

Overview and Potential Impact 2009 vs 2017 Food Code and Rule Changes

This overview reviews changes that would directly impact food service operators. Categorization of potential impact to operators consider the possible burden of time, staff, and/or funding.

High Impact

2-102.12

Adds requirement that the Person in Charge (PIC) be a Certified Food Protection Manager (CFPM). This will require a CFPM to be onsite during all hours of operation. (more restrictive)

Moderate Impact

2-103.11(I)

Adds requirement for the Person in Charge (PIC) to ensure employees are routinely monitoring foods during hot- and cold-holding. (more restrictive)

2-501.11

Adds requirement for a food establishment to have written procedures for employees to follow when responding to vomiting or diarrheal events that involve the discharge of vomitus or fecal matter onto surfaces in the food establishment. (more restrictive)

3-401.11

Amends the times by which raw animal food must be cooked and held to destroy pathogenic organisms by raw animal food type. (more restrictive).

3-401.14

Allows raw animal food cooked in a noncontinuous manner to follow normal cooking requirements for that animal food type. The prior requirement is to cook all to 165°F for 15-seconds, regardless of animal food type. (less restrictive)

3-602.11

Adds to the requirements of food labels the term “sub-ingredients” to clarify that the individual ingredients of a main ingredient must be disclosed in the statement of ingredients. (more restrictive)

Low Impact

2-102.11 to 2-102.13

Adds reporting, restriction and/or exclusion requirements for Hepatitis A, Typhoid fever, non-typhoidal *Salmonella* (NTS), and *Salmonella* Typhi; a tool is available from the FDA. (more restrictive)

Removes the requirement for an employee to provide medical documentation to be released back to work after Typhoid fever. (less restrictive)

2-401.13

Adds requirement for employees working with food to cover bandages located on the hand or wrist with a single-use glove. (more restrictive)

3-301.11(B)

Adds requirement for food employees to use “**non-latex** single-use gloves” and that “latex gloves may not be used in direct contact with food”. (more restrictive)

3-304.11 and 3-304.13

Allows for food to come into contact with linens and cloth napkins when laundered as specified under Part 4-8 of the Food Code, with the requirement that linens are replaced between consumers. (less restrictive)

3-304.17

Allows a consumer to bring a refillable container to an establishment (to fill with TCS food or drink) if the container meets specific requirements, such as: material of good construction, in good repair, can be cleaned. (less restrictive)

3-402.11

Adds exclusion for scallop products consisting solely of the shucked adductor muscle from the freezing requirements for parasite destruction. (less restrictive)

3-501.13

Adds language to specify that frozen fish packaged using a reduced oxygen packaging (ROP) method be removed from the ROP environment either prior to initiating thawing procedures under refrigeration or immediately upon completion of thawing. It also clarifies that “time of use” means when removed from packaging, such as when fish is thawed in the establishment. (more restrictive)

3-501.17

Adds exemption for raw, live in-shell molluscan shellfish from date marking. (less restrictive)

3-502.12

Increases the number of days that TCS foods packaged using ROP may be held from 14-days to 30-days. Adds paragraph specifying that a HACCP plan be provided to the regulatory authority prior to inspection. (less/more restrictive, respectively)

Allows Cook-Chill or Sous vide products to be held for 7-days when cooled and held at 41°F. The previous holding time allowed was 72-hours. (less restrictive)

Allows for certain conditions under which a HACCP Plan is not required for TCS foods packaged using ROP method; specifically, when labeled, held at 41°F, removed from its package within 48-hours of being packaged. Amends and reorganizes the paragraphs of this section. (less restrictive)

4-302.13(B)

Adds hot water mechanical warewashing as a method of cleaning and sanitizing utensils and the requirement of an irreversible registering temperature indicator to measure rinse water (e.g. adhesive or disc thermometer). (more restrictive)

4-303.11

Adds requirement that cleaning agents and chemical sanitizers for use with equipment and utensils be provided and available for use during all hours of operation. (more restrictive)

4-602.11(B)

Amends exemption to cleaning food-contact surfaces when a food contact surface is used for a food with a higher cooking temperature; now only allowing for raw meat and poultry and excluding raw animal food that is a major food allergen, such as fish. (more restrictive)

8-201.13

Adds requirement that the permit applicant/holder is required to submit a properly prepared HACCP Plan prior to performing operations with food that uses reduced oxygen packaging (ROP) methods when operating without an approved variance. The prior requirement was only that a HACCP Plan was to be prepared. (more restrictive)

