



CHAPTER 246-215 WAC RULE REVISION STATUS

Washington State Board of Health
August 14, 2019

Presenter

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Public Health Advisor

Office of Environmental Health & Safety

Food Safety Program

1992 Chapter 246-215 WAC

First Chapter 246-215 WAC implemented

1992

2003 Governor Gary Locke Signs HB1318

Chapter 43.20 RCW is modified for SBOH to consider the most current FDA Food Code

2003

Brief History of WAC 246-215

1992-2020

2013 Chapter 246-215 WAC

Washington adopted 2009 FDA Food Code with modifications

2013

2005 Chapter 246-215 WAC

Washington's first adoption of the FDA Model Food Code. The state adopted 2001 version with modifications

2005

2017 FDA Food Code

February: 2017 FDA Food Code Released

2018

July: Notice of Rule Making Preproposal (CR-101) filed to begin WAC 246-215 update

Public Information Sessions

Kennewick, Spokane, Ferndale, Renton, Green Lake, Vancouver, and Online

CR-102 To Be Filed

November: Final draft WAC 246-215 to State Board of Health

Revised Food Rule

Goal is for May 2020 effective date

FSAC Begins Review

September: FSAC began monthly public meetings to review provisions

2018

May

July

Sept

Nov

2020

Draft Rule Shared

May-July: First Draft shared with stakeholders

Final FSAC Review

FSAC provides input on comments for second draft

Food Safety Advisory Council

Representing	First	Last	Phone	Email	Term
Academia	Stephanie	Smith	509-335-0972	steph.smith@wsu.edu	10/1/2019
Consumers	Sarah	Schacht	-	sarahschacht@mac.com	10/1/2019
Farmers Markets/Temporary Food	Colleen	Donovan	-	colleen@wafarmersmarkets.org	10/1/2019
FDA	David	Engelskirchen	206-452-9762	david.engelskirchen@fda.hhs.gov	10/1/2019
Grocery	Michael	Latham	206-423-4076	mchlatham@tc-markets.com	10/1/2019
Local Health Jurisdiction – Voting	Jessica	Gehle	253-798-4444	jgehle@tpchd.org	10/1/2019
Local Health Jurisdiction – Voting	David	Kavanagh	509-493-6211	davidk@klickitatcounty.org	10/1/2019
Local Health Jurisdiction – Voting	Steve	Main	509-324-1594	smain@srhd.org	10/1/2019
Local Health Jurisdiction – Voting	Jessica	Pankey	360-417-2418	jpankey@co.clallam.wa.us	10/1/2019
Local Health Jurisdiction – Alternate	Lisa	Breen	509-324-1585	lbreen@srhd.org	10/1/2019
Local Health Jurisdiction – Alternate	Kristina	Hollatz	360-964-1673	khollatz@co.grays-harbor.wa.us	10/1/2019
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Mobile Foods	Lori	Johnson	360-223-3801	lori@wafoodtrucks.org	10/1/2019
Restaurant	Samantha	Louderback	360-789-7477	samanthal@wahospitality.org	10/1/2019
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Mission The mission of the Retail Food Safety Advisory Council is to foster public-private sector communication and cooperation and to promote food safety through the consistent implementation and evidence-based application of the Washington State Retail Food Code.					

Materials Available

www.doh.wa.gov/foodrules

Chapter 246-215 WAC RETAIL FOOD SERVICE

RULE REVISION DRAFT FOR REVIEW AND COMMENT

PART 1: INTENT, SCOPE, AND DEFINITIONS

WAC 246-215-01100 Intent—Food safety, illness prevention, and honest presentation (2017 FDA Food Code 1-102.10). The purpose of this chapter is to safeguard public health and provide to CONSUMERS FOOD that is safe, UNADULTERATED, and honestly presented.

[Statutory Authority: RCW 43.20.050 and 43.20.145. WSR 13-03-109, § 246-215-01100, filed 1/17/13, effective 5/1/13.]

WAC 246-215-01105 Scope—Statement (2017 FDA Food Code 1-103.10). This chapter establishes definitions; sets standards for management and personnel, FOOD operations, and EQUIPMENT and facilities; and provides for FOOD ESTABLISHMENT plan review, PERMIT issuance, inspection, EMPLOYEE RESTRICTION, and PERMIT suspension.

