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2 **TITLE 7 HEALTH**
3 **CHAPTER 6 FOOD HANDLING**
4 **PART 2 FOOD SERVICE AND FOOD PROCESSING**
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6 **7.6.2.1 ISSUING AGENCY:** New Mexico Environmental Improvement Board.
7 [7.6.2.1 NMAC - Rp, 7 NMAC 6.1.001, 08/12/2000; Rp, x/x/2016]
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9 **7.6.2.2 SCOPE:** All Food Service Establishments and Food Processing Establishments.
10 [7.6.2.2 NMAC - Rp, 7 NMAC 6.1.002, 08/12/2000; Rp, x/x/2016]
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12 **7.6.2.3 STATUTORY AUTHORITY:** Section 74-1-8 NMSA 1978 directs the Environmental
13 Improvement Board to promulgate regulations and standards for Food protection. Section 74-1-9
14 NMSA 1978 directs the procedures for adoption. Section 25-1-4 delineates requirements of Food
15 Service Establishments to prepare and serve Food in a manner safe for human consumption, free
16 from Adulteration, spoilage, contamination and unwholesomeness. Section 25-1-7 NMSA 1978
17 authorizes the department of environment to execute any provisions of the Food Service
18 Sanitation Act (Chapter 25, Article 1 NMSA 1978.)
19 [7.6.2.3 NMAC - Rp, 7 NMAC 6.1.003, 08/12/2000; Rp, x/x/2016]
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21 **7.6.2.4 DURATION:** Permanent.
22 [7.6.2.4 NMAC - Rp, 7 NMAC 6.1.004, 08/12/2000; Rp, x/x/2016]
23

24 **7.6.2.5 EFFECTIVE DATE:** February 1, 2016 unless a later date is cited in the History of
25 7.6.2 NMAC.
26 [7.6.2.5 NMAC - Rp, 7 NMAC 6.1.005, 08/12/2000; Rp, x/x/2016]
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28 **7.6.2.6 OBJECTIVE:** The objective of these regulations is to protect the public health by
29 establishing standards and provisions for the safe operation of food establishments to assure that
30 consumers are not exposed to adverse environmental health conditions.
31 [7.6.2.6 NMAC - Rp, 7 NMAC 6.1.006, 08/12/2000; Rp, x/x/2016]
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33 **7.6.2.7 DEFINITIONS:**

34 **A. Adoption of Food Code definitions.** Except as otherwise provided below, Part 1-2
35 (Definitions) of the 2013 United States Food and Drug Administration Model Food Code (“Food
36 Code”) is hereby adopted and incorporated by reference.

37 **B. Modifications to Food Code Definitions.** The following terms defined in Food Code
38 Part 1-2 have the meanings set forth herein, in lieu of the meanings set forth in Food Code Part
39 1-2.

40 (1) “Adulterated” has the meaning state in the New Mexico Food Act, NMSA
41 1978, Section 25-2-10.

42 (2) “Critical Control Point” means a point, step, or procedure in a food process at
43 which a control measure can be applied and at which control is essential to prevent, reduce to an
44 acceptable level, or eliminate an identified Food Hazard.

1 **(3)** “Critical Limit” means the maximum or minimum value to which a physical,
2 biological, or chemical parameter must be controlled at a Critical Control Point to prevent,
3 eliminate, or reduce to an acceptable level the occurrence of the identified Food Hazard.

4 **(4)** “Drinking Water” means water that meets criteria as specified in 40 CFR 141
5 National Primary Drinking Water Regulations 20.7.10 NMAC. Drinking Water is traditionally
6 known as “potable water”, and includes the term “water” except where the term used connotes
7 that the water is not potable, such as “boiler water,” “mop water,” “rainwater,” “wastewater,”
8 and “non-drinking” water.

9 **(5)** “Food Code” means the 2013 United States Food and Drug Administration
10 Model Food Code.

11 **(6)** “Food Establishment” means an operation that stores, prepares, packages,
12 serves, vends Food directly to the consumer, or otherwise provides Food for human consumption
13 such as a restaurant; satellite or catered feeding location; catering operation if the operation
14 provides Food directly to a consumer or to a conveyance used to transport people; market;
15 vending location; conveyance used to transport people; an institution; or food bank; and
16 relinquishes possession of Food to a consumer directly, or indirectly through a delivery service
17 such as home delivery of grocery orders or restaurant takeout orders, or delivery service that is
18 provided by common carriers.

19 **(a)** Food Establishment includes:

20 (i) An element of the operation such as a transportation vehicle or a
21 central preparation facility that supplies a vending location or satellite feeding location unless the
22 vending or feeding location is permitted by the Regulatory Authority; or

23 (ii) An operation that is conducted in a mobile, stationary,
24 temporary, or permanent facility or location; where consumption is on or off the Premises; and
25 regardless of whether there is a charge for the Food.

26 **(b)** Food Establishment does not include:

27 (i) An establishment that offers only prepackaged Foods that are not
28 time/temperature control for safety (TCS) Foods;

29 (ii) A produce stand that only offers whole, uncut fresh fruits and
30 vegetables;

31 (iii) A Food Processing Plant; including those that are located on the
32 Premises of a Food Establishment;

33 (iv) A kitchen in a private home if only baked goods (e.g., cookies,
34 brownies, cakes, fruit pies) that are not time/temperature control for safety Food, are prepared for
35 sale or service at a fundraising function (e.g., a religious or charitable organization’s bake sale) if
36 the consumer is informed by a clearly visible placard at the sales or service location that the
37 Food is prepared in a kitchen that is not subject to regulation and inspection by the Regulatory
38 Authority;

39 (v) An area where Food that is prepared as specified in (b)(iv) of this
40 definition is sold or offered for human consumption;

41 (vi) A kitchen in a private home, such as a facility licensed by or
42 registered with the Department of Health, or the Department of Children, Youth and Families, or
43 a bed-and-breakfast operation that prepares and offers Food to guests if the home is owner
44 occupied, the number of available guest bedrooms does not exceed 6, breakfast is the only meal
45 offered, the number of guests served does not exceed 18, and the consumer is informed by
46 statements contained in published advertisements, mailed brochures, and placards posted at the

1 registration area that the Food is prepared in a kitchen that is not regulated and inspected by the
2 Regulatory Authority;

3 (vii) A private home that receives catered or home-delivered Food
4 that is served to non-paying guests;

5 (viii) A private home or home environment where residents take part
6 in preparing and serving their own meals;

7 (ix) A pot-luck dinner or similar event in which the Food is prepared
8 and/or contributed by the participants and for which no fee is charged;

9 (x) A custom exempt meat processing facility where animals are
10 processed for personal use by the animal owner as Food and not for sale or service in a Food
11 Establishment;

12 (xi) A dairy establishment as defined in the New Mexico Food Act;

13 (xii) An animal slaughter facility;

14 (xiii) An aquaculture facility that raises fish;

15 (xiv) A "pure honey" processing facility. "Pure honey" refers to
16 natural liquid or solid honey extracted from the combs or in the comb taken from beehives with
17 no processing or adding of additional ingredients; or

18 (xv) An operation that offers to consumers whole raw agricultural
19 products.

20 (7) "HACCP Plan" means a document prepared in accordance with the principles
21 of HACCP to ensure control of hazards which are significant for Food safety.

22 (8) "Hermetically Sealed Container" means an airtight container that is designed
23 and intended to be secure against the entry of microorganisms and to maintain the commercial
24 sterility of its contents after processing, or to maintain the controls which prevent potential
25 growth of microorganisms or the elaboration of toxins through acidity (pH) or water activity
26 (aw).

27 (9) "Home-based Food Processing Operation" means any business in which a
28 residential kitchen is permitted to process Food not classified as a time/temperature control for
29 safety foods (TCS) and is packaged and is offered directly to the consumer.

30 (10) "Public Water System" has the meaning stated in 20.7.10 NMAC.

31 (11) "Regulatory Authority" means the New Mexico Environment Department.

32 (12) "Temporary Food Establishment" (TFE) means a Food Establishment that
33 operates at a fixed location in conjunction with a single event or celebration for a period not
34 exceeding the length of the event or celebration, and does not exceed ~~thirty~~³⁰ days.

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35 **C. Additions to Food Code Definitions.** The following terms not defined in Food Code
36 Part 1-2 have the meanings set forth herein when the terms are used in this part.

37 (1) "Acid Food" means food that has a natural pH of 4.6 or below.

38 (2) "Acidified Food" means low-acid Food to which acid(s) or Acid Food(s) are
39 added and have a water activity greater than 0.85 and have a finished equilibrium pH of 4.6 or
40 below. Carbonated beverages and Food that are stored, distributed, and retailed under
41 refrigeration are not classified as Acidified Food.

42 (3) "Control Point" means a step at which biological, chemical, or physical factors
43 can be controlled.

44 (4) "Corrective Action" means an action to be taken when the results of
45 monitoring at the Critical Control Point indicate a loss of control.

46 (5) "Deviation" means failure to meet a critical limit.

- 1 (6) ~~“Embargo” means an order of prohibition issued by the Regulatory Authority~~
2 ~~to prevent the movement and/or sale of Food products which are suspected or known to be~~
3 ~~Adulterated or do not meet appropriate health or legal standards.~~
- 4 (7) “Food Handler Card” means a card issued to an individual after successful
5 completion of a Food Handler Training Program to function as a Food Employee.
- 6 (8) “Food Handler Training Program” means an ANSI/ASTM E2659-09
7 ~~accredited Food Handler Training Certificate Program. Approved training program that allows a~~
8 ~~person to issue a Food Handler Card.~~
- 9 (9) “Good Manufacturing Practices” (GMPs) means the minimum sanitary and
10 processing requirements related to production methods, equipment, facilities, and other controls
11 that a Food Processing Plant must meet to assure that Food is safe and wholesome.
- 12 (10) “Hazard Analysis and Critical Control Point” (HACCP) means a Food
13 safety management system that focuses on the identification, evaluation, and control of Food
14 safety Hazards.
- 15 (11) “Hazard Analysis” means the process of collecting and evaluating
16 information on hazards associated with the Food under consideration to decide which are
17 significant and must be addressed in the HACCP plan.
- 18 (12) “Home-based Food Processing Operation” means any business in which a
19 residential kitchen is Permitted to process Approved Food that is not classified as a
20 ~~Time/Temperature control/Control for safety~~ Safety Food (TCS) and is packaged and is offered
21 directly to the consumer.
- 22 (13) “Jerky” means a dried, finished meat, poultry, fish, or game animal product
23 having a water activity (a_w) less than 0.85.
- 24 (14) “Low Acid Food” means any Food, other than alcoholic beverages, with a
25 finished equilibrium pH greater than 4.6 and a water activity (a_w) greater than 0.85. Tomatoes
26 and tomato products having a finished equilibrium pH less than 4.7 are not classified as Low
27 Acid Food.
- 28 (15) “Misbranded” has the meaning stated in the New Mexico Food Act, NMSA
29 1978, Section 25-2-11.
- 30 (16) “Mobile Food Establishment” means a Food Establishment that is designed
31 to be readily movable; completely retains its mobility; and is equipped to serve Food. Mobile
32 Food Establishment includes Self-contained Mobile Units, Non Self-contained Mobile Units,
33 Pushcarts, and Mobile Support Units.
- 34 (17) “Mobile Support Unit” means an enclosed motor vehicle department-
35 licensed driven or towed wheeled vehicle used in conjunction with a New Mexico based
36 servicing area that travels to, and services, other Mobile Food Establishments as needed to
37 replenish supplies, including Food and potable water, clean the interior of the unit, or dispose
38 of liquid or solid wastes.

