restricted, not excluded. The cross-reference to ¶ 2-201.12 (G) was moved from sub¶ 2-201.11(D)(1) to sub¶ 2-201.11(D)(2) to correct the misplaced cross-reference.

§2-103.11 Person in Charge - Duties

Amended to add new ¶(J) to address additional duty requirement for PIC to ensure food employees are properly maintaining the temperature of TCS foods during thawing.

- Redesignated ¶s (J) – (P) as new ¶s (K)-(Q)

§2-103.11 Person in Charge - Duties

Amended to revise ¶2-103.11 (O) to provide more clarity on what food allergy awareness includes describing:

- Foods identified as a major food allergen
- Symptoms that a major food allergen could cause in a sensitive individual who has an allergic reaction



CHAPTER 3

Food

ISSC Harmonization

- Aligns Food Code definitions with NSSP Model Ordinance definitions
- Makes changes to flow of the provisions
- Clarifies record keeping
- Improves Annex language to provide context, tools, and research
- Changes the marking instructions



Flow of Molluscan Shellfish Provisions

- Amended to renumber § 3-202.19, Shellstock, Condition as the new § 3-202.17
- Amended to re-number and merge § 3-202.17 with § 3-202.18 as the new § 3-202.18, cross-referenced ISSC Model Ordinance
- Amended corresponding cross-reference in ¶ 3-201.11(C)
- Amended to remove the term “shellstock” and replace with term “molluscan shellfish”

Shellfish Provisions Cont'd

- Amended §3-203.12 title and entire section to replace the phrase “Shellstock and Shucked Shellfish” with the term “Molluscan Shellfish”.
- Amended ¶ 3-203.12(B) and (C) to include an invoice as appropriate documentation.

§3-201.11 Compliance with Law



Harmonized language with USDA/FSIS on whole muscle intact beef steaks

- Amended 3-201.11(E)(1),(3)(a) and (3)(c)
- (E)(1)-indicates the type of steak to obtain from a processing plant
- (E)(3)(a)-removed “labeled by” and replaced with “received from a”
- (E)(3)(c)-Deleted