[Statutory Authority: RCW 43.20.050 and 43.20.145. WSR 13-03-109, § 246-215-01105, filed 1/17/13, effective 5/1/13.]

WAC 246-215-01110 Applicability. (1) The requirements of this chapter apply to an operation that meets the definition of a FOOD ESTABLISHMENT as defined in WAC 246-215-01115(48).

(2) When a LOCAL BOARD OF HEALTH adopts rules with more stringent provisions than those contained in this chapter, the more stringent rules apply.

[Statutory Authority: RCW 43.20.050 and 43.20.145. WSR 13-03-109, § 246-215-01110, filed 1/17/13, effective 5/1/13.]

WAC 246-215-01115 Definitions, abbreviations, and acronyms (2017 FDA Food Code 1-201.10(B)). The definitions in this section apply throughout this chapter unless the context clearly indicates otherwise.

(1) "ACCREDITED PROGRAM."

(a) ACCREDITED PROGRAM means a FOOD protection manager certification program that has been evaluated and listed by an accrediting agency as conforming to national standards for organizations that certify individuals.

Summary of Proposed Changes to Chapter 246-215 WAC, Food Service DRAFT FOR REVIEW AND COMMENT

Washington is reviewing the 2017 FDA Model Food Code for inclusion in chapter 246-215 Washington Administrative Code, Food Service.

As part of the rule revision process, a draft of the proposed rule is provided for consideration and comment. The following list summarizes proposed additions and modifications to the proposed rule. This list does not include corrections to typographical errors, other editorial corrections, or conventions used that vary from the FDA. Comments are encouraged.

A final draft will be prepared in late 2019 after a review of comments received. The final draft will be submitted to the state board of health in November 2019 to continue the rule revision process.

For more information, to provide comment, to view timelines, or to be added to email distribution, please email food.safety@doh.wa.gov or see www.doh.wa.gov/CommunityandEnvironment/Food/FoodWorkerandIndustry/FoodSafetyRules/FoodCodeRuleRevision.

Overall

1. State law requires the state board of health to consider the most current version of the FDA Model Food Code. The 2017 FDA Model Food Code is the most current version available.
2. Washington Administrative Code (WAC) format
 - a. FDA "Chapters" are listed as "Parts" in WAC
 - b. Part 9 is unique to Washington; there is no Chapter 9 in FDA Food Code
 - c. FDA references will be in parentheses after each section title
 - All sections that use FDA Food Code as a basis have been updated by code year (from the 2009 version to the 2017 version)
 - If there isn't an FDA reference it's because that section does not exist in the Food Code
 - References to Core, Priority, Priority Foundation have been removed
3. Several words (such as "shall" instead of "must") are changed to meet WAC convention; additional changes for consistency will be made throughout the rule revision process
4. Potentially Hazardous Foods (PHF) has been replaced with Time/Temperature Control for Safety (TCS) Foods in the FDA Model Food Code and in this version of the draft WAC 246-215. The change is noted in Part 1—Definitions, but each change is not highlighted in remaining portions of the draft language.

Part 1—Intent, Scope, and Definitions

1. Keeps numbers for definitions, even though they are not used in the FDA Food Code. Note: several definitions are added and removed; numbers will be updated with final draft.
2. Adds "Active Managerial Control" definition used within FDA training and guidance
3. Removes mention of "previously table-mounted equipment" in definition of "Counter-Mounted Equipment" (2009 Food Code)
4. Modifies "Donated Food Distributing Organization" to provide clarification that they are food establishments as defined by WAC 246-215
5. Modifies "Egg Product" to be consistent with FDA Model Food Code
6. Deletes "Enterohemorrhagic Escherichia coli (EHEC)" and all references in the chapter as use was outdated (2013 Food Code). Shiga toxin-producing *Escherichia coli* remains.
7. Maintains deletion of "Core Item" as this term isn't used on the WA inspection report form

Chapter 246-215 WAC: Retail Food Service [1] Summary of Proposed Changes for Comment
www.doh.wa.gov/CommunityandEnvironment/Food/FoodWorkerandIndustry/FoodSafetyRules/FoodCodeRuleRevision

Retail Food Service Chapter 246-215 WAC Rule Revision Draft Changes and Comment Period



Retail Food Rule: Top 10 Potential Changes

A draft of the revised rule with proposed changes is available for review and comment. While there are several proposed changes, the following highlighted items are likely to affect a wide variety of food establishments.