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- 1 **(18)** “Monitoring” means to conduct a planned sequence of observations or
2 measurements to assess whether a process, point, or procedure is under control and to produce
3 an accurate record for future use in verification.
- 4 **(19)** “Non Self-Contained Mobile Unit” means an enclosed motor vehicle
5 department-licensed driven or towed wheeled vehicle that is required to operate from a New
6 Mexico based servicing area.
- 7 **(20)** “Operational Plan” means a written plan outlining the product formulation,
8 production steps, safety requirements, distribution, labeling, and recall procedures of a Food
9 product that will be implemented by a Food Establishment or Food Processing Plant when
10 processing packaged Food.
- 11 **(21)** “Process Authority” means an expert in the processes for controlling
12 pathogenic microorganisms in Food, and as such, is qualified by education, training and
13 experience to evaluate all of the aspects of pathogen control measures-and determine if such
14 control measures, when properly implemented, will control pathogens effectively.
- 15 **(22)** “Pushcart” means a human propelled unit, equipped to serve Food, that is
16 required to operate from a New Mexico based servicing area.
- 17 **(23)** “Recall” means a return of Food products that are either known or suspected
18 to be Adulterated, Misbranded, or otherwise unsafe for human consumption, to the manufacturer
19 or distributor, or that are disposed of by Approved methods.
- 20 **(24)** “Sanitation Standard Operating Procedures” (SSOPs) means written
21 procedures specific to a single Food Processing Plant to be followed routinely for the
22 performance of designated operations to ensure sanitary conditions and to prevent product
23 adulteration in a Food Processing Plant.
- 24 **(25)** “Self-contained Mobile Unit” means an enclosed motor vehicle department-
25 licensed driven or towed wheeled vehicle that is not required to operate from a New Mexico
26 based servicing area.
- 27 **(26)** “Shelf-stable Product” means a product that is hermetically sealed and, when
28 stored at room temperature, should not demonstrate any microbial growth.
- 29 **(27)** “Standard Operating Procedures” (SOPs) means written procedures to be
30 followed routinely for the performance of designated operations in a Food Processing Plant.
- 31 **(28)** “Standards of Identity” means legal standards, defined by the FDA, for
32 Foods regarding minimum quality specifications, including permitted ingredients and processing
33 requirements, to be marketed under a certain name.
- 34 **(29)** “Sub-ingredient” means an ingredient within another ingredient that has been
35 added to a Food and is declared parenthetically following the name of the ingredient or by
36 dispersing each ingredient in its order of predominance in the ingredient statement without
37 naming the original ingredient.
- 38 **(30)** “Validation” means that element of Verification focused on collecting and
39 evaluating scientific and technical information to determine whether the HACCP system, when
40 properly implemented, will control effectively the identified Food Hazards.

1 (31) "Verification" means those activities, other than monitoring, that establish
2 the validity of the HACCP plan and that the system is operating according to the plan. It includes
3 Validation procedures.

4 [7.6.2.7 NMAC - Rp, 7 NMAC 6.1.006, 08/12/2000; Rp, x/x/2016]

5 **7.6.2.8 FOOD ESTABLISHMENT REQUIREMENTS:**

6 **A. Adoption of Food Code.** Except as otherwise provided, the 2013 United States Food
7 and Drug Administration Model Food Code ~~and the Supplement to the 2013 Food Code is-are~~
8 hereby adopted and incorporated by reference.

9 **B. Modifications and Omissions to Food Code.** Except as otherwise provided, the
10 following modifications and omissions are made to the incorporated Food Code.

11 (1) Modifications. The following provisions of the Food Code are modified in
12 7.6.2 NMAC:

13 2-102.12 Certified Food Protection Manager

14 (A) At least one Employee that has supervisory and management responsibility and the
15 authority to direct and control Food preparation and service shall be a certified Food protection
16 manager who has shown proficiency of required information through passing a test that is part
17 of an Accredited Program. (B) This Section applies to Food Establishments, Food Processing
18 Plants, Temporary Food Establishments, and Mobile Food Establishments. (C) This section does
19 not apply to certain types of Food Establishments deemed by the Regulatory Authority to pose
20 minimal risk of causing, or contributing to, foodborne illness based on the nature of the
21 operation and extent of Food preparation. (D) The effective date of this Section shall be one
22 year from the effective date of this Code.

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23 (a) 3-201.15 Molluscan Shellfish. (A) Molluscan Shellfish shall be obtained
24 from sources according to law and the requirements specified in the U.S. Department of Health
25 and Human Services, Public Health Service, Food and Drug Administration, National Shellfish
26 Sanitation Program Guide for the Control of Molluscan Shellfish. (B) Molluscan Shellfish shall
27 be from sources that are listed in the Interstate Certified Shellfish Shippers List.

28 (b) 3-202.18 Shellstock Identification. (A) Shellstock shall be obtained in
29 containers bearing legible source identification tags or labels that are affixed by the harvester or
30 dealer that depurates, ships, or reships the Shellstock, as specified in the National Shellfish
31 Sanitation Program Guide for the Control of Molluscan Shellfish, and that list: (1) Except as
32 specified under paragraph (C) of this section, on the harvester's tag or label, the following
33 information in the following order: (a) The harvester's identification number that is assigned by
34 the Shellstock Control Authority, (b) The date of harvesting, (c) The most precise identification
35 of the harvest location or aquaculture site that is practicable based on the system of harvest area
36 designations that is in use by the Shellstock Control Authority and including the abbreviation of
37 the name of the state or country in which the shellfish are harvested, (d) The type and quantity of
38 shellfish, (e) The following statement in bold, capitalized type: "This tag is required to be
39 attached until container is empty or retagged and thereafter kept on file for 90 days"; (2) Except
40 as specified in paragraph (D) of this section, on each dealer's tag or label, the following
41 information in the following order: (a) The dealer's name and address, and the certification
42 number assigned by the Shellstock Control Authority, (b) The original shipper's certification
43 number including the abbreviation of the name of the state or country in which the shellfish are
44 harvested, (c) The same information as specified for a harvester's tag under Subparagraphs
45 (A)(1)(b)-(d) of this section, (d) The following statement in bold, capitalized type: "This tag is
46 required to be attached until container is empty and thereafter kept on file for 90 days." (B) A

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1 container of Shellstock that does not bear a tag or label or that bears a tag or label that does not
2 contain all the information as specified under paragraph (A) of this section shall be subject to a
3 hold order or seizure and destruction in accordance with NMSA 25-2-6. (C) If a place is
4 provided on the harvester's tag or label for a dealer 's name, address, and certification number,
5 the dealer 's information shall be listed first. (D) If the harvester's tag or label is designed to
6 accommodate each dealer 's identification as specified under Subparagraphs (A)(2)(a) and (b) of
7 this section, individual dealer tags or labels need not be provided.

8 (c) 3-502.11 Variance Requirement. A Food Establishment shall obtain a
9 Variance from the Regulatory Authority as specified in § 8-103.10 and under § 8-103.11 before:
10 (A) Smoking Food as a method of Food preservation rather than as a method of flavor
11 enhancement; (B) Curing Food; (C) Using Food additives or adding components such as vinegar:
12 (1) As a method of Food preservation rather than as a method of flavor enhancement, (2) To
13 render a Food so that it is not Time/temperature Control of Safety (TCS) Food; (D) Packaging
14 Time/temperature Control for Safety Food using a reduced oxygen packaging method except
15 where the growth of and toxin formation by Clostridium botulinum and the growth of Listeria
16 monocytogenes are controlled as specified under § 3-502.12; (E) Operating a Molluscan
17 Shellfish life-support system display tank used to store or display Shellfish that are offered for
18 human consumption;(F) Preparing Food by another method that is determined by the Regulatory
19 Authority to require a Variance;(G) Sprouting seeds or beans.

20 (d) 4-205.10 Food Equipment, Certification and Classification. (A) Food
21 equipment, including new and replacement equipment, shall be certified or classified for
22 sanitation by an American National Standards Institute (ANSI)-accredited certification
23 program. Such accredited programs include, but are not limited to, the National Sanitation
24 Foundation (NSF), Underwriters Laboratories (UL), Intertek ETL, or the Canadian Standards
25 Administration (CSA).(B) Food equipment that is certified or classified for sanitation by an
26 American National Standards Institute (ANSI)-accredited certification program is deemed to
27 comply with Parts 4-1 and 4-2 of this chapter.

28 (e) 4-301.11 Cooling, Heating, Holding Capacities and Use. (A)
29 Equipment for cooling and heating Food, and holding cold and hot Food, shall be sufficient in
30 number and capacity to provide Food temperatures as specified under Chapter 3. (B) Steam
31 tables, slow cookers, and other hot holding devices shall not be used in cooking, heating or
32 reheating Food as specified under §§ 3-401 and 3-403

33 (f) 5-102.11 Standards. Except as specified under § 5-102.12: (A) Water
34 from a public water system shall meet the construction and drinking water quality standards
35 specified in 20.7.10 NMAC; and (B) Water from a nonpublic water system shall meet: (1) The
36 construction requirements and drinking water quality standards of a non-community water
37 system as specified in 20.7.10 NMAC; and (2) The Drinking Water source setback
38 requirements as specified in 20.7.3 NMAC.

39 (g) 5-102.13 Sampling. Except when used as specified under § 5-102.12,
40 water from a non-public water system shall meet the sampling requirements of a non-
41 community water system as specified in 20.7.10 NMAC.

42 (h) 5-203.13 Service Sink. (A) Except as specified in paragraph (C) of this
43 section, at least 1 service sink or 1 curbed cleaning facility equipped with a floor drain shall be
44 provided and conveniently located for the cleaning of mops or similar wet floor cleaning tools
45 and for the disposal of mop water and similar liquid waste. (B) Toilets and urinals may not be
46 used as a service sink for the disposal of mop water and similar liquid waste. (C) When no

1 health hazard will exist, the regulatory authority may approve an alternative method.

