

## FOOD PROTECTION QUESTIONS for MEHA SEMINAR 11-9-16

### **1. When the FPP issues a "Guideline", how enforceable is it and if there are questions on the interpretation, who should one contact?**

The FPP posts Policies, Procedures and Guidelines documents on its website for Bottled Water, Dairy Processing, Food Processing, Retail Food and Seafood. Most of them were written to provide an interpretation to a regulation for clarification purposes so could be used as a tool for enforcement purposes. We are currently in the process of revising our regulations and revamping the FPP website. Some of these Policies, Procedures and Guidelines documents will be revised and some will be deleted altogether. If you any questions, it would be best to contact the main # for FPP which is 617-983-6712 and you'll be directed to the appropriate FPP staff person.

### **2. Under the new proposed 590.000, the definition of a Food Establishment does not include pre-packed, non TCS foods. Does this mean we will not have to permit these establishments nor inspect them?**

Correct - if LBOHs disagree with this part of the food establishment definition then now is the time to submit comments to the PHC up until December 2, 2016.

2013 FC - "Food establishment" does not include: (a) An establishment that offers only prePACKAGED FOODS that are not TIME/TEMPERATURE CONTROL FOR SAFETY FOODS.

### **3. Could you go over the Food Establishment Inspection Report form that the MDPH requires BoHs to use? Explain what violations fit in what categories. I just never know where some of the everyday, normal violations fit on the form.**

Yes, as we work through the Q&A's we can look at the Food Establishment Inspection Report (FEIR) form to determine where they get marked. You'll be using the 590/FC Inspection Guide handout with the 590/FC FEIR form.

### **4. Can wiping cloths and / or paper towels be used to cover foods in refrigerator storage?**

#### **3-304.13 Linens and Napkins, Use Limitation.**

*Linens and napkins may not be used in contact with food unless they are used to line a container for the service of foods and the linens and napkins are replaced each time the container is refilled for a new consumer. (1999 and 2013)*

"Linens" means fabric items such as cloth hampers, cloth napkins, table cloths, wiping cloths, and work garments including cloth gloves. (1999 and 2013)

"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; food temperature measuring devices; and probe-type price or identification tags used in contact with food. (1999 and 2013)

#### 4. (cont.)

"Food-contact surface" means: (1999 and 2013)

- (a) A surface of equipment or a utensil with which food normally comes into contact; or
- (b) A surface of equipment or a utensil from which food may drain, drip, or splash:
  - (i) Into a food, or
  - (ii) Onto a surface normally in contact with food.

3-304.11 Food Contact with Equipment and Utensils. \*Food shall only contact surfaces of equipment and utensils that are cleaned as specified under Part 4-6 of this Code and sanitized as specified under Part 4-7 of this Code (1999)

3-304.11 Food Contact with Equipment and Utensils. FOOD shall only contact surfaces of: (A) EQUIPMENT and UTENSILS that are cleaned as specified under Part 4-6 of this Code and SANITIZED as specified under Part 4-7 of this Code; P (B) SINGLE-SERVICE and SINGLE-USE ARTICLES; P or (C) LINENS, such as cloth napkins, as specified under § 3 304.13 that are laundered as specified under Part 4-8 of this Code. (2013)

#### 5. If items such as staples are observed stored over food and food prep, where would it be cited?

3-307.11 would be the most appropriate section (1999 and 2013)

#### **Preventing Contamination from Other Sources**

#### **3-307.11 Miscellaneous Sources of Contamination.**

Food shall be protected from contamination that may result from a factor or source not specified under Subparts 3-301 - 3-306.

#### 6. How long can a TCS Food be kept out of temperature control if TPHC is not being used (items such as sauces, non-acidified garlic & oil etc.)?

3-501.16 (A) is the provision for Potentially Hazardous Food (1999 FC) or Time/Temperature Control for Safety Food (2013 FC), Hot and Cold Holding that gives an exception during preparation, cooking or cooling, or when time is used as the public health control as specified under FC 3-501.19.

There is no simple answer and one must ask additional questions to determine the corrective action.

**7. What is the best practice when storing raw animal products with cooked animal products or RTE foods in the flip-top refrigerator: Placing the raw animal product in the front or in back of the Cooked / RTE product?**

To prevent cross-contamination in this situation with the flip-top unit, it would be best to have the cooked and RTE products in the back or on one side of the unit or have a totally separate unit because you want to avoid any possible contamination from raw animal products.