Summary of 2009 vs 2017 Food Code and Rule Changes

This summary more fully details changes to FDA Model Food Code and codified Arizona Rules.

| <u>FDA Food Code</u> | | <u>Arizona Rule</u> |
|----------------------|---------------------------------|---------------------|
| Chapter 1 | Purpose and Definitions | R9-8-101 |
| Chapter 2 | Management and Personnel | R9-8-101 |
| Chapter 3 | Food | R9-8-101 |
| Chapter 4 | Equipment, Utensils, and Linens | R9-8-101 |
| Chapter 5 | Water, Plumbing, and Waste | R9-8-101 |
| Chapter 6 | Physical Facilities | R9-8-101 |
| Chapter 7 | Poisonous or Toxic Materials | R9-8-101 |
| Chapter 8 | Compliance and Enforcement | R9-8-108 |
| Table 1.1 | Timeframes | Table 1.1 |

Chapter 1, R9-8-101 Purpose and Definitions

2009: Big 5 Foodborne illnesses includes the term "Enterohemorrhagic *Escherichia coli*" (EHEC) 0157:H7 along with four (4) other illnesses.

2017: Deletes "Enterohemorrhagic *Escherichia coli*" (EHEC) as use of terminology is outdated. Uses the term "Shiga toxin-producing *Escherichia coli*" (STEC), which includes any E. Coli capable of producing Shiga toxin.

2009: Definition of the term "Packaged"

2017: Amended to clarify the term "Packaged" does not include wrapped or placed in a carry-out container to protect the food during service or delivery to the consumer, by a food employee, upon consumer request

2009: Uses the term "Potentially Hazardous Foods/Time/Temperature Control for Safety" (PHF/TCS)

2017: Deletes the term "Potentially Hazardous Foods/Time/Temperature Control for Safety" (PHF/TCS) and replaces with the term "Time/Temperature Control for Safety Food". The definition remains the same.

2009: Definition of "Reduced Oxygen Packaging"

2017: Revises definition, deleting the phrase "placed in a hermetically sealed, impermeable bag" and uses "vacuum packaged in an impermeable bag" to clearly define the sous vide process as outlined in Annex 6. It now reads, "Sous vide packaging, in which raw or partially cooked food is vacuum packaged in an impermeable bag, cooked in the bag, rapidly chilled, and refrigerated at temperatures that inhibit the growth of psychotropic pathogens."

R9-8-101 Arizona Rule modifies the following FDA Food Code definitions to align with A.R.S. Title 36, Public Health and Safety: Additive (food, color), Adulterated, Approved, Consumer, Food Establishment, Packaged, Person in charge, Regulatory authority.

R9-8-101 Arizona Rule adds the following required definitions to align with A.R.S. Title 36, Public Health and Safety and Title 41, State Government: Administrative completeness review time-frame, Agency, Applicant, Calendar day, Department, Developmental disability, FC, Inspection report, License, License holder, Marijuana, Marijuana concentrate, Marijuana establishment, Overall time-frame, Public health nuisance, Substantiative review time-frame.

Chapter 2-102.12 Certified Food Protection Manager

2009: Mohave County Ordinance requires that all Type II and Type III food establishments, and certain Type I establishments, employ at least one (1) certified food protection manager (CFPM).

2017: Revised requirement for the person in charge (PIC) to be a Certified Food Protection Manager (CFPM).

Chapter 2-103.11(I) Person in Charge

2009: Describes the supervision duties of the Person in Charge (PIC).

2017: Adds subparagraph (I) to include the duty to ensure employees are maintaining and routinely monitoring hot and cold-holding temperatures of TCS foods throughout the day.

Chapter 2-201.11 to 2-201.13 Foodborne Illnesses

2009: Big 5 Foodborne Illnesses (Norovirus, Hepatitis A, Shigella spp, STEC E. Coli, and Salmonella Typhi).

2017: Big 6 Foodborne Illnesses, to now include all non-typhoidal Salmonella (NTS).

Chapter 2-301.14(H) When to Wash Hands

2009: States employee must wash hands before donning gloves.

2017: Clarified to state that employee must wash hands before donning gloves to initiate a task that involves working with food.

Chapter 2-301.16(A)(2) Hand Antiseptics

2009: Describes that hand antiseptics comply with an FDA publication based on safety and effectiveness.

2017: Deletes section (A)(2)(b)(i-ii) and adds new subparagraphs (A)(2)(b-e) to clarify and align the codified verbiage with applicable CFR's and the FD&C Act with regard to the use of hand antiseptics as a food additive.