2 (i) 6-501.115 Prohibiting Animals. (A) Except as specified in paragraphs
3 (B) and (C) of this section, live animals may not be allowed on the premises of a Food
4 Establishment. (B) Live animals may be allowed in the following situations if the
5 contamination of Food; clean equipment, utensils, and linens; and unwrapped single-service
6 and single-use articles cannot result: (1) Edible Fish or decorative Fish in aquariums, Shellfish
7 or crustaceans on ice or under refrigeration, and Shellfish and crustaceans in display tank
8 systems; (2) Patrol dogs accompanying police or security officers in offices and dining, sales,
9 and storage areas, and sentry dogs running loose in outside fenced areas; (3) In areas that are
10 not used for Food preparation and that are usually open for customers, such as dining and sales
11 areas, service animals that are controlled by the disabled employee or person, if a health or
12 safety hazard will not result from the presence or activities of the service animal; (4) Pets in the
13 common dining areas of institutional care facilities such as nursing homes, assisted living
14 facilities, group homes, or residential care facilities at times other than during meals if: (a)
15 Effective partitioning and self-closing doors separate the common dining areas from Food
16 storage or Food preparation areas, (b) Condiments, equipment, and utensils are stored in
17 enclosed cabinets or removed from the common dining areas when pets are present, and (c)
18 Dining areas including tables, countertops, and similar surfaces are effectively cleaned before
19 the next meal service; and (5) In areas that are not used for Food preparation, storage, sales,
20 display, or dining, in which there are caged animals or animals that are similarly confined, such
21 as in a variety store that sells pets or a tourist park that displays animals. (6) Pet dogs in
22 outdoor dining areas, if allowed by the Food Establishment, and: (a) Pet dogs are not allowed
23 in any area where Food is prepared; (b) Pet dogs are kept on a leash and under reasonable
24 control at all times; (c) Pet dogs are not allowed on chairs, consumer's laps, tables, or other
25 furnishings; (d) Consumers shall not feed pet dogs on Food Establishment tableware; and (e) A
26 sign approved by the Regulatory Authority is posted at each entrance to the designated outdoor
27 dining area stating the conditions under which pet dogs are allowed and alerting patrons that
28 pet dogs are allowed and may be present. (C) Live or dead fish bait may be stored if
29 contamination of Food; clean equipment, utensils, and linens; and unwrapped single-service
30 and single-use articles cannot result.

31 (j) 8-103.10 Modifications and Waivers. (A) The Regulatory Authority
32 may grant a Variance by modifying or waiving the requirements of this Code if in the opinion
33 of the Regulatory Authority a health hazard or nuisance will not result from the Variance. If a
34 Variance is granted, the Regulatory Authority shall retain the information specified under § 8-
35 103.11 in its records for the Food Establishment. (B) The Regulatory Authority shall grant the
36 Variance, grant the Variance subject to conditions, or deny the Variance within 15 working
37 days following the receipt of the Variance request.

38 (k) 8-201.11 When Plans Are Required. Except for Temporary Food
39 Establishments, a Permit applicant or Permit holder shall submit to the Regulatory Authority
40 properly prepared plans and specifications for review and approval at least 30 calendar days
41 before: (A) The construction of a Food Establishment; (B) The conversion of an existing
42 structure for use as a Food Establishment; (C) The remodeling of a Food Establishment or a
43 change of type of Food Establishment or Food Operation as specified under ¶ 8-302.14(C) if
44 the Regulatory Authority determines that plans and specifications are necessary to ensure
45 compliance with this Code; or (D) Opening or changing ownership of an existing Food
46 Establishment, if current plans and specifications are not on file with the Regulatory Authority.

1 **l)** 8-301.11 Prerequisite for Operation. (A) A person may not operate a
2 Food Establishment or servicing area without a valid permit to operate issued by the
3 Regulatory Authority. (B) Except as specified in paragraphs (C) and (D) of this section, when
4 more than a single Food Establishment is operated on the premises, each one shall be
5 separately permitted; (C) Bars operating in conjunction with a Food Establishment do not
6 require a separate permit; and (D) Food Establishment used as a Servicing Area do not require
7 a separate permit.

8 **(m)** 8-301.12 Responsibility for Operation. (A) Except as specified in
9 paragraphs (B) and (C) of this section, the permit holder shall be responsible for all Food
10 operations conducted on the Premises for which a permit is issued; (B) permit holders shall
11 not be responsible for Food operations on the premises when another permit holder is
12 operating with a permit; and (C) Each permit holder shall be responsible for shared facilities
13 or equipment on the premises.

14 **(n)** 8-302.11 Application Submission ~~30 Calendar Days~~ Before Proposed
15 Opening. (A) Except as specified in paragraph (B) of this section, an applicant shall submit an
16 application for a Permit at least 30 calendar days before the date planned for opening a Food
17 Establishment. (B) An applicant shall submit an application for a Permit at least 2-one
18 business days before the date planned for opening a Temporary Food Establishment.

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19 **(o)** 8-302.13 Qualifications and Responsibilities of Applicants. To
20 qualify for a Permit, an applicant shall: (A) Be an owner of the Food Establishment or an
21 officer of the legal ownership; (B) Comply with the requirements of this Code; (C) As
22 specified under § 8-402.11, agree to allow access to the Food Establishment and to provide
23 required information; and (D) Pay the applicable permit fees when approval to open is granted
24 by the Regulatory Authority.

25 **(p)** Contents of the Application. The application shall include: (A) The
26 name, mailing address, telephone number, and signature of the person applying for the permit
27 and the name, mailing address, and location of the Food Establishment; (B) Information
28 specifying whether the Food Establishment is owned by an association, corporation,
29 individual, partnership, or other legal entity; (C) A statement specifying whether the Food
30 Establishment: (1) Is mobile or stationary and temporary or permanent, and (2) Is an operation
31 that includes one or more of the following: (a) Prepares, offers for sale, or serves
32 time/temperature control for safety Food: (i) Only to order upon a consumer's request, (ii) In
33 advance in quantities based on projected consumer demand and discards Food that is not sold
34 or served at an approved frequency, or (iii) Using time as the public health control as specified
35 under § 3-501.19, (b) Prepares time/temperature control for safety Food in advance using a
36 Food preparation method that involves two or more steps which may include combining
37 time/temperature control for safety Food ingredients; cooking; cooling; reheating; hot or cold
38 holding; freezing; or thawing, (c) Prepares Food as specified under Subparagraph (C)(2)(b) of
39 this section for delivery to and consumption at a location off the premises of the Food
40 Establishment where it is prepared, (d) Prepares Food as specified under Subparagraph
41 (C)(2)(b) of this section for service to a highly susceptible population, (e) Prepares only Food
42 that is not Time/temperature Control for Safety Food, or (f) Does not prepare, but offers for
43 sale only prepackaged Food that is not Time/temperature Control for Safety Food; (D) The
44 name, title, address, and telephone number of the person directly responsible for the Food
45 Establishment; (E) The name, title, address, and telephone number of the person who
46 functions as the immediate supervisor of the person specified under paragraph (D) of this

1 section such as the zone, district, or regional supervisor; (F) The names, titles, and addresses
2 of: (1) The persons comprising the legal ownership as specified under paragraph (B) of this
3 section including the owners and officers, and (2) The local resident agent if one is required
4 based on the type of legal ownership;(G) A statement signed by the applicant that: (1) Attests
5 to the accuracy of the information provided in the application, and (2) Affirms that the
6 applicant will: (a) Comply with this Code, and (b) Allow the Regulatory Authority access to
7 the Food Establishment as specified under Section 8-402.11 and to the records specified under
8 Sections 3-203.12 and 5-205.13 and Subparagraph 8-201.14(D)(6); and (H) Other information
9 required by the Regulatory Authority.

10 (q) 8-303.20 Existing Establishments, Permit Renewal, and Change of
11 Ownership. (A) The Regulatory Authority may renew a Permit for an existing Food
12 Establishment upon submission of a renewal form provided by the Regulatory Authority and
13 the required fee(s) as specified in Section 8-303.15 prior to the expiration date of the Permit.
14 Permit renewals that are not submitted before the expiration date shall be assessed a late fee as
15 specified in paragraph 8-303.15(b), regardless of whether a permit fee is required. (B) The
16 Regulatory Authority may issue a permit to a new owner of an existing Food Establishment,
17 Mobile Food Establishment, Servicing Area, or Food Processing Plant upon completion of
18 requirements as specified in Sections 8-201.11 and 8-302.11 and an inspection shows it is in
19 compliance with this Code.

20 (r) 8-401.10 Establishing Inspection Interval. (A) Except as specified in
21 paragraph (B) of this section, the Regulatory Authority shall inspect a Food Establishment,
22 Mobile Food Establishment, Food Processing Plant, or Home-based Food Processing
23 Operation at least annually to determine compliance with the Food Service Sanitation Act, the
24 New Mexico Food Act, and this Code. (B) The Regulatory Authority may periodically inspect
25 throughout its Permit period a Temporary Food Establishment that prepares, sells, or serves
26 unpackaged Time/temperature Control for Safety Food and that: (1) Has improvised rather
27 than permanent facilities or equipment for accomplishing functions such as handwashing,
28 Food preparation and protection, Food temperature control, warewashing, providing Drinking
29 Water, waste retention and disposal, and insect and rodent control; or (2) Has inexperienced
30 Food employees. (C) When an inspection conducted under Paragraph (A) of this section
31 reveals a violation, or repeat violation of Priority Items ~~or Priority Foundation Items~~ of this
32 Code and a re-inspection is scheduled by the Regulatory Authority, a re-inspection penalty fee
33 shall be assessed by the Regulatory Authority and paid by the Operator as specified in 8-
34 303.15.

35 (s) 8-401.20 Performance-and Risk-Based. The Regulatory Authority
36 shall prioritize, and conduct more frequent inspections based upon its assessment of a Food
37 Establishment's history of compliance with this Code and the Establishment's potential as a
38 vector of foodborne illness by evaluating: (A) Past performance, for nonconformance with
39 Code or HACCP Plan requirements that are Priority Items or Priority Foundation Items; (B)
40 Past performance, for numerous or repeat violations of Code or HACCP Plan requirements
41 that are Core Items; (C) Past performance, for complaints investigated and found to be valid;
42 (D) The hazards associated with the particular Foods that are prepared, stored, or served; (E)
43 The type of operation including the methods and extent of Food storage, preparation, and
44 service; (F) The number of people served; and (G) Whether the population served is a highly
45 susceptible population.

46 8-402.11 Allowed at Reasonable Times after Due Notice. (A) After

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1 the Regulatory Authority presents official credentials and provides notice of the purpose of,
2 and an intent to conduct, an inspection, the Person in Charge shall allow the Regulatory
3 Authority to determine if the Food Establishment, Mobile Food Establishment, Food
4 Processing Plant, or Home-based Food Processing Operation is in compliance with this Code
5 by allowing access to the establishment, allowing inspection, and providing information and
6 records specified in this Code and to which the Regulatory Authority is entitled according to
7 Law, during the Food Establishment's hours of operation and other reasonable times. (B) The
8 Regulatory Authority shall be allowed to copy any records pertaining to the manufacture,
9 processing, packing, distribution, receipt, holding, or importation of Food maintained by or
10 on behalf of a Food Establishment, Mobile Food Establishment, Food Processing Plant, or
11 Home-based Food Processing Operation in any format, including paper and electronic
12 formats, and at any location. Proprietary documents shall be protected by the Regulatory
13 Authority as specified in Section 8-202.10 of the Food Code,

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14 (t) 8-402.20 Refusal, Notification of Right to Access, and Final Request
15 for Access. If a person denies access to the Regulatory Authority, the Regulatory Authority
16 shall: (A) Inform the person that: (1) The Permit holder is required to allow access to the
17 Regulatory Authority as specified under section 8-402.11 of this Code, (2) Access is a
18 condition of the acceptance and retention of a Food Establishment Permit to operate as
19 specified under paragraph 8-304.11(F), and (3) If access is denied, an order issued by the
20 appropriate authority allowing access, hereinafter referred to as an Inspection Order, may be
21 obtained according to Law, and (4) Refusal to allow access is grounds for immediate Permit
22 suspension or revocation; and (B) Make a final request for access.