§3-201.11 Compliance with Law Cont'd

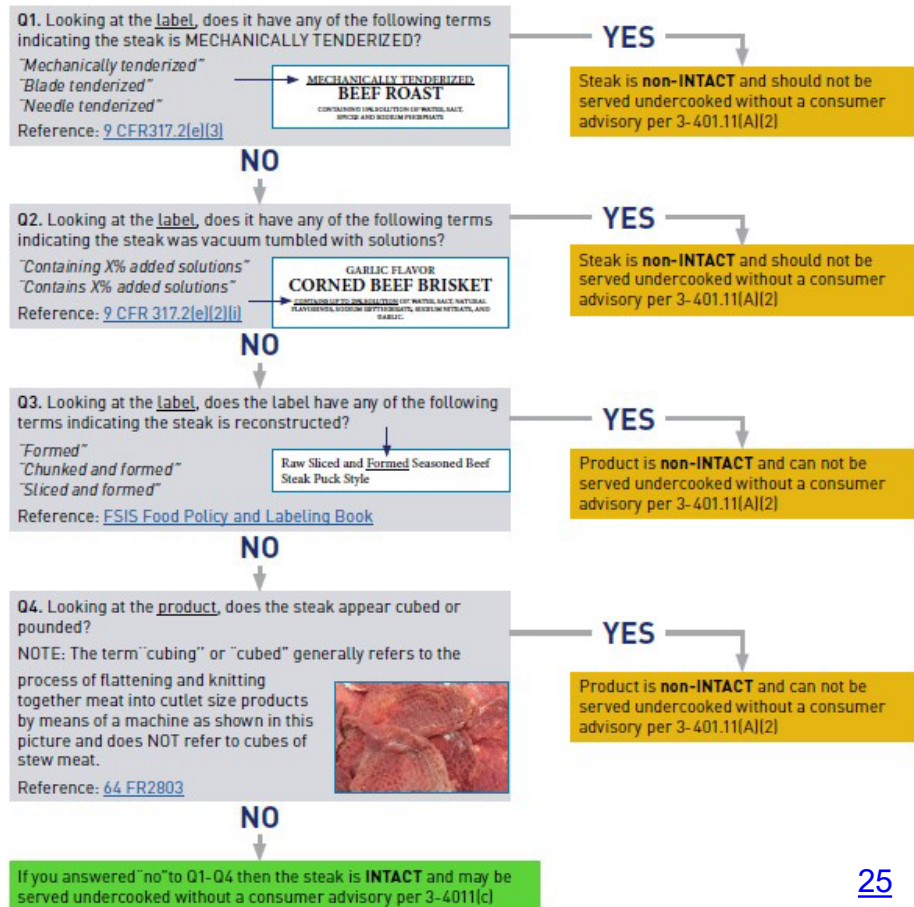


Intact Steak Decision-Tree for Food Establishments and Regulators



Per the 2022 FDA Food Code, subparagraph 3-401.11(C)(2) "A raw or undercooked WHOLE-MUSCLE, INTACT BEEF steak may be served or offered for sale in a READY-TO-EAT form" if it is INTACT and seared. This is because pathogens should only be present on the surface. The following decision-tree may be used to determine if a steak is INTACT. A steak is INTACT if it has not undergone COMMINUTION, MECHANICAL TENDERIZATION, vacuum tumbling with solutions, or reconstruction, cubing or pounding. If a steak is non-INTACT, pathogens may be on the inside. Therefore, a non-INTACT steak should be cooked to 155°F for 17 seconds or equivalent per 3-401.11(A)(2).

Use this as a guide in determining whether your steak is intact or non-intact.



<https://www.fda.gov/media/163808/download>

NEW Subpart and Section!

Subpart 3-204 and §3-204.10 Food Donations

- Added new Subpart 3-204, under Part 3-2 to address food donations
- Created new § 3-204.10 Food Donation to indicate when food may be offered for donation

Made corresponding changes to:

- § 8-101.10 Public Health Protection
- Annex 2 References
- Annex 3 Public Health Reasons

§3-302.11 Packaged and Unpackaged Food-Separation, Packaging and Segregation

- Amended subpart 3-302.11(A)(1) to add an additional exception indicating instances when raw animal food does not need separation from RTE food.
- Made corresponding changes to
 - Annex 3 PHR and
 - Guide 3B Marking Instructions

§3-302.15 Washing Fruits and Vegetables

Amended ¶(B) to include reference for the use of produce wash testing devices.

- Note: ¶(B) is in *italics*, which indicates it is not a requirement, it is an exception and alternative means for compliance. Using produce washes is not a requirement of the Food Code.



§3-305.12 Food Storage, Prohibited Areas

- Amended risk designation for storage in toilet rooms from Core to Priority Foundation

Made corresponding changes to:

- §4-401.11 Equipment, Clothes Washers and Dryers, and Storage Cabinets, Contamination Prevention
- §4-903.12 Prohibitions

§3-401.11 Raw Animal Foods

- Sub ¶ 3-401.11(A)(2) delete the terms “mechanically Tenderized”, “injected” and replaced with “nonintact meat”
- ¶ 3-401.11(C) to align with FSIS labeling requirements for mechanically tenderized beef products.

NEW SECTION



§3-401.15 Manufacturer Cooking Instructions

- (A) addresses when the commercially packaged food bears a manufacturer's cooking instructions.
- (B) addresses information provided by the manufacturer that the food has not been processed to control pathogens.
- Corresponding changes to cross references:
 - Amended subpart §3-501.13 (C)(1) to include a new cross reference to new §3-401.15.
 - Amended subpart §3-801.11 (C)(4) with cross reference to new §3-401.15.

NEW! Major Food Allergen Notifications

¶3-602.11(C)(2) and ¶3-602.12(C)

- Amended sub¶ 3-602.11(C)(2) to add a cross reference to address major food allergen labeling in bulk food available for consumer self dispensing
- Added a new ¶3-602.12(C) to inform consumers of major food allergens in unpackaged foods via written means

Made corresponding changes to:

- Annex 3 Public Health Reasons
- Annex 7, Guide 3B



Updating cross-references from 21 CFR 110 to 21 CFR 117

Throughout the Code, all cross-references to 21 CFR 110 were updated to cross-reference 21 CFR 117