Chapter 2-401.13 Use of Bandages, Finger Cots, or Finger Stalls

2009: Not in Food Code.

2017: Adds this section to prescribe that "An impermeable cover such as a bandage, finger cot or finger stall located on the wrist, hand or finger of a FOOD EMPLOYEE working with exposed FOOD shall be covered with a single-use glove."

Chapter 2-501.11 Responding to Contamination Events

2009: Not in Food Code.

2017: Adds this section to prescribe that a food establishment shall have written procedures for employees to follow when responding to vomiting or diarrheal events that involve the discharge of vomitus or fecal matter onto surfaces in the food establishment. The procedures shall address the specific actions employees must take to minimize the spread of contamination and the exposure of employees, consumers, food, and surfaces to vomitus or fecal matter."

Chapter 3-201.16(A) Wild Mushrooms

2009: Mushrooms species picked in the wild shall be obtained from sources where each mushroom is individually inspected and found to be safe by an approved mushroom identification expert.

2017: Removes the need for an approved mushroom identification expert and now recognizes a regulatory authority's ability to approve the sale of wild mushrooms within a food establishment.

Chapter 3-301.11(B) Preventing Contamination from Hands

- 2009:** Food employees may not contact exposed, ready-to-eat food with their bare hands and shall use suitable utensils such as deli tissue, spatulas, tongs, single-use gloves, or dispensing equipment.
- 2017:** R9-8-103(B) adds specification for “**non-latex** single-use gloves” and that “latex gloves may not be used in direct contact with food.”

Chapter 3-301.11(D) Preventing Contamination from Hands

- 2009:** Requires a written procedure for bare hand contact with food.
- 2017:** Revised subparagraph (D)(2) to clarify that paragraph (B) does not apply where a ready-to-eat food is added as an ingredient to another food that does not contain raw animal food and the combined product will be heated to at least 63°C (145°F).

Chapter 3-302.11(A)(3) Packaged and Unpackaged Food Separation, Packaging, and Segregation

- 2009:** Cleaning equipment and utensils as specified under 4-602.11(A) and sanitizing as specified under § 4-703.11.
- 2017:** Removed above subparagraph and renumbered remaining paragraphs.

Chapter 3-304.11 Food Contact with Equipment and Utensils

- 2009:** Defines with what surfaces food can come into contact.
- 2017:** Adds subparagraph that food may contact surfaces of linens and napkins when laundered as specified under Part 4-8 of Food Code.

Chapter 3-304.13 Linens and Napkins, Use Limitation

- 2009:** Allows for linens and napkins to be used in contact with food if they are used to line a container for the service of food and then replaced each time the container is refilled for a new consumer.
- 2017:** Clarifies that napkins in this section refer to cloth napkins and they are by definition considered linens.

Chapter 3-304.17 Refilling Returnables

- 2009:** Returnable containers cannot be refilled with a PHF/TCS food product
- 2017:** Allows for a consumer to bring a refillable container to an establishment (to fill with TCS food or drink) if the container meets specific requirements, such as: material of good construction, in good repair, can be cleaned and sanitized, and can be visibly inspected.

Chapter 3-401.11 Raw Animal Foods

- 2009:** All raw animal food required to be held at proper cooking temperature or higher for 15-seconds.
- 2017:** Amends subparagraphs:
- (A)(1) Cooked to and held at **63°C (145°F)** or above for **15-seconds** for:
- (a) Raw eggs broken and prepared in response to a consumer’s order and for immediate service.
 - (b) Fish and intact meat including game animals commercially raised for food as specified under Subparagraph 3-201.17(A)(1) and game animals under a voluntary inspection program as specified under Subparagraph 3-201.17(A)(2)
- (A)(2) Cooked to and held at **68°C (155°F)** or above for **17-seconds** for:
- Ratites, mechanically tenderized, and injected meats;
 - The following if they are comminuted: Fish, meat, game animals commercially raised for food as specified under Subparagraph 3-201.17(A)(1), and;
 - Game animals under a voluntary inspection program as specified under Subparagraph 3-201.17(A)(2), and;
 - Raw eggs that are not prepared as specified under Subparagraph (A)(1)(a) of this section;
- Or using the alternative minimum temperature and times in the table below:

| Minimum Temperature °C (°F) | Minimum Time |
|--------------------------------|--------------|
| 63 (145) | 3 minutes |
| 66 (150) | 1 minute |

| | |
|----------|----------------------------|
| 70 (158) | < 1 second (instantaneous) |
|----------|----------------------------|

(A)(3) Cooked to and held at **74°C (165°F)** or above for **< 1 second (instantaneous)** for:

- Poultry, baluts, wild game animals as specified under Subparagraphs 3-201.17(A)(3) and (4), stuffed fish, stuffed meat, stuffed pasta, stuffed poultry, stuffed ratites, or stuffing containing fish, meat, poultry, or ratites

Chapter 3-401.13 Plant Food Cooking for Hot Holding

2009: Uses the term fruits and vegetables.