23 (u) 8-403.30 Refusal to Sign Acknowledgment. At the conclusion of the
24 inspection and according to Law, the Regulatory Authority shall provide a copy of the
25 completed inspection report and the notice to correct violations to the Permit holder or to the
26 Person in Charge, and request a signed acknowledgment of receipt.

8-801.10 Proper Methods.

27 (Note: Adoption of this section provides the basis for serving notice of inspectional findings as
28 specified in Section 8-403.30 and would be cited there.) A notice issued in accordance with this
29 Code shall be considered to be properly served if it is served by one of the following methods:
30 (A) The notice is personally served by the Regulatory Authority, a Law enforcement officer, or a
31 Person authorized to serve a civil process to the Permit Holder, the Person in Charge, or Person
32 operating a Food Establishment without a Permit; (B) The notice is sent by the Regulatory
33 Authority to the last known address of the Permit Holder or the Person operating a Food
34 Establishment without a Permit, by registered or certified mail or by other public means so that a
35 written acknowledgment of receipt may be acquired.

8-801.20 Restriction or Exclusion Order, Hold Order or Immediate Suspension.

36 An Employee Restriction or Exclusion order, an order to hold and not distribute Food, such as a
37 hold, detention, embargo, or seizure order which is hereinafter referred to as a hold order, or an
38 immediate suspension order shall be: (A) Served as specified in ¶ 8-801.10(A); or (B) Clearly
39 posted by the Regulatory Authority at a public entrance to the Food Establishment and a copy of
40 the notice sent by first class mail to the Permit Holder or to the owner or custodian of the Food,
41 as appropriate.

8-901.10 Conditions Warranting Remedy

1 The Regulatory Authority may seek an administrative or judicial remedy to achieve compliance
2 with the provisions of this Code if a Person operating a Food Establishment or Employee: (A)
3 Fails to have a valid Permit to operate a Food Establishment as specified under Section 8-301.11;
4 (B) Violates any term of condition of a permit as specified under Section 8-304.11; (C) Allows
5 repeated violations of the Food Service Sanitation Act, Chapter 25, Article 1 NMSA 1978; the
6 New Mexico Food Act, Chapter 25, Article 2 NMSA 1978; or serious or repeated Code
7 violations to reoccur or remain uncorrected beyond time frames for correction Approved,
8 directed, or ordered by the Regulatory Authority under Paragraphs 8-405.11(A) and (B), and
9 Paragraphs 8-406.11 (A) and (B); (D) Fails to comply with a Regulatory Authority order issued
10 as specified in Section 8-501.20 concerning an Employee or Conditional Employee suspected of
11 having a disease transmissible through Food by infected Persons; (E) Fails to comply with a hold
12 order as specified in Section 8-903.10; (F) Fails to comply with an order issued as a result of a
13 hearing for an administrative remedy as specified in Section 8-906.40; or (G) Fails to comply
14 with an immediate suspension order issued by the Regulatory Authority as specified in Sections
15 8-801.20 and 8-904.10.

16 8-903.10 Hold Order, Justifying Conditions and Removal of Food.

17 (Note: Adoption of this section provided the basis for Paragraph 3-2020.18 (B) and would be
18 cited there.) (A) The Regulatory Authority may place a hold order on a Food that: (1) Originated
19 from an unApproved source; (2) May be unsafe, Adulterated, or not honestly presented; (3) Is
20 not labeled according to Law, or, if raw Molluscan Shellfish, is not tagged or labeled according
21 to Law; or (4) Is otherwise not in compliance with this Code. (B) IF the Regulatory Authority
22 has reasonable cause to believe that the hold order will be violated, of finds that the order is
23 violated, the Regulatory Authority may remove the Food that is subject to the order to a place of
24 safekeeping.

25 8-903.20 Hold Order, Warning or Hearing Not Required.

26 (A) The Regulatory Authority may issue a hold order to a Permit Holder or to a Person who
27 owns or controls the Food, as specified in Section 8-903.10, without prior warning, notice of a
28 hearing, or a hearing on the hold order. (B) If the suspected Food has been distributed, the Permit
29 Holder shall be given the opportunity to recall the Food voluntarily at the Permit Holder's
30 expense. (C) If the Permit Holder refuses to recall the suspected Food, the Regulatory Authority
31 may order a mandatory recall of the suspected Food at the Permit Holder's expense.

32 8-903.60 Examining, Sampling, and Testing Food.

33 The Regulatory Authority may examine, sample, and test Food in order to determine its
34 compliance with the Food Service Sanitation Act, Chapter 25, Article 1 NMSA 1978; the New
35 Mexico Food Act, Chapter 25, Article 2 NMSA 1978; and this Code.

36 8-903.80 Destroying or Denaturing Food.

37 When any Food is found, by examination or laboratory analysis, to be in violation of safe
38 health standards, the Regulatory Authority may order condemnation and disposal of the
39 product lot, at the expense of the Permit Holder.

40 8-904.10 Conditions Warranting Action.

41 The Regulatory Authority may immediately suspend a Permit if it determines through
42 inspection, or examination of Employees, Food records, or other means as specified in this
43 Code, that an Imminent Health Hazard exists.

44 8-904.20 Immediate Suspension, Warning or Hearing Not Required.

45 The Regulatory Authority may immediately suspend a Person's Permit as specified in Section
46 8-904.10 by providing written notice as specified in Section 8-801.20 of the immediate

1 suspension to the Permit Holder or Person in Charge, without prior warning, notice of a
2 hearing, or a hearing.

3 8-904.30 Contents of the Notice.

4 An immediate suspension notice shall state: (A) That the Food Establishment Permit is
5 immediately suspended and that all Food operations shall immediately cease; (B) The reasons
6 for the immediate suspension with reference to the provisions of this Code that are in
7 violation; (C) The name and address of the Regulatory Authority representative to whom a
8 written request for reinspection may be made and who may certify that reasons for the
9 suspension are eliminated; and (D) That the Permit Holder may request an appeal hearing by
10 submitting a timely request as specified in Sections 8-905.10 and 8-905.20.

11 8-904.50 Term of Suspension, Reinstatement of Permit.

12 (A) An immediate Suspension shall remain in effect until the conditions cited in the notice of
13 suspension no longer exist and their elimination has been confirmed by the Regulatory
14 Authority through reinspection and other means as appropriate. (B) The suspended Permit
15 shall be reinstated immediately if the Regulatory Authority determines that the public health
16 Hazard or nuisance no longer exists. A notice of the reinstatement shall be provided to the
17 Permit Holder or Person in Charge.

18 8-905.10 Response to Notice of Hearing or Request for Hearing, Basis and Time
19 Frame.

20 (Note: Adoption of this section provides the basis for Paragraphs 8-303.30 (C) and 8-501.30
21 (C). Paragraphs 8-905.10 (C) and (D) would be cited there.) (A) A Permit applicant may
22 request a hearing regarding the disposition of an application for a new or revised Permit if the
23 Regulatory Authority does not issue or deny the Permit within the time frame specified in this
24 Code. (B) A Permit Holder may request a hearing to address concerns about the Regulatory
25 Authority's denial of application for a Permit or request for a Variance, or compliance actions,
26 except that a hearing request does not stay the Regulatory Authority's restriction or exclusion
27 of Employees specified in Section 8-904.10. (C) A Peron desiring a hearing in response to a
28 denial of an application for Permit or an adverse administrative determination shall submit a
29 hearing request to the Regulatory Authority within 10 calendar days of the date of the denial,
30 inspection, or compliance action.

31 8-905.20 Request for Hearing, Required Form and Contents.

32 A request for hearing as specified in Section 8-905.10 shall be in written form and contain the
33 following: (A) If a request for hearing. (1) A statement of the issue of fact specified in
34 Paragraph 8-905.30 (B) for which the hearing is requested; and (2) A statement of defense,
35 mitigation, denial, or explanation concerning each allegation of fact. (B) If either a response to
36 notice of hearing or a request for a hearing. (1) A statement indicating whether the presence of
37 witnesses for the Regulatory Authority is required; and (2) The name and address of the
38 respondent's or requestor's legal counsel, if any.

39 8-905.60 Notice, Contents.

40 A notice of hearing shall contain the following information: (A) Time, date and place of the
41 hearing; (B) Purpose of the hearing; (C) The rights of the respondent, including the right to be
42 represented by counsel and to present witnesses and evidence on the respondent's behalf as
43 specified in Section 8-907.10; and (D) The consequences of failing to appear at the hearing.

44 8-905.100 Record of Proceeding.

45 A complete digital recording of a hearing shall be made and maintained as part of the
46 Regulatory Authority's records.

1 8-907.10 Rights of Parties.

2 (A) The Rules of Civil Procedure and the Rules of Evidence shall not apply, but a hearing
3 shall be conducted so that all relevant views, arguments, and testimony are amply and fairly
4 presented. (B) Parties to a hearing may be represented by counsel, examine and cross examine
5 witnesses, and present evidence in support of their position.

6 8-907.30 Evidence to be Excluded.

7 Evidence shall be Excluded that is irrelevant, immaterial, unduly repetitious, or excludable on
8 constitutional or statutory grounds, or on the basis of evidentiary privilege.

9 8-909.10 Gaining Access to Premises and Records.

10 (Note: Adoption of this section provides the basis for Subparagraphs 8-402.20 (A) (3) and
11 Section 8-402.40 and would be cited there.) The Regulatory Authority may seek access for
12 one or more of the following purposes, according to Law for gaining access: (A) If admission
13 to the Premises of a Food Establishment, Mobile Food Establishment, Temporary Food
14 Establishment, Food Processing Plant, or Home-based Food Processing Operation is denied or
15 other circumstances exist that would justify an inspection order under Law, to make an
16 inspection including taking photographs; (B) To examine and sample the Food or other
17 substances found on the premises; and (C) To examine and copy the records on the Premises
18 relating to Food as specified under Paragraph 8-402.11 (B).