CHAPTER 5

Water, Plumbing and Waste

§5-202.12 Handwashing Sinks, Installation

- Amend § 5-202.12 Handwashing Sink, Installation to change the hot water temperature at the hand sink from at least 38°C (100°F) to at least 29.4°C (85°F)
- Corresponding changes to:
 - Annex 3 (PHR) § 5-202.12 Public Health Reasons Handwashing Sink, Installation

CHAPTER 6

Physical Facilities

§6-501.115 Prohibiting Animals

- Amended to add new exception ¶(D) to allow for pet dogs in outdoor dining areas where approved.
- Amended Annex 3 to include developing a plan for approval, key areas of consideration, and addressing hazards



Made corresponding change to:

¶6-501.115(A) – added new cross reference to new ¶(D)

CHAPTER 7

Poisonous or Toxic Materials

§7-202.12 Conditions of Use

- Removed the reference to “Restricted use pesticide” in sub-¶ 7-202.12(B)(2)
- Corresponding with changes to:
 - Revised definition of “Poisonous or toxic materials”
 - § 7-202.12 entire provision applies to “Poisonous or toxic materials”
 - ¶(A) Used according to...; and
 - ¶(B) Applied so that...



§7-203.11 Poisonous or Toxic Material, Containers

Amended to include the prohibition of storage of equipment, utensils, linens, single-service, or single-use articles in containers previously used for storing toxic chemicals.

Annex 2: References

Revised and updated Bibliography and Supporting Documents throughout Annex 2

- Updated expired weblinks
- Updated titles (i.e. to include new term Tobacco Products)
- Added new references as needed

***Refer to Summary of Changes document for complete list*

<https://www.fda.gov/food/fda-food-code/summary-changes-2022-fda-food-code>

Annex 3: Public Health Reasons/Administrative Guidelines

Amended to add or revise public health reasons for amended codified language throughout Annex 3.

Examples include:

- **¶1-201.10(B)** Terms Defined, “Time/Temperature Control for Safety Food”
- **§3-302.11** Packaged and Unpackaged Food – Protection Separation, Packaging, and Segregation.
- **§ 3-401.15** Added Public Health Reasons for new §3-401.15 Manufacturer Cooking Instructions
- **§3-202.18** Molluscan Shellfish, Packaging and Identification.



Annex 4: Management of Food Safety Practices – Achieving Active Managerial Control of Foodborne Illness Risk Factors

Amended due to codified language changes.

Examples include:

- The HACCP Principles, Category (A)(4) Food Allergens As Food Safety Hazards
- Tables 2a-b Common Chemical Hazards at Retail

Annex 7 – Model Forms, Guides, and other Aides

Form 3-A Food Establishment Inspection Report

- Updated item #'s corresponding to revisions in codified text
 - Item 1: Supervision
 - Item 6: Proper eating, tasting, drinking or tobacco products
 - Item 14: Molluscan Shellfish

Annex 7 – Model Forms, Guides, and other Aides, Cont'd

Guide 3B – Instructions for Marking the Food Establishment Inspection Report

- Item 1
- Item 6
- Item 11
- Item 14
- Item 15
- Item 18

This slide only depicts changes applicable to the 2022 FC and does not reflect changes made to the Supplement to the 2017 FC



Email: retailfoodpolicyteam@fda.hhs.gov

Website: <http://www.fda.gov/RetailFoodProtection>

Additional Resources:

Main FDA Retail Food Protection web page: <https://www.fda.gov/food/guidance-regulation-food-and-dietary-supplements/retail-food-protection>

FDA Food Code main web page: www.fda.gov/foodcode (has several past and current versions of the Food Code)

o 2022 Food Code main web page: [Food Code 2022 | FDA](https://www.fda.gov/foodcode/2022-food-code)

o 2022 Food Code direct link to the PDF: <https://www.fda.gov/media/164194/download>

o Summary of Changes to the 2022 Food Code (direct link to the PDF document): <https://www.fda.gov/food/fda-food-code/summary-changes-2022-fda-food-code>

Industry Training resources web page: <https://www.fda.gov/food/retail-food-protection/retail-food-industryregulatory-assistance-training>

Food Code Reference System (FCRS): <https://www.fda.gov/food/fda-food-code/food-code-reference-system>

The FCRS is an online searchable database of interpretations of the Food Code.

Use term 'handwashing' to see the interpretation of the Food Code section on the temperature requirement for water at the handsink