2017: Deletes the term “Fruits and vegetables” and uses the term “plant food”.

Chapter 3-401.14 Non-Continuous Cooking of Raw Animal Foods

2009: Requires that when an establishment is cooking raw animal food using a non-continuous method (e.g. Placing grill marks on a steak to be cooked later), the food must then be cooked to temperature that heats all parts of the food to 165°F for 15-seconds, regardless of what the original cooking requirement is of the raw animal food.

2017: Revises paragraph D to allow that the raw animal food being cooked in a non-continuous method can follow normal cooking requirements under 3-401.11 (A)-(C).

Chapter 3-402.11 Parasite Destruction

2009: Defines freezing requirements for parasite destruction and exemptions.

2017: Adds subparagraph to exclude scallop products consisting solely of the shucked adductor muscle from the requirements for parasite destruction and re-numbered existing subparagraphs.

Chapter 3-403.11 Reheating and Hot Holding

2009: Requires that ready-to-eat food from a commercially processed plant must be reheated to 135°F

2017: Clarifies paragraph (C) and states that this provision applies to all commercially processed (pre-cooked) TCS foods that are ready-to-eat.

Chapter 3-501.13 Thawing

2009: Describes proper thawing methods.

2017: Adds paragraph to specify that frozen fish which have been packaged using a reduced oxygen packaging (ROP) method be removed from the ROP environment either prior to initiating thawing procedures under refrigeration or immediately upon completion of thawing. It also clarifies that “time of use” means when removed from packaging, such as when fish is thawed in the establishment.

Chapter 3-501.17 Ready-to-Eat, Time/Temperature Control for Safety Food, Date Marking

2009: Describes requirements for date marking.

2017: Adds subparagraph to exempt raw, live in-shell molluscan shellfish from date marking and re-numbers paragraphs. Amends existing subparagraph to clarify the exemption for date marking for shelf-stable, dry fermented sausages produced in USDA-regulated facilities is not dependent on the product retaining the original casing and paragraphs re-numbered.

Chapter 3-502.11 Variance Requirement

2009: Describes when a variance is required.

2017: Amends paragraph (D) to clarify that only TCS foods prepared under ROP methods that do not control for growth of and toxin formation by *Clostridium botulinum* and the growth of *Listeria monocytogenes* require a variance.

Chapter 3-502.12 Reduced Oxygen Packaging Without a Variance, Criteria

- 2009:** Paragraph (B) states that TCS foods that has been packaged using ROP method must be discarded within **14-days**.
- 2017:** Amends paragraph (B) to state that TCS foods that has been packaged using ROP method must be discarded within **30-days**. Adds paragraph specifying that a HACCP plan be provided to the regulatory authority prior to inspection.
- 2009:** Paragraph (D) states that when using processes of Cook-chill or Sous vide, and after proper cooking, the product can be held for 72-hours before being discarded.
- 2017:** Amends paragraph (D) to remove the term “food” and use the term “TCS food” to clarify this section applies to TCS food. Also amends paragraph to allow for cold holding at 41°F for 7-days after cooling to 41°F.
- 2009:** Paragraph (F) not in Food Code.
- 2017:** Adds paragraph (F) to identify the condition under which a HACCP Plan is not required for TCS foods packaged using ROP method; specifically, when labeled, held at 41°F, removed from its package within 48-hours of being packaged. Amends and reorganizes the paragraphs of this section.

Chapter 3-602.11 Food Labels

- 2009:** Defines food label requirements.
- 2017:** Amends paragraph (B) to clarify the information that a label must include. The term “sub-ingredients” was added to clarify that individual component ingredients of a main ingredient must be disclosed in the statement of ingredients.

Chapter 4, R9-8-104 Equipment, Utensils, and Linens

Chapter 4-302.13 Temperature Measuring Devices, Manual and Mechanical Warewashing

- 2009:** Describes requirements for tools measuring temperature of utensils and equipment.
- 2017:** Adds paragraph (B) to include hot water mechanical warewashing and the requirement of an irreversible registering temperature indicator to measure rinse water.