19 **(2) Omissions. The following provisions of the Food Code are omitted in 7.6.2**

20 **NMAC:**

- 21 (a) 8 - 7 Authority(b) 8-902.10 Gaining Access to Premises and Records
22 (b) 8-902.20 Content of Inspection Order
23 ~~(c) 8-904.40 Time Frame for Re-inspection~~
24 (d) 8-905.30 Provided Upon Request
25 (e) 8-905.40 Provided in Accordance with Law
26 (f) 8-905.50 Timeliness, Appeal Proceeding Within 5 Business Days,

27 **Other Proceeding Within 30 Calendar Days**

- 28 (g) 8-905.70 Proceeding Commences Upon Notification
29 (h) 8-905.80 Procedure, Expeditious and Impartial
30 (i) 8-905.90 Confidential
31 (j) 8-906.10 Appointment by Regulatory Authority and Purpose
32 (k) 8-906.20 Qualifications
33 (l) 8-906.30 Powers, Administration of Hearings
34 (m) 8-906.40 Powers, Administrative Remedies
35 (n) 8-909.20 Contents of Court Petition
36 (o) 8-909.30 Sworn Statement of Denied Access
37 (p) 8-909-.40 Contents of an Order
38 (q) 8-909.50 Optional Contents of an Order
39 (r) 8-910.10 Institution of Proceedings
40 (s) 8-911.10 Authorities, Methods, Fines, and Sentences
41 (t) 8-912.10 Petitions of Injunction
42 (u) 8-913.10 Petitions, Penalties, and Continuing Violations

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C. Additional Requirements. Except as otherwise provided, the following additions are made to the incorporated Food Code Part:

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(1) 8-303.15 Permit fees, late fees, penalty fees, and Expiration dates.

(a) Except as specified in iv of this sub-paragraph, permit fees shall be:

(i) Two hundred dollars (\$200.00) for Food Establishments,

Mobile Food Establishments, Servicing Areas, and Food Processing Plants.

(ii) One hundred dollars (\$100.00) for Home-based Food

Processing Operations.

(iii) Twenty five dollars (\$25.00) for Temporary Food

Establishments for each single event or celebration.

(iv) Permit fees shall be waived for Food Establishments, Mobile

Food Establishments, and ~~temporary~~ Temporary Food Establishments events that provide food

to consumers at no charge, as well as Temporary Food Establishments that serve only non-

TCS Food ~~and-or~~ operate no more than 2 days in a calendar month.

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(b) In addition to the permit fees specified in Sub-paragraphs (a)(i)-(ii) of this paragraph, a \$25 late fee shall be added to the Permit fee if the Permit is not renewed on or before the expiration date of the Permit.

(c) A re-inspection penalty fee of \$100 shall be assessed by the Regulatory Authority and paid by the Operator when a re-inspection is scheduled by the Regulatory Authority as specified in 8-401.10(C).

(d) If a Permit is not renewed as specified in Section 8-303.20, and applicable fees specified in subparagraph (c) are not paid within 30 days after the expiration of the Permit, a new permit shall not be issued except upon completion of requirements specified in section 8-303.10.

(e) Permits issued by the Regulatory Authority shall include an expiration date, which shall be:

(i) The last day of the anniversary month of the date of original issue for Food Establishments, Mobile Food Establishments, Servicing Areas, and Food Processing Plants.

(ii) The last day of the single event or celebration for Temporary Food Establishments.

(f) No discount or refund shall be made for partial years or for permit suspension or revocation.

(2) 8-407.11 Posting of Compliance Emblems.

(a) Except as specified in paragraph (e) of this subparagraph, an emblem indicating the compliance status of a Food Establishment shall be posted in a conspicuous place at each entrance to the Food Establishment where it can be easily seen by consumers and shall be posted or removed only by the Food Establishment.

(b) An "Approved" emblem shall be posted at a Food Establishment that is operated in compliance with this Code.

(c) An "Unsatisfactory" emblem may be posted at a Food Establishment when any priority items are out of compliance during an inspection; or any priority item, priority foundation item, or core item is out of compliance on a repeated basis within the last 25 months.

(d) Removal, defacing, or obstruction of an emblem by any person other than the Regulatory Authority shall result in immediate permit suspension or revocation.

1 (e) Food Processing Plants and Temporary Food Establishments are
2 exempt from the posting of compliance emblems.

3 (3) 2-104.11 Food Handler Cards.

4 (a) Except as specified in subparagraphs (b) and (g) of this paragraph,
5 Food ~~E~~employees shall demonstrate their knowledge of safe food handling practices through
6 passing a test ~~with a minimum score of seventy five percent (75%)~~ from a Food Handler
7 Training Program and possess a valid Food Handler Card ~~to work in a Food Establishment,~~
8 ~~Food Processing Plant, Temporary Food Establishment, or Mobile Food Establishment.~~

9 (b) Except as specified in subparagraph (g) of this paragraph, individuals
10 who do not possess a valid food Handler Card prior to employment as a Food employee shall
11 obtain such card within thirty (30) calendar days from the beginning of employment.

12 (c) Food Handler Cards shall be kept by the Food employee on his or her
13 person while working at a Food Establishment or a copy kept on file by the current employer
14 and be made available for inspection by the Regulatory Authority.

15 (d) The Regulatory Authority may approve ~~an~~ company's entity's
16 training program to be used in lieu of requiring a Food Handler Card of its ~~food~~ Food
17 ~~employees~~ Employees. A Food employee must complete the company's approved training
18 program at least every three years. This exemption is only valid during the Food ~~employees'~~
19 Employees' time of employment with the company entity that administered the training.

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20 (e) An employee or Person in charge at any Food Establishment, Food
21 Processing Plant, Temporary Food Establishment, or Mobile Food Establishment must
22 provide information or training regarding pertinent safe food handling practices to Food
23 employees prior to beginning food handling duties, if the Food ~~employee~~ Employee does not
24 hold a valid Food Handler Card.

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25 (f) Food Handler Cards shall be valid for three years from the date of
26 issuance.

27 (g) This paragraph does not apply to:

28 (i) Employees who comply with Sections 2-102.12 and 2-102.20;

29 (ii) Food ~~employees~~ Employees who comply with Paragraph (B)

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30 of this section;

31 (iii) Food ~~employees~~ Employees of ~~temporary~~ Temporary food
32 ~~Food establishments~~ Establishments or volunteers working as ~~food~~ Food employees
33 Employees for charitable organizations serving the needy, provided that at a minimum the
34 ~~person~~ Person in charge ~~Charge~~ each shift or during hours of operation complies with Sections
35 2-102.12 and 2-102.20 or has a valid Food Handler Card obtained prior to the ~~event~~ issuance
36 of a Temporary Food Establishment Permit; or

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37 (iv) Employees who do not function as Food Employees.

38 (h) The effective date of this Section shall be one year from the
39 effective date of this Code.

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40 8-901.201 Permit Suspension and Revocation.

41 (A) The Regulatory Authority may suspend or revoke a Permit for reasons specified in Section
42 8-901.10. (B) The Regulatory Authority shall conduct a hearing as specified in Section 8-905
43 prior to suspending or revoking a Permit. (C) The Permit Holder shall be notified of the hearing
44 at least seven days prior to the hearing as specified in Section 8-905.60. (D) Failure by the
45 Permit Holder to appear shall result in immediate suspension or revocation of the Permit. (E) The
46 suspension of a Permit shall remain in effect until the conditions leading to the suspension no

1 longer exist and their elimination has been confirmed by the Regulatory Authority through
2 reinspection and other means as appropriate. (F) A Permit shall only be revoked if a Permit has
3 previously been suspended. (G) A Permit that has been revoked shall not be considered for
4 reapplication until the Permit Holder has demonstrated to the satisfaction of the Regulatory
5 Authority that the Food Establishment will comply with this Code.

6
7 [7.6.2.8 NMAC - Rp, 7 NMAC 6.1.006, 08/12/2000; Rp, x/x/2016]

8 9 **7.6.2.9 MOBILE FOOD ESTABLISHMENT REQUIREMENTS:**

10 **A.** In addition to meeting the applicable requirements of Chapters 1-8 of the Food
11 Code, with the exception of Section 5-203.12 of the Food Code, Mobile Food Establishments
12 shall comply with the requirements specified in this section.

13 **B.** The Regulatory Authority may impose additional requirements for Mobile Food
14 Establishments as specified in Section 8-102.10 of the Food Code. Additional requirements
15 may include, but are not limited to:

16 (1) Limiting or restricting the number and type of Food items to be prepared and
17 served.

18 (2) Limiting or restricting preparation steps.

19 (3) Limiting or restricting hours of operation, or hours of operation before
20 returning to a Servicing Area.

21 (4) Require a Servicing Area or Mobile Support Unit.

22 **C.** The Regulatory Authority may modify or waive requirements for Mobile Food
23 Establishments as specified in Sections 8-103.10 and 8-103.11 of the Food Code.

24 **D.** Mobile Food Establishments shall provide the following required information as
25 specified in ¶ 8-201.12(F):

26 (1) The location of the potable water source;

27 (2) The location and method of solid and liquid waste disposal; and

28 (3) The identifying system used to distinguish the permitted unit from others.

29 **E.** Mobile Food Establishments shall have adequate electrical and/or fuel capacity,
30 as determined by the Regulatory Authority, to allow proper operation of equipment. The
31 electrical and/or fuel source shall be adequately supplied at all times when Food temperature
32 control is required.

33 **F.** Mobile Food Establishments shall be operated within 200 feet of toilet facilities
34 as specified in Sections 5-203.12 and 5-203.11 of the Food Code whenever the unit is stopped
35 to operate for more than a two (2) hour period.

36 **G.** The operation of Mobile Food Establishments shall be conducted within the
37 enclosure of the permitted unit. During a single event or celebration, certain operations (e.g.,
38 additional covered storage, additional food preparation area, outdoor serving counter) may be
39 conducted outside of the enclosure, when Approved. If Approved, an additional Temporary
40 Food Establishment Permit shall be required.

41 **H.** Mobile Food Establishments shall provide only single-service articles for use by
42 consumers.

1 **I.** Self-contained Mobile Food Establishment Requirements. Self-contained
2 Mobile Food Establishments shall:

- 3 (1) Meet all of the equipment requirements of this Code;
- 4 (2) Include adequate storage facilities on the unit for all Food, equipment,
5 utensils, supplies, potable water, and waste water used in the operation of the unit;
- 6 (3) Be capable of accomplishing all steps of the operation, including required
7 Food preparation and warewashing, within the enclosure of the unit;
- 8 (4) Provide, as specified in Paragraph 8-201.12(F) of the Food Code, how and
9 where the unit will be cleaned and serviced and where it will be stored during non-operating
10 hours; and
- 11 (5) Notify the Regulatory Authority office of jurisdiction at least 24 hours in
12 advance before operating in a jurisdictional area outside of the Permitting office.

13 **J.** Non Self-contained Mobile Unit and Pushcart Requirements.

- 14 (1) Non Self-contained Mobile Units and Pushcarts shall:
 - 15 (a) Provide, as specified in Paragraph 8-201.12(F) of the Food Code, an
16 agreement between the operator and the Servicing Area that includes:
 - 17 (i) The days and hours the Servicing Area will be used,
 - 18 (ii) The extent of support services to be provided, and
 - 19 (iii) A copy of the current Servicing Area Permit.
 - 20 (2) Prior to discontinuing use of a Servicing Area, the operator shall provide a
21 revised agreement as specified in Paragraph (1) above for a new Servicing Area. Mobile Food
22 Establishments shall not operate prior to the approval of a new Servicing Area.
 - 23 (3) Operate within a reasonable distance, and report at least daily, to the
24 Servicing Area for support services.
 - 25 (4) Notify the Regulatory Authority in writing and receive prior approval to
26 operate outside of a reasonable distance of the Servicing Area.