1999 and 2013 FC

**3-302.11 Packaged and Unpackaged Food - Separation, Packaging, and Segregation.\***

**(A) Food shall be protected from cross contamination by:**

**(1) Separating raw animal foods during storage, preparation, holding, and display from:**

**(a) Raw ready-to-eat food including other raw animal food such as fish for sushi or molluscan shellfish, or other raw ready-to-eat food such as vegetables, and**

**(b) Cooked ready-to-eat food;**

*(2) Except when combined as ingredients, separating types of raw animal foods from each other such as beef, fish, lamb, pork, and poultry during storage, preparation, holding, and display by:*

*(a) Using separate equipment for each type, or*

*(b) Arranging each type of food in equipment so that cross contamination of one type with another is prevented,*

*Annex 3 Public Health Reasons: With regard to the storage of different types of raw animal foods as specified under subparagraph 3-302.11(A)(2), it is the intent of this Code to require separation based on anticipated microbial load and raw animal food type (species). Separating different types of raw animal foods from one another during storage, preparation, holding and display will prevent cross-contamination from one to the other. The required separation is based on a succession of cooking temperatures as specified under § 3-401.11 which are based on thermal destruction data and anticipated microbial load. For example, to prevent cross-contamination, fish and pork, which are required to be cooked to an internal temperature of 145°F for 15 seconds, shall be stored above or away from raw poultry, which is required to be cooked to an internal temperature of 165°F for 15 seconds due to its considerably higher anticipated microbial load.*

*In addition, raw animal foods having the same cooking temperature, such as pork and fish, shall be separated from one another during storage and preparation by maintaining adequate spacing or by placing the food in separate containers because of the potential for allergen cross-contamination or economic adulteration via inadvertent species substitution.*

8. During an inspection at a restaurant I noticed a large package of Smoked Salmon labeled Sliced, Ready-to-Eat Smoked Atlantic Salmon; Smoked in the Scottish Manner with a statement on the back of the package stating “The carotenoid used in the feed of farm-raised salmon is identical to the natural carotenoid consumed in the wild and is the source of the color of this fish.” What is the FC requirement at a food service establishment that serves this product to notify the customer via a menu statement or other means disclosing that it contains the color additive canthaxanthin or astaxanthin? Should there be a consumer advisory on the menu since this is a cold-smoked salmon product that is considered “raw”.

2013 FC

3-602.11 Food Labels

(B) Label information shall include:

(7) For any salmonid FISH containing canthaxanthin or astaxanthin as a COLOR ADDITIVE, the labeling of the bulk FISH container, including a list of ingredients, displayed on the retail container or by other written means, such as a counter card, that discloses the use of canthaxanthin or astaxanthin.

3-602.11(B)(7) applies to packaged food specifically bulk fish containers so this would not apply to food service such as a restaurant where someone orders from a menu. As far as requiring a consumer advisory for cold smoked fish, the fish is a ready-to-eat processed food so it doesn't require a consumer advisory. I realize that it is not heat-treated and there have been *Listeria monocytogenes* associated with cold smoked fish so there is certainly some risk associated with these products. The brining does inhibit pathogen growth and the smoking does have some antimicrobial action that helps.

*The 2013 FC Annex 3 for 3-602.11 has a section for Canthaxanthin and Astaxanthin*

*Canthaxanthin and Astaxanthin are color additives for salmonid fish. According to the FDA Regulatory Fish Encyclopedia, the family Salmonidae includes pink salmon, coho salmon, sockeye salmon, chinook salmon, Atlantic salmon, chum salmon, rainbow trout, cutthroat trout, and brown trout. These color additives may be in the feed that is fed to aquacultured fish. When those fish are placed into a bulk container for shipment, the bulk container will bear a label declaring the presence of canthaxanthin.*

*Providing this information on the label of fish packaged and offered for sale at retail will inform the consumer of the presence of these additives*

*21 CFR 73.75 promulgates requirements for the use of canthaxanthin in salmonid fish.*

*21 CFR 73.35 promulgates requirements for the use of astaxanthin in salmonid fish.*

*For additional information, see the Federal Register announcement 63 FR 14814, March 27, 1998, Listing of Color Additives Exempt from Certification, Canthaxanthin.*

**9. If a 3-compartment sink is used for food prep, for best practice, which compartment should be used (after cleaning and sanitizing)?**

It should not matter which sink compartment is used if properly cleaned & sanitized.