Chapter 4-303.11 Cleaning Agents and Sanitizers, Availability

- 2009:** Not in Food Code.
- 2017:** Adds section and paragraphs (A) and (B) requiring cleaning agents and chemical sanitizers for use with equipment and utensils be provided and available for use during all hours of operation.

Chapter 4-602.11(B) Equipment Food-Contact Surfaces and Utensils

- 2009:** Describes exemption to cleaning; as when a food contact surface is used for a food with a higher cooking temperature (e.g. Cutting board used to cut raw fish, then raw chicken).
- 2017:** Amends paragraph to allow above exemption only for raw meat and poultry; excluding raw animal food that is a major food allergen, such as fish.

Chapter 4-802.11 Laundering Specifications

- 2009:** Defines frequency of cleaning linens.
- 2017:** Amends paragraph (C) to clarify that napkin in this section refers to cloth napkins and they are by definition linens.

Chapter 5, R9-8-105 Water, Plumbing, and Waste

Chapter 5-101.13 Bottled Drinking Water

- 2009:** Describes bottled drinking water sources.

2017: R9-8-105(B) requires bottled drinking water used or sold in a food establishment be from an approved source according with state law.

Chapter 6, R9-8-106

Physical Facilities

Chapter 5-101.13

Design and Construction

2009: Vending machine requirements are described in Food Code Chapter 4, Part 2 (Equipment).

2017: R9-8-106(B) requires a license holder for a vending machine to have fixed, permanent signage listing a unique identifying number and contact telephone number.

Chapter 7, R9-8-107

Poisonous or Toxic Materials

Chapter 7-204.12

Chemicals for Washing, Treatment, Storage and Processing Fruits and Vegetables, Criteria

2009: Describes chemicals and ozone for use in washing or processing (e.g. Peeling) fruits and vegetables.

2017: Amends paragraphs (A) and (B) to state that chemicals used for the purposes above must be an approved food additive in 21 CFR 173 or be generally recognized as safe (GRAS) for this intended use. It also adds paragraphs (C) and (D) as alternatives to (A) and (B) when the chemical is the subject of an effective food contact notification or meets the requirements in 40 CFR 156 Labeling Requirements for Pesticide and Devices, to allow for the use of other antimicrobial agents.

Chapter 8, R9-8-108

Compliance and Enforcement

Chapter 8-201.13

When A HACCP Plan is Required

2009: Describes that a HACCP Plan is required prior to performing operations with food that uses reduced oxygen packaging (ROP) methods when operating without an approved variance.

2017: Amends paragraph (B) to add that the permit applicant or permit holder is required to submit a properly prepared HACCP Plan to the regulatory authority when operating without an approved variance.

Chapter 8-201.14

Contents of a HACCP Plan

2009: Describes the contents required in a HACCP Plan.

2017: Adds paragraph (A) requiring the HACCP plan contain general information such as the permit applicant or permit holder, food establishment address, and contact information.

Chapter 8-302.11

[Application] Submission 30 Calendar Days Before Proposed Opening

FC: Requires permit applications be submitted at least 30-days prior to proposed opening.

AAC: R9-8-108(E) adds application and license renewal time-frame requirements in Table 1.1 of 9 AAC 8.

Chapter 8-302.14 and 8-303.20 Content of the Application and Renewals

FC: Describes the contents required in a permit application.

AAC: R9-8-108(C) describes state requirements for the contents of a permit application and, R9-8-108(D) describes the state requirements for the contents of a permit renewal. Rejects the above obligation of the regulatory authority to provide written notice to a permit applicant.

Chapter 8-303.30

Denial of Application for Permit

FDA: Describes the obligation of the regulatory authority to provide the permit applicant notice when a permit is denied.

AAC: R9-8-108(B) rejects the above obligation of the regulatory authority to provide written notice to a permit applicant when a permit is denied.

Chapter 8-402.10 Competency of Inspectors

2009: Describes competency requirements of inspectors of food establishments.

2017: Adds paragraph (B) requiring the regulatory authority to ensure authorized representatives who inspect food establishments or conduct a plan review for compliance have access to training and continuing education.

Chapter 8-404.11 Ceasing Operations and Reporting

2009: Describes when a permit holder is required to cease operation and reporting to the regulatory authority.

2017: Updates procedures for retail food establishment operations to continue during an extended water or electrical outage if a written emergency operation plan has been pre-approved by the regulatory authority, immediate corrective action taken, and the regulatory authority notified upon implementation of the plan.