27 **K.** Additional Pushcart Requirements:

- 28 (1) Pushcarts are limited to:
 - 29 (a) Serving non-TCS Foods or drinks
 - 30 (b) Serving individually commercially packaged TCS foods in the
31 original packaging and maintained at proper temperatures, and
 - 32 (c) Assembling and serving of pre-cooked sausage (e.g., hot dog,
33 bratwurst, frankfurter) with commercially prepared toppings (e.g., chili, sauerkraut, relish).
 - 34 (2) Pre-preparation, such as washing, slicing, peeling, cutting of food intended
35 for use on a Pushcart, shall occur at the Servicing Area.
 - 36 (3) Food handling shall be conducted under an overhead protective cover.
 - 37 (4) Grills shall include a protective lid that can be readily closed.
 - 38 (5) Operators of Pushcarts shall ensure the following are contained on, or within,
39 the cart in sufficient supply for daily operation:
 - 40 (a) Food, utensils, single service items, and cleaning supplies;

1 (b) Handwashing sink as specified in Section 5-202.12 of the Food Code
2 with a minimum of 5 gallons of potable water; and

3 (c) Wastewater holding tank meeting the requirements of Section 5-
4 401.11 of the Food Code.

5 (6) TCS Food served on Pushcarts shall not be subsequently cooled and
6 reheated.

7 (7) Ice chests may be utilized for packaged food provided that they are
8 continuously drained in an Approved manner and the food is maintained at temperatures as
9 specified in Section 3-202.11 of the Food Code.

10 [7.6.2.9 NMAC - Rp, 7 NMAC 6.1.006, 08/12/2000; Rp, x/x/2016]

11
12 **7.6.2.10 TEMPORARY FOOD ESTABLISHMENT REQUIREMENTS:**

13 **A.** In addition to meeting the applicable requirements of Chapters 1-8 of the Food
14 Code, with the exception of Section 5-203.12, Temporary Food Establishments shall comply
15 with the requirements specified in this Section.

16 **B.** The Regulatory Authority may impose additional requirements for Temporary
17 Food Establishments as specified in Section 8-102.10 of the Food Code. Requirements may
18 include, but are not limited to:

- 19 (1) Require Food safety training for employees prior to issuing a Permit;
- 20 (2) Restrict the number and type of Food items to be prepared and served;
- 21 (3) Restrict preparation steps;
- 22 (4) Restrict hours of operation;
- 23 (5) Require a Servicing Area for advanced preparation of Food.

24 **C.** The Regulatory Authority may modify or waive requirements for Temporary
25 Food Establishments as specified in Sections 8-103.10 and 8-103.11 of the Food Code.

26 **D.** Temporary Food Establishments shall:

- 27 (1) Serve only Food that has been Approved.
- 28 (2) Conduct all Food operations within the Approved enclosure. Temporary
29 Food Establishments may, after approval, store and/or prepare Food at an offsite Food
30 Establishment prior to operation when:

31 (a) The Food Establishment has adequate equipment for the type and
32 volume of Food and preparation steps required; and

33 (b) The Temporary Food Establishment operator provides to the
34 Regulatory Authority a letter of agreement between the operator and the Food Establishment
35 that includes:

- 36 (i) The days and hours the Food Establishments will be used,
- 37 (ii) A list of tasks that will be performed at the Food

38 Establishments; and

39 (iii) A copy of the current Food Establishment Permit.

40 (3) Provide, in writing, to the Regulatory Authority for approval the:

- 41 (a) Location of the Approved potable water source,

- 1 **(b)** Location and method of solid waste disposal; and
2 **(c)** Location and method of liquid waste disposal.
- 3 **(4)** Supply a handwashing sink, located as specified in Section 5-204.11 of the
4 Food Code, for employee hand washing. At a minimum, a handwashing sink shall consist of a
5 container with a faucet-type spigot filled with warm water and a catch bucket for the
6 wastewater. The water shall be maintained at a minimum of 100°F as specified in Section 5-
7 202.12 of the Food Code.
- 8 **(5)** Maintain an adequate supply of liquid soap and single use paper towels at
9 the handwashing sink at all times.
- 10 **(6)** Provide a warewashing station as specified in Section 4-301.12 of the Food
11 Code. Extra utensils may be Approved in lieu of a warewashing station as specified in Chart
12 10-1.
- 13 **(7)** Maintain an adequate supply of potable water at all times during operation
14 for tasks such as: handwashing; Food preparation; and washing, rinsing, and sanitizing of
15 surfaces, utensils, and equipment. Except as specified in Chart 10-1, auxiliary heating units
16 capable of producing an adequate supply of hot water for such purposes shall be provided.
- 17 **(8)** Provide an adequate supply of ice, as necessary, to maintain
18 time/temperature control for safety Food at temperatures as specified in Sub-paragraph 3-
19 501.16(A)(2) of the Food Code.
- 20 **(9)** Not store packaged Food in undrained ice or iced water, except for
21 pressurized containers of non- time/temperature control for safety beverages. The water or ice
22 shall contain at least 10 ppm of available chlorine and shall be changed as necessary to keep the
23 water and container clean. Ice used to store Food shall not be used as Food.
- 24 **(10)** Not store raw meat, poultry, fish, or eggs in the same ice chests as ready-
25 to-eat Food when ice chests are approved for use to store Food as specified in Chart 10-1.
- 26 **(11)** Transport Food at temperatures as specified in Section 3-501.16 of the
27 Food Code and protect Food from contamination as specified in Part 3-3.
- 28 **(12)** Not carry over previously heated or cooked Food from one day to the next.
29 This requirement may be waived for Type 3 Temporary Food Establishments (as identified in
30 Chart 10-1) or for Food prepared in advance at an offsite Food Establishment.
- 31 **(13)** Operate on a surface that is smooth, easily cleanable, and nonabsorbent
32 (e.g., concrete, machine laid asphalt). Grass may be approved as specified in Chart 10-1;
- 33 **(14)** Operate under a weather-resistant covering that is smooth, easily cleanable
34 and nonabsorbent to protect the operation from overhead contamination;
- 35 **(15)** Be constructed in a manner that prevents the entrance of insects or other
36 vermin and adequately protects Food from consumers and environmental contamination;
- 37 **(16)** Provide separation (e.g. table) to keep consumers from entering the Food
38 operation;
- 39 **(17)** Provide walls that are smooth, easily cleanable, and nonabsorbent. This
40 requirement may be waived when flying insects and other pests are absent due to location,

1 weather, or other limiting conditions. Except as specified in Chart 10-1, walls shall meet the
 2 following requirements:
 3 (a) Cover tightly from ceiling to floor,
 4 (b) Use an approved counter-serving opening with tight fitting screened
 5 doors or air curtain. Counter-serving openings shall be kept closed, except when in use; and
 6 (c) When Approved for use, screening shall be 16 mesh to 1 inch.
 7 (18) In conjunction with the requirements specified in this section, a Temporary
 8 Food Establishment shall, based upon risk, be classified as a Type 1, 2 or 3 Temporary Food
 9 Establishment and meet the corresponding requirements specified in Chart 10-1.

10 **Chart 10-1**

	Type 1	Type 2	Type 3
Menu	<ul style="list-style-type: none"> Unpackaged non-TCS Commercially processed packaged TCS in original package (receive-store-hold) 	<ul style="list-style-type: none"> No Cook (receive-store-minimum prep*-hold-serve) Same Day Prep (receive-store-minimum prep*-cook-hold-serve) Reheat Commercially Processed (receive-store-reheat-hold-serve) 	<ul style="list-style-type: none"> Complex Food Prep (receive-store-prep-cook-cool-reheat-hot hold-serve) Serving Highly Susceptible Population
Handwashing	Gravity Fed <ul style="list-style-type: none"> <= 4 hrs – insulated container or auxiliary heating source > 4 hrs – auxiliary heating source 	Same as Type 1	Hot & cold running water under pressure
3-Compartment Sink	Unpackaged non-TCS <ul style="list-style-type: none"> <= 4 hrs – 3-comp or extra utensils > 4 hrs – 3-comp required Packaged TCS: not required	Same as Type 1 unpackaged non-TCS	3-comp required w/ hot & cold running water under pressure
Refrigeration	Unpackaged non-TCS: not required Packaged TCS: <ul style="list-style-type: none"> <= 1 day – insulated ice chest w/drainage 2-3 days – mechanical equipment > 3 days – mechanical ANSI equipment only 	Same as Type 1 packaged TCS	Mechanical ANSI equipment only

Cold Holding (e.g., prep table, display case)	Unpackaged non-TCS: not required Packaged TCS: <ul style="list-style-type: none"> • Ice bath • 2-3 days – mechanical equipment recommended • > 3 days – mechanical ANSI equipment recommended 	Same as Type 1 packaged TCS	Same as Type 1 packaged TCS
Hot Holding	Not allowed	Covered non-ANSI equipment allowed**	Covered ANSI equipment only
Cooking/ Reheating	Not allowed	Covered non-ANSI equipment allowed**	Covered ANSI equipment only
Flooring	Grass; smooth, durable, easily cleanable such as: concrete, machine-laid asphalt, sealed wood, tile, impermeable tarp	<ul style="list-style-type: none"> • ≤ 2 days – same as Type 1 • > 2 days – same as Type 1, no grass 	<ul style="list-style-type: none"> • ≤ 3 days – same as Type 1, no grass • > 3 days – constructed flooring
Walls	Unpackaged non-TCS <ul style="list-style-type: none"> • ≤ 3 days – no sides, ability to cover solid • > 3 days – 3.5 side screening, ability to cover solid Packaged TCS: not required	<ul style="list-style-type: none"> • ≤ 1 day – no sides, ability to cover solid • 1 to 3 days – 3.5 side screening, ability to cover solid • > 3 days – complete enclosure w/approved opening 	Complete enclosure w/approved opening
Training	As required by REGULATORY AUTHORITY	As required by REGULATORY AUTHORITY	Certified FOOD protection manager required

1 *Minimum preparation includes activities such as: slicing/cutting fruits and vegetables, opening
2 commercially packaged TCS Foods, and seasoning TCS Foods. Minimum preparation does not
3 include activities such as: cutting, slicing, or forming raw meat, poultry, or fish; assembly of
4 complex menu items.

5 **Chafing dishes may be allowed for events of 4 hours or less. Insulated ice chests and slow
6 cookers are not allowed for hot holding. Slow cookers are not allowed for heating, cooking, or
7 reheating.