(1999 and 2013)

**4-501.16 Warewashing Sinks, Use Limitation.**

(A) A warewashing sink may not be used for handwashing.

(B) If a warewashing sink is used to wash wiping cloths, wash produce, or thaw food, the sink shall be cleaned as specified under § 4-501.14 before and after each time it is used to wash wiping cloths or wash produce or thaw food. Sinks used to wash or thaw food shall be sanitized as specified under Part 4-7 before and after using the sink to wash produce or thaw food.

**4-501.14 Warewashing Equipment, Cleaning Frequency.**

A warewashing machine; the compartments of sinks, basins, or other receptacles used for washing and rinsing equipment, utensils, or raw foods, or laundering wiping cloths; and drainboards or other equipment used to substitute for drainboards as specified under § 4-301.13 shall be cleaned:

(A) Before use;

(B) Throughout the day at a frequency necessary to prevent recontamination of equipment and utensils and to ensure that the equipment performs its intended function; and

(C) If used, at least every 24 hours.

**NOTE:**

Effective March 11, 2005, changes were made to the Massachusetts Regulation 248 CMR 10.00 - Uniform State Plumbing Code requiring indirect connections for culinary sinks dedicated to the handling and processing of produce. The new changes included additional requirements for specifically labeling such culinary sinks for produce preparation. Dedicated produce sinks must be marked with laminated signage using two-inch lettering that reads "This Compartment ONLY Is Designated For Produce Preparation."

**248 CMR 10.00: Uniform State Plumbing Code**

**10.12: Indirect Waste Piping**

1. Indirect Wastes Required.

a. Food Handling Establishments.

i. Food handling establishments engaged in the storage, preparation, selling, serving, processing, or in any manner the handling of food shall provide: indirect waste piping for refrigerators, refrigerator coils, walk-in freezers or coolers, ice compartments, ice making machines, steam kettles, steam tables, potato peelers, egg boilers, coffee urns, coffee, soda and beverage trays and all similar types of enclosed equipment.

ii. Dishwashing pre-rinse sinks installed in combination with a commercial dishwasher, pot sinks, scullery sinks and other sinks are excluded from the indirect waste requirement and shall be directly connected to the sanitary drainage system.

- iii. Single compartment culinary/produce sinks or individual culinary/produce sink compartments specifically designated and \*labeled for produce preparation shall convey the waste from these fixtures or compartments indirectly to a properly trapped and vented floor sink. The produce preparation compartment shall be authorized and approved by the Local Board of Health or other designated municipal health official.
- iv. The produce preparation label must be a laminated sign with letters two-inches in height that reads: "This Compartment ONLY Is Designated For Produce Preparation."
- v. All indirect waste shall discharge through an air gap or air break into a properly trapped and vented receptor except that an air gap is required where the indirect waste pipe may be under vacuum (less than atmospheric pressure).

Culinary sinks that are directly plumbed may result in a potential health hazard during a sewerage backup. Food, particularly ready-to-eat (RTE) food that will not be further heat processed, are at greater risk of causing illness if contaminated with pathogens while being washed in a sink previously contaminated with sewerage, **Section 5-402.11 Backflow Prevention\* of the federal 1999 Food Code, states:**

(A) Except as specified in paragraphs (B) and (C) of this section, a direct connection may not exist between the sewage system and a drain originating from equipment in which food, portable equipment, or utensils are placed.

(B) *If allowed by law, a warewashing machine may have a direct connection between its waste outlet and a floor drain when the machine is located within 1.5 m (5 feet) of a trapped floor drain and the machine outlet is connected to the inlet side of a properly vented floor drain trap.*

(C) *If allowed by law, a warewashing or culinary sink may have a direct connection.*

**The 2013 FC Section 5-402.11 Backflow Prevention states:**

**5-402.11 Backflow Prevention.**

(A) Except as specified in ¶¶ (B), (C), and (D) of this section, a direct connection may not exist between the SEWAGE system and a drain originating from EQUIPMENT in which FOOD, portable EQUIPMENT, or UTENSILS are placed.

(B) Paragraph (A) of this section does not apply to floor drains that originate in refrigerated spaces that are constructed as an integral part of the building.

(C) If allowed by LAW, a WAREWASHING machine may have a direct connection between its waste outlet and a floor drain when the machine is located within 1.5 m (5 feet) of a trapped floor drain and the machine outlet is connected to the inlet side of a properly vented floor drain trap.

(D) If allowed by LAW, a WAREWASHING or culinary sink may have a direct connection.