1. **Person in Charge (PIC): Knowledge & Duties**
At least one PIC will need to be a Certified Food Protection Manager by July 1, 2021, and will need to ensure Active Managerial Control.
2. **Employee Health**
Establishments must notify employees about reporting illness to the PIC and be able to verify they provided the notification. In addition to vomiting, diarrhea, or jaundice, employees are required to report illness with *Salmonella*, *E. coli*, hepatitis A, norovirus, or *Shigella*.
3. **Clean up of Vomiting and Diarrheal Events**
Operators will need to have a written plan on how to clean up vomit and diarrheal events in the food establishment.
4. **Bare Hand Contact with Ready-to-Eat Foods**
Establishments wanting to prepare food with bare hands will need to demonstrate active managerial control in order to be approved.
5. **Date Marking for 7-Day Shelf-Life**
Most ready-to-eat, refrigerated, perishable foods in opened packages will need to be marked and used within a 7-day shelf-life.
6. **Refilling Reusable Consumer-Owned Containers**
Establishments have the option to allow customers to bring in a clean container to fill, refill, or reuse.
7. **Dogs in Outdoor Areas**
Dogs may be allowed in outdoor areas if an operator follows set procedures with a written, approvable plan.
8. **Mobile Food Units**
Several changes were made for mobile food units based on recent state law changes and comments received.
9. **Donated Foods**
Several sections were changed to clarify approvable food sources and reduce limitations to help safely rescue food.
10. **Food-Specific Changes**
 - Hamburger and other ground meats will need to cook to 158°F instantaneous (instead of 155°F for 15 seconds)
 - Partially-cooked fresh fish may be served with a modified consumer advisory on the potential parasitic concern

Public Presentations and Comment
Interested stakeholders may attend a public presentation on the proposed rule. The presentations will include a review of the proposed changes and time for questions and comments. Comments will be accepted until the end of July 2019.

- **Kennewick:** July 16, 2019
2:00-4:00pm
Benton-Franklin Health District Classroom (1st floor)
7102 West Okanogan Place
- **Spokane:** July 17, 2019
9:00-11:00am
Spokane Regional Health District Auditorium (Room 104)
1101 West College Avenue
- **Bellingham Area:** July 22, 2019
1:00-3:00pm
Fernside Library
Fernside Meeting Room
2125 Main Street
- **Renton:** July 23, 2019
1:00-3:00pm
Renton Technical College
Blencoe Auditorium
3000 NE 4th Street
- **Seattle:** July 23, 2019
5:30-7:30pm
Green Lake Library
Green Lake Meeting Room
7364 East Green Lake Drive North
- **Vancouver:** July 24, 2019
2:00-4:00pm
Vancouver Community Library
Columbia Room
901 C Street
- **Webinar:** July 25, 2019
9:00-11:00am
Register by emailing:
food.safety@doh.wa.gov

For more information about the Food Service rule review, visit www.doh.wa.gov/foodrules or contact Susan Shelton at 509-212-1206 or susan.shelton@doh.wa.gov.

DRAFT PROVISIONS



WITH THE MOST COMMENT OR MODIFICATION

Certified Food Protection Manager: ANSI-Certified Examination

- Presence of Certified Food Protection Manager shown to reduce observed risk factors in retail food facilities
- 2017 FDA Model Food Code requires 1 Certified Food Protection Manager per shift
- **Current Draft:**
 - Add 2013 Model Food Code provision of 1 Certified Food Protection Manager per establishment [WAC 246-215-02110(2)]
 - Add New Definition: ACTIVE MANAGERIAL CONTROL means the purposeful incorporation of specific actions and procedures in the FOOD ESTABLISHMENT to attain control over foodborne illness risk factors. It embodies a preventive rather than reactive approach to food safety through a continuous system of training, monitoring, and verification.
 - Add Active Managerial Control to duties of Person in Charge [WAC 246-215-02115(17)]
 - Add 2017 FDA Food Code provision requiring written cleanup plan for vomit and diarrheal events[WAC 246-215-02500]