8 [7.6.2.10 NMAC - Rp, 7 NMAC 6.1.006, 08/12/2000; Rp, x/x/2016]

9 **7.6.2.11 MANUFACTURED FOOD REQUIREMENTS:**

10 **~~A. — General Requirements.~~**

11 ~~———— (1) — A person may not operate a Food Processing Plant without a valid Permit to~~
12 ~~operate issued by the Regulatory Authority.~~

13 ~~———— (2) — In addition to meeting the applicable requirements of Chapters 1-8 of the~~
14 ~~Food Code, including the permitting and plan review requirements, Food Processing Plants~~
15 ~~shall comply with the requirements specified in this section.~~

16 ~~———— (3) — Information submitted by Food Processing Plants shall be handled by the~~
17 ~~Regulatory Authority in accordance with Section 8-202.10 of the Food Code.~~

1 ~~————— (4) — The Regulatory Authority may impose additional requirements for Food~~
2 ~~Processing Plants as specified in Section 8-102.10 of the Food Code, or may modify or waive~~
3 ~~requirements for Food Processing Plants as specified in Sections 8-103.10 and 8-103.11 of the~~
4 ~~Food Code.~~

5 ~~————— (5) — The Regulatory Authority may require that a Food Processing Plant's~~
6 ~~processes be reviewed by a competent Process Authority to approve critical factors of public~~
7 ~~health significance, including, but not limited to, Verification of proposed Critical Control~~
8 ~~Points and Critical Limits.~~

9 ~~————— (6) — Food Processing Plants shall design and use a coding system that will~~
10 ~~identify the date and place of manufacture of each product. The code shall be printed on, or~~
11 ~~securely affixed to, the body of each product container or label. The code shall not be affixed~~
12 ~~to the lid of a container.~~

13 ~~————— (7) — Food Processing Plants shall prepare written Recall procedures and maintain~~
14 ~~them on file at the Premises. The recall procedures shall include:~~

15 ~~————— (a) — Procedures for identifying, and subsequently verifying, products~~
16 ~~which may be injurious to human health;~~

17 ~~————— (b) — A plan for recalling products which may be injurious to human health,~~
18 ~~including alerting consumers and businesses, collecting, warehousing, and rework or disposal~~
19 ~~of products;~~

20 ~~————— (c) — A method of determining the effectiveness of Recalls; and~~

21 ~~————— (d) — A list of governmental agencies, including the Regulatory Authority,~~
22 ~~that will be notified concerning recalls.~~

23 ~~————— (8) — If it is determined that a Food product will be Recalled for any reason, the~~
24 ~~Food Processing Plant shall notify the Regulatory Authority within twenty four (24) hours.~~

25 ~~————— (9) — Food that is produced without meeting the requirements specified in this~~
26 ~~section shall be deemed Adulterated and/or Misbranded.~~

27 ~~————— (10) — Food that is suspected of being Adulterated and/or Misbranded shall not be~~
28 ~~distributed until a determination of the product's safety is made and Approved.~~

29 ~~————— (11) — If Food suspected of being Adulterated and/or Misbranded has been~~
30 ~~distributed, the Regulatory Authority shall give the Food Processing Plant the opportunity to~~
31 ~~voluntarily Recall the product at their expense.~~

32 ~~————— (12) — If the Food Processing Plant refuses to conduct a voluntary Recall, the~~
33 ~~Regulatory Authority may order a mandatory Recall of the suspected product at the expense of~~
34 ~~the Food Processing Plant.~~

35 ~~————— (13) — When a product is found to be Adulterated, the Regulatory Authority may~~
36 ~~order the disposal or rework of the product at the expense of the Food Processing Plant.~~
37 ~~Product rework shall be approved by the Regulatory Authority.~~

38 ~~————— (14) — When a product is found to be Misbranded, the Food Processing Plant shall~~
39 ~~submit to the Regulatory Authority for Approval a plan to correct the Misbranding and~~
40 ~~implement the plan after Approval.~~

1 ~~—————~~ **B. Establishment and Process Registration Requirements.**
2 ~~—————~~ (1) Food Processing Plants shall meet the applicable establishment registration
3 requirements of the Public Health Security and Bioterrorism Preparedness and Response Act of
4 2002 and the Food and Drug Administration Food Safety Modernization Act.
5 ~~—————~~ (2) Food Processing Plants that produce Acidified Food or Low Acid Food shall
6 meet the applicable establishment registration and process filing requirements of Title 21, Code
7 of Federal Regulations, Part 108.
8 ~~—————~~ (3) Food Processing Plants that produce Acidified Food or Low Acid Food shall
9 meet the applicable training requirements of Title 21, Code of Federal Regulations, Parts 113
10 and 114.
11 ~~—————~~ (4) Food Processing Plants that produce Meat or Poultry products shall meet the
12 applicable licensing and inspection requirements of Title 9, Code of Federal Regulations, Part
13 300.
14 ~~—————~~ **C. Standards of Identity Requirements.**
15 ~~—————~~ (1) Any Food that is represented as, or purports to be, a Food for which a
16 standard of identity has been promulgated, must comply with the specifications of the standard
17 as published in Title 21, Code of Federal Regulations, Parts 103—169.
18 ~~—————~~ (2) A Food product that does not comply fully with the applicable standard shall
19 be deemed Misbranded.
20 ~~—————~~ **D. Adoption of Certain Parts of Code of Federal Regulations Title 21.**
21 ~~—————~~ (1) The following parts of Title 21, Code of Federal Regulations, are hereby
22 adopted as a technical reference and interpretation guide for the following Food types and
23 processes:
24 ~~—————~~ (a) Acidified food: Title 21, Code of Federal Regulations, Part 113;
25 ~~—————~~ (b) Low acid canned Food: Title 21, Code of Federal Regulations, Part
26 114;
27 ~~—————~~ (c) Juice: Title 21, Code of Federal Regulations, Part 120;
28 ~~—————~~ (d) Bottled Drinking Water: Title 21, Code of Federal Regulations, Parts
29 129;
30 ~~—————~~ (e) Fish and fisheries products: Title 21, Code of Federal Regulations,
31 Part 123; and
32 ~~—————~~ (f) Current Good Manufacturing Practice: Title 21, Code of Federal
33 Regulations, Part 110.110.
34 ~~—————~~ **E. Operational Plan Requirements.**
35 ~~—————~~ (1) Food Processing Plants shall submit to the Regulatory Authority for
36 approved an operational plan for each product to be manufactured. Food products or types of
37 production methods may be grouped together, if the Food Hazard, Critical Control Points,
38 Critical Limits, and procedures required are essentially identical. The grouping of operational
39 plans together shall be approved by the Regulatory Authority.

~~(2) Prior to manufacturing new products or changing the manufacturing process for existing products, Food Processing Plants shall obtain Approval of Operational Plans.~~

~~(3) Operational plans shall be kept on the premises of the Food Processing Plants and be available for review by the Regulatory Authority.~~

~~(4) Food Processing Plants shall not deviate from Operational Plans without Approval.~~

~~(5) Operational Plans shall contain the following information, as applicable, for each product:~~

~~(a) Names and amounts of ingredients, including Sub-ingredients, listed in descending order based upon predominance of weight;~~

~~(b) Final product pH. The Regulatory Authority may require the pH for initial ingredients to determine whether a product is an Acid Food, formulated acid food, or Acidified Food;~~

~~(c) Final product Water Activity (aw);~~

~~(d) Name(s) of preservative(s) added;~~

~~(e) Description of the type of packaging to be used. If the packaging is integral to product stability further information regarding the packaging may be required by the Regulatory Authority;~~

~~(f) A written operational procedure, including a flow chart, illustrating product formulation beginning with receiving incoming ingredients and continuing to final product distribution. Critical Control Points and Critical Limits shall be identified in the written procedure and flow chart;~~

~~(g) Distribution information, including:~~

~~(i) Intended distribution;~~

~~(ii) Temperature requirements during distribution; and~~

~~(iii) Mishandling possibilities during distribution or by consumers.~~

~~(h) Expected shelf life of the product. The Regulatory Authority may require a shelf life study to be conducted by an Approved process authority.~~

~~(i) Detailed instructions concerning preparation requirements for consumers.~~

~~(j) Recall procedures as specified in Sub-section A, Paragraph 7 of this section.~~

~~(k) Detailed description of the proposed product coding system, including how it will be affixed to the product as specified in Sub-section A, Paragraph 6 of this section.~~

~~(l) A HACCP Plan.~~

~~(m) A proposed label for each product.~~

~~(n) Sanitation Standard Operating Procedures (SSOPs).~~

~~**F. Good Manufacturing Practices.**~~

~~(1) Food Processing Plants shall meet the specifications of Part 2-1 of the Food Code.~~

~~(2) Food Processing Plants shall meet the employee health specifications of Part 2-2 of the Food Code.~~

~~**G. Plant and Grounds.**~~

~~(1) Grounds. The grounds under the control of the food processing plant shall be kept in a condition that will protect against the contamination of food. The methods for adequate maintenance of grounds include, but are not limited to:~~

~~(a) Properly storing equipment, removing litter and waste, and cutting weeds or grass within the immediate vicinity of the plant buildings or structures that may constitute an attractant, breeding place, or harborage for pests;~~

~~(b) Maintaining roads, yards, and parking lots so that they do not constitute a source of contamination;~~

~~(c) Adequately draining areas that may contribute contamination to food by seepage, foot borne filth, or providing a breeding place for pests; and~~

~~(d) Operating systems for waste treatment and disposal as specified in 20.7.3 NMAC or 20.6.2 NMAC.~~

~~(2) If the Plant grounds are bordered by grounds not under the Food Processing Plant's control and not maintained in the manner described in Sub-section G, Paragraph 1 of this section, care shall be exercised in the plant by inspection, extermination, or other means to exclude pests, dirt, and filth that may be a source of Food contamination.~~

~~(3) Food Processing Plant construction and design. Food Processing Plant buildings and structures shall be suitable in size, construction, and design to facilitate maintenance and sanitary operations for food manufacturing purposes. The Food Processing Plant and facilities shall:~~

~~(a) Provide sufficient space for such placement of equipment and storage of materials as is necessary for the maintenance of sanitary operations and the production of safe food.~~

~~(b) Permit the taking of proper precautions to reduce the potential for contamination of Food, food contact surfaces, or Food packaging materials with microorganisms, chemicals, filth, or other extraneous material. The potential for contamination may be reduced by adequate Food safety controls and operating practices or effective design, including the separation of operations in which contamination is likely to occur, by one or more of the following means: location, time, partition, air flow, enclosed systems, or other effective means.~~

~~(c) Permit the taking of proper precautions to protect Food in outdoor bulk vessels by any effective means, including:~~

~~(i) Using protective coverings;~~

~~(ii) Controlling areas over and around the vessels to eliminate harborages for pests; and~~

- 1 ~~————— (iii) — Checking on a regular basis for pests and pest infestation.~~
2 ~~————— (d) — Be constructed in such a manner that floors, walls, and ceilings may~~
3 ~~be adequately cleaned and kept clean and kept in good repair; that drip or condensate from~~
4 ~~fixtures, ducts and pipes does not contaminate Food, food contact surfaces, or food packaging~~
5 ~~materials; and that aisles or working spaces are provided between equipment and walls and are~~
6 ~~adequately unobstructed and of adequate width to permit employees to perform their duties and~~
7 ~~to protect against contaminating Food or food contact surfaces with clothing or personal~~
8 ~~contact.~~
9 ~~————— (e) — Provide adequate lighting as specified in Section 6-303 of the Food~~
10 ~~Code and provide protection against Food contamination in case of glass breakage (including,~~
11 ~~but not limited to light bulbs, fixtures, skylights, or other glass suspended above exposed food)~~
12 ~~as specified in Section 6-202.11 of the Food Code.~~
13 ~~————— (f) — Provide adequate ventilation as specified in Section 6-304.11 of the~~
14 ~~Food Code and locate and operate fans and other air blowing equipment in a manner that~~
15 ~~minimizes the potential for contaminating Food, food packaging materials, and food contact~~
16 ~~surfaces as specified in Section 6-202.12 of the Food Code.~~
17 ~~————— (g) — Provide, where necessary, adequate screening or other protection~~
18 ~~against pests as specified in Sections 6-202.13 & 6-202.15 of the Food Code.~~