**10. If an establishment is using cardboard to line shelving, where would it be cited? Is it considered to be a nonfood-contact surface?**

Cardboard would be considered a single-use article instead of a nonfood-contact surface.

**Single-Use Articles.**

(a) "**Single-use articles**" means utensils and bulk food containers designed and constructed to be used once and discarded.

## 10. (cont.)

(b) "**Single-use articles**" includes 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 which do not meet the materials, durability, strength, and cleanability specifications under §§ 4-101.11, 4-201.11, and 4-202.11 for multiuse utensils.

### 4-502.13 Single-Service and Single-Use Articles, Use Limitation.

(A) Single-service and single-use articles may not be reused.

(B) The bulk milk container dispensing tube shall be cut on the diagonal leaving no more than one inch protruding from the chilled dispensing head.

#### 4-101.111 Nonfood-Contact Surfaces. (1999 FC)

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.

#### 4-101.19 Nonfood-Contact Surfaces. (2013 FC)

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.

*Annex 3 Public Health Reasons - Nonfood-contact surfaces of equipment routinely exposed to splash or food debris are required to be constructed of nonabsorbent materials to facilitate cleaning. Equipment that is easily cleaned minimizes the presence of pathogenic organisms, moisture, and debris and deters the attraction of rodents and insects.*

## 11. When equipment that is being sanitized in the 3-compartment sink is observed not completely submerged to cover the equipment, where would it be cited?

1999 and 2013

### 4-703.11 Hot Water and Chemical.

After being cleaned, EQUIPMENT FOOD-CONTACT SURFACES and UTENSILS shall be SANITIZED in:

(C) Chemical manual or mechanical operations, including the application of SANITIZING chemicals by immersion, manual swabbing, brushing, or pressure spraying methods, using a solution as specified under § 4-501.114. Contact times shall be consistent with those on EPA-registered label use instructions (depending on what chemical is used)

**12. If food is observed (not commercially packaged) stored in a container that is dirty only on the outer part, would it be cited as a non-food contact surface?**

**4-602.13 Nonfood-Contact Surfaces.**

Nonfood-contact surfaces of equipment shall be cleaned at a frequency necessary to preclude accumulation of soil residues.

**13. Where would items such as wine plastic jugs that are cut in half by employees and used for food storage be cited?**

You need to determine if it meets the definition of a food contact surface.

"Food-contact surface" means:

- (1) A surface of EQUIPMENT or a UTENSIL with which FOOD normally comes into contact; or
- (2) A surface of EQUIPMENT or a UTENSIL from which FOOD may drain, drip, or splash:
  - (a) Into a FOOD, or
  - (b) Onto a surface normally in contact with FOOD.

**4-101.11 Characteristics.** Materials that are used in the construction of UTENSILS and FOOD-CONTACT SURFACES of EQUIPMENT may not allow the migration of deleterious substances or impart colors, odors, or tastes to FOOD and under normal use conditions shall be:

- (A) Safe;
- (B) Durable, CORROSION-RESISTANT, and nonabsorbent;
- (C) Sufficient in weight and thickness to withstand repeated WAREWASHING;
- (D) Finished to have a SMOOTH, EASILY CLEANABLE surface; and
- (E) Resistant to pitting, chipping, crazing, scratching, scoring, distortion, and decomposition.

**4-202.11 Food-Contact Surfaces.**

(A) Multiuse FOOD-CONTACT SURFACES shall be:

- (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;

**14. Is using a wiping cloth, instead of a plug, to block the drain in the 3-compartment (in order to hold the water in the bay) a violation and if so where would it be cited?**

Under a 3 bay sink, each bay would have a lever that you turn in order to plug the sink so that you can fill it with water so if it's in disrepair you can cite it under 4-501.11 (A). If the wiping cloth is being used as a plug on a temporary basis and the PIC can prove that it is due to be repaired, such as providing a copy of a work-order, then you may want to note that on the inspection report and attach the copy of the work order but not cite it as a violation.

1999 (non-critical violation) and 2013 (core item)

**4-501.11 Good Repair and Proper Adjustment.** (A) EQUIPMENT shall be maintained in a state of repair and condition that meets the requirements specified under Parts 4-1 and 4-2.

**15. Where would a greasy hood and / or fire suppression system be cited?**

1999 (non-critical) and 2013 (core item)

4-204.11 Ventilation Hood Systems, Drip Prevention. 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-service and single-use articles.