Bare Hand Contact (BHC): With Ready-to-Eat (RTE) Food

- Infectious food workers working are a leading cause of foodborne illness outbreaks
- 2017 FDA Model Food Code (and current WAC 246-215) prohibits BHC with RTE food unless the permit holder has an approved plan with additional safeguards and training for employee health
- 2018 “Gloves Off!” Petition and comments
- **Current Draft**
 - Add 2017 Food Code provision allowing BHC with RTE food that will be fully cooked. WA modification will not require the product to be cooked during inspection. [WAC 246-215-03300(4)]
 - Guidance: Provide education to stakeholders regarding BHC provisions and Active Managerial Control

Date Marking: Ready-to-Eat, Cold TCS, Held 24 Hours+

- Cold, RTE, Time/Temperature Control for Safety Foods that are prepared on-site or unpackaged and held for more than 24 hours must be marked for a 7-day service or discard.
- FDA Model Food Code has required Date Marking since 1993. Specific foods, such as commercially-prepared salads and hard cheeses, are exempt.
- **Current Draft**
 - Replace “Potentially Hazardous Foods/PHF” with “Time/Temperature Control for Safety/TCS”
 - Add 2017 Model Food Code provision regarding marking applicable foods [WAC 246-215-03526]
 - Provide guidance on food disposition to mitigate food waste [WAC 246-215-03527]

Refilling Reusable Containers

- Except for nonTCS beverages, current WAC 246-215 does not allow refilling of customer-owned containers unless they are washed, rinsed, and sanitized by a food processing facility
- 2017 FDA Model Food Code allows refilling of multiuse containers that are provided, cleaned, and sanitized by the food establishment
- **Current Draft**
 - Adds 2017 Food Code provision regarding refilling multiuse containers [WAC 246-215-03348(5-9)]
 - Based on public comment, adds WA option to allow refilling of customer-provided containers using a contamination-free process under a written plan [WAC 246-215-03348(10)]

Dogs in Outdoor Areas: Optional with Approved Plan

- Pet must be under the control of the dog owner
- Pet must be on a leash or confined in a pet carrier
- Pet is not allowed on chairs, benches, seats, or other fixtures
- Any food provided by food establishment must be disposable containers
- Staff do not handle the animals
- Outdoor area is not used for food preparation
- Outdoor area is maintained clean and in compliance with local ordinances

Mobile Food Units: Part 9 – Subpart A

- Remove L&I reference
- Require business name posting
- Removal of explicit cooking restrictions
- Inclusion of commissary exemption language (RCW 43.20.148)
- Inclusion of plan review reciprocity language (Required by SB 5218, Mobile Food Units – Regulatory Approval, effective July 28, 2019)

Donated Food Distribution: Part 9 – Subpart D

- Annual report detailed
- Written approval required from regulatory authority
- Equipment requirements detailed
- Allowable food sources have been expanded
- Explicitly restricted donation of raw milk

Additional Washington-Specific Modifications

- Re-service foods clarification in definition [Part 1 Definition]
- Asian rice-based noodles: Receiving temperature [WAC 246-215-03235(4)]
- Parasitic risk of partially cooked fresh finfish (salmon, halibut) [WAC 246-215-03425(2)(f)]
- Potlucks -- disallow public advertising [Part 1 Definition]
- Raise comminuted meat cooking temperature to 158°F [WAC 246-215-03400(1)(b)]

Stay Connected... during the Rule Revision Process

Website

SBOH: <https://sboh.wa.gov>

DOH: www.doh.wa.gov/foodrules



Email

food.safety@doh.wa.gov



Washington State Department of Health is committed to providing customers with forms and publications in appropriate alternate formats. Requests can be made by calling 800-525-0127 or by email at civil.rights@doh.wa.gov. TTY users dial 711.