*The dripping of grease or condensation onto food constitutes adulteration and may involve contamination of the food with pathogenic organisms. Equipment, utensils, linens, and single service and single use articles that are subjected to such drippage are no longer clean.*

**16. If a food establishment is observed using sanitizer as a cleaner, where would it be cited?**

4-702.11 Before Use After Cleaning.\* (1999 and 2013 FC)

Utensils and food-contact surfaces of equipment shall be sanitized before use after cleaning.

**17. Where would you cite a dirty can opener blade?**

Note: when making the observation, describe what is meant by “dirty”; for example, “can opener blade has buildup of dried food debris”.

1999 and 2013 FC

4-501.11 Good Repair and Proper Adjustment.

(A) EQUIPMENT shall be maintained in a state of repair and condition that meets the requirements specified under Parts 4-1 and 4-2. 131

(B) EQUIPMENT components such as doors, seals, hinges, fasteners, and kick plates shall be kept intact, tight, and adjusted in accordance with manufacturer's specifications.

(C) Cutting or piercing parts of can openers shall be kept sharp to minimize the creation of metal fragments that can contaminate FOOD when the container is opened.

**18. We inspect bathrooms in restaurants. Are we supposed to be? If so, how do we cite “violations” like unclean toilets, sinks, etc. on the Report forms?**

"Physical facilities" means the structure and interior surfaces of a FOOD ESTABLISHMENT including accessories such as soap and towel dispensers and attachments such as light fixtures and heating or air conditioning system vents.

6-501.12 Cleaning, Frequency and Restrictions.

(A) PHYSICAL FACILITIES shall be cleaned as often as necessary to keep them clean.

**19. Where would the storage of employee items be cited if they were observed stored with food items and in prep areas?**

1999 and 2013 FC

7-209.11 Storage. Except as specified under §§ 7-207.12 and 7-208.11, EMPLOYEES shall store their PERSONAL CARE ITEMS in facilities as specified under ¶ 6-305.11(B).

6-305.11 (B) Lockers or other suitable facilities shall be provided for the orderly storage of EMPLOYEES' clothing and other possessions.

*Note: If the establishment has lockers or other suitable facilities and the employees are not using them then cite under 6-501.110 (B)*

6-501.110 Using Dressing Rooms and Lockers.

*(A) Dressing rooms shall be used by EMPLOYEES if the EMPLOYEES regularly change their clothes in the establishment.*

*(B) Lockers or other suitable facilities shall be used for the orderly storage of EMPLOYEE clothing and other possessions.*

**20. Regarding HACCP plans, in MA, who is REQUIRED now to have plans at the ready for inspectors?**

1999 FC - 8-201.13 When a HACCP Plan is Required.

(A) Before engaging in an activity that requires a HACCP plan, a permit applicant or permit holder shall submit to the regulatory authority for approval a properly prepared HACCP plan as specified under § 8-201.14 and the relevant provisions of this Code if:

- (1) Submission of a HACCP plan is required according to law;
- (2) A variance is required as specified under § 3-502.11, ¶ 4-204.110(B), or Subparagraphs 3-203.12(B)(2)(b) or 3-401.11(D)(3); or
- (3) The regulatory authority determines that a food preparation or processing method requires a variance based on a plan submittal specified under § 8-201.12, an inspectional finding, or a variance request.

(B) A permit applicant or permit holder shall have a properly prepared HACCP plan as specified under § 3-502.12.

2013 FC - 8-201.13 When a HACCP Plan is Required.

(A) Before engaging in an activity that requires a HACCP PLAN, a PERMIT applicant or PERMIT HOLDER shall submit to the REGULATORY AUTHORITY for approval a properly prepared HACCP PLAN as specified under § 8-201.14 and the relevant provisions of this Code if:

- (1) Submission of a HACCP PLAN is required according to LAW;
- (2) A VARIANCE is required as specified under Subparagraph 3-401.11(D)(4), § 3-502.11, or ¶ 4-204.110(B);
- (3) The REGULATORY AUTHORITY determines that a FOOD preparation or processing method requires a VARIANCE based on a plan submittal specified under § 8-201.12, an inspectional finding, or a VARIANCE request.

(B) Before engaging in REDUCED OXYGEN PACKAGING without a VARIANCE as specified under § 3-502.12, a PERMIT applicant or PERMIT HOLDER shall submit a properly prepared HACCP PLAN to the REGULATORY AUTHORITY.