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19 ~~—————~~ **H. Sanitary Operations.**

- 20 ~~————— (1) — General maintenance. Buildings, fixtures, and other physical facilities of the~~
21 ~~food processing plant shall be maintained in a sanitary condition and shall be kept in repair~~
22 ~~sufficient to prevent food from becoming adulterated. Cleaning and sanitizing of utensils and~~
23 ~~equipment shall be conducted in a manner that protects against contamination of food, food-~~
24 ~~contact surfaces, or food packaging materials.~~
25 ~~————— (2) — Substances used in cleaning and sanitizing; storage of toxic materials.~~
26 ~~Cleaning compounds and sanitizing agents used in cleaning and sanitizing procedures shall be~~
27 ~~free from undesirable microorganisms and shall be safe and adequate under the conditions of~~
28 ~~use as specified in Chapter 7 of the Food Code. Compliance with this requirement may be~~
29 ~~verified by any effective means including purchase of these substances under a supplier's~~
30 ~~guarantee or certification, or examination of these substances for contamination.~~
31 ~~————— (3) — Pest control. The premises shall be maintained free of insects, rodents, and~~
32 ~~other pests as specified in Sections 6-501.111 & 6-501.112 of the Food Code.~~
33 ~~————— (4) — Guard or guide dogs may be allowed in some areas of a plant if the presence~~
34 ~~of the dogs is unlikely to result in contamination of Food, food contact surfaces, or food-~~
35 ~~packaging materials.~~
36 ~~————— (5) — Sanitation of food contact surfaces. All food contact surfaces, including~~
37 ~~utensils and food contact surfaces of equipment, shall be cleaned as frequently as necessary to~~
38 ~~protect against contamination of food as specified in Sections 4-601.11 and 4-602.11 and Part~~
39 ~~4-7 of the Food Code. Food contact surfaces used for manufacturing or holding low-moisture~~

1 food shall be in a dry, sanitary condition at the time of use. When the surfaces are wet cleaned,
2 they shall, when necessary, be sanitized and thoroughly dried before subsequent use.

3 ~~————— (6) — Storage and handling of cleaned equipment and utensils and food packaging~~
4 ~~materials. Cleaned and sanitized equipment and food packaging materials shall be stored as~~
5 ~~specified in Section 4 903.11 of the Food Code.~~

6 ~~————— I. — Equipment and Utensils. In addition to the equipment specifications in Chapter~~
7 ~~4 of the Food Code, Instruments and controls used for measuring, regulating, or recording~~
8 ~~temperatures, pH, acidity, Water Activity, or other conditions that control or prevent the growth~~
9 ~~of undesirable microorganisms in Food shall be accurate and adequately maintained, and~~
10 ~~adequate in number for their designated uses.~~

11 ~~————— J. — Processes and Controls. All operations in the receiving, inspecting,~~
12 ~~transporting, segregating, preparing, manufacturing, packaging, and storing of Food shall be~~
13 ~~conducted in accordance with adequate sanitation principles. Appropriate quality control~~
14 ~~operations shall be employed to ensure that Food is suitable for human consumption and that~~
15 ~~food packaging materials are safe and suitable. Overall sanitation of the plant shall be under the~~
16 ~~supervision of one or more competent individuals assigned responsibility for this function. All~~
17 ~~reasonable precautions shall be taken to ensure that production procedures do not contribute~~
18 ~~contamination from any source. Chemical, microbial, or extraneous material testing procedures~~
19 ~~shall be used where necessary to identify sanitation failures or possible Food contamination.~~
20 ~~All Food that has become contaminated to the extent that it is Adulterated within the meaning~~
21 ~~of the Act shall be rejected, or if permissible, treated or processed to eliminate the~~
22 ~~contamination.~~

23 ~~————— (I) — Raw materials and other ingredients.~~

24 ~~————— (a) — Raw materials and other ingredients shall be inspected and segregated~~
25 ~~or otherwise handled as necessary to ascertain that they are clean and suitable for processing~~
26 ~~into Food and shall be stored under conditions that will protect against contamination and~~
27 ~~minimize deterioration. Raw materials shall be washed or cleaned as necessary to remove soil~~
28 ~~or other contamination. Water used for washing, rinsing, or conveying Food shall be safe and~~
29 ~~of adequate sanitary quality. Water may be reused for washing, rinsing, or conveying Food if it~~
30 ~~does not increase the level of contamination of the Food. Containers and carriers of raw~~
31 ~~materials should be inspected on receipt to ensure that their condition has not contributed to the~~
32 ~~contamination or deterioration of Food.~~

33 ~~————— (b) — Raw materials and other ingredients shall either not contain levels of~~
34 ~~microorganisms that may produce Food poisoning or other disease in humans, or they shall be~~
35 ~~pasteurized or otherwise treated during manufacturing operations so that they no longer contain~~
36 ~~levels that would cause the product to be Adulterated. Compliance with this requirement may~~
37 ~~be verified by any effective means, including purchasing raw materials and other ingredients~~
38 ~~under a supplier's guarantee or certification.~~

39 ~~————— (c) — Raw materials and other ingredients susceptible to contamination with~~
40 ~~aflatoxin or other natural toxins shall comply with applicable requirements of Sub section D of~~

1 ~~this section and action levels for poisonous or deleterious substances before these materials or~~
2 ~~ingredients are incorporated into finished Food. Compliance with this requirement may be~~
3 ~~accomplished by purchasing raw materials and other ingredients under a supplier's guarantee or~~
4 ~~certification, or may be verified by analyzing these materials and ingredients for aflatoxins and~~
5 ~~other natural toxins.~~

6 ~~————— (d) — Raw materials, other ingredients, and rework susceptible to~~
7 ~~contamination with pests, undesirable microorganisms, or extraneous material shall comply~~
8 ~~with applicable requirements of Sub-section D of this section and defect action levels for~~
9 ~~natural or unavoidable defects if a manufacturer wishes to use the materials in manufacturing~~
10 ~~Food. Compliance with this requirement may be verified by any effective means, including~~
11 ~~purchasing the materials under a supplier's guarantee or certification, or examination of these~~
12 ~~materials for contamination.~~

13 ~~————— (e) — Raw materials, other ingredients, and rework shall be held in bulk, or~~
14 ~~in containers designed and constructed so as to protect against contamination and shall be held~~
15 ~~at such temperature and relative humidity and in such a manner as to prevent the Food from~~
16 ~~becoming Adulterated. Material scheduled for rework shall be identified as such.~~

17 ~~————— (2) — Manufacturing operations:~~

18 ~~————— (a) — Equipment and utensils and finished food containers shall be~~
19 ~~maintained in an acceptable condition through appropriate cleaning and sanitizing, as~~
20 ~~necessary. As necessary, equipment shall be taken apart for thorough cleaning.~~

21 ~~————— (b) — All Food manufacturing, including packaging and storage, shall be~~
22 ~~conducted under such conditions and controls as necessary to minimize the potential for the~~
23 ~~growth of microorganisms, or for the contamination of Food. Compliance with this requirement~~
24 ~~may be accomplished by, but is not limited to: careful monitoring of physical factors such as~~
25 ~~time, temperature, humidity, Water Activity, pH, pressure, flow rate, and manufacturing~~
26 ~~operations such as freezing, dehydration, heat processing, acidification, and refrigeration to~~
27 ~~ensure that mechanical breakdowns, time delays, temperature fluctuations, and other factors do~~
28 ~~not contribute to the decomposition or contamination of Food.~~

29 ~~————— (c) — Effective measures shall be taken to protect against the inclusion of~~
30 ~~metal or other extraneous material in Food. Compliance with this requirement may be~~
31 ~~accomplished by, but is not limited to, using sieves, traps, magnets, electronic metal detectors,~~
32 ~~or other suitable effective means:~~

33 ~~————— (d) — Food, raw materials, and other ingredients that are Adulterated within~~
34 ~~the meaning of the act shall be disposed of in a manner that protects against the contamination~~
35 ~~of other food. If the Adulterated food is capable of being reconditioned, it shall be~~
36 ~~reconditioned using a method that has been proven to be effective or it shall be reexamined and~~
37 ~~found not to be adulterated before being incorporated into other Food.~~

38 ~~————— (e) — Food such as, but not limited to, dry mixes, nuts, intermediate moisture~~
39 ~~Food, and dehydrated Food, that relies on the control of Water Activity for preventing the~~
40 ~~growth of undesirable microorganisms shall be processed to and maintained at a safe moisture~~

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1 ~~level. Finished Food shall be protected from moisture pickup, by use of a moisture barrier or by~~
2 ~~other means, so that the Water Activity of the food does not increase to an unsafe level.~~
3 ~~_____ (f) Food such as, but not limited to, Acid Food and Acidified Food, that~~
4 ~~relies principally on the control of pH for preventing the growth of undesirable microorganisms~~
5 ~~shall be monitored and maintained at a pH in accordance with Table A or Table B of the Food~~
6 ~~Code. Compliance with this requirement may be accomplished by any effective means,~~
7 ~~including monitoring the pH of raw materials, Food in process, and finished Food.~~
8 ~~_____ (g) Food manufacturing areas and equipment used for manufacturing~~
9 ~~human Food shall not be used to manufacture nonhuman food grade animal feed or inedible~~
10 ~~products.~~
11 ~~_____ **K. Warehousing and distribution.** Storage and transportation of finished Food~~
12 ~~shall be under conditions that will protect Food against physical, chemical, and microbial~~
13 ~~contamination as well as against deterioration of the Food and the container.~~
14 ~~_____ **L. HACCP requirements.**~~
15 ~~_____ (1) Food processing plants shall develop and implement a HACCP System that~~
16 ~~meets the specifications of this Section.~~
17 ~~_____ (2) HACCP documents shall be kept on the premises of the Food Processing~~
18 ~~Plant and be available for review by the Regulatory Authority.~~
19 ~~_____ (3) Food processing plants shall not deviate from approved HACCP Plans~~
20 ~~without approval from the Regulatory Authority.~~
21 ~~_____ **M. Hazard Analysis.**~~
22 ~~_____ (1) Food processing plants shall develop, or have developed for them, a written~~
23 ~~Hazard Analysis to determine whether there are Food Hazards that are reasonably likely to~~
24 ~~occur for each type of Food processed and to identify control measures that can apply to control~~
25 ~~those Hazards.~~
26 ~~_____ (2) The written Hazard Analysis shall consist of at least the following:~~
27 ~~_____ (a) Identification of Food hazards.~~
28 ~~_____ (b) An evaluation of each Food hazard identified to determine if the~~
29 ~~Hazard is reasonably likely to occur and therefore constitutes a Food Hazard that must be~~
30 ~~addressed in the HACCP Plan.~~
31 ~~_____ (c) Identification of the control measures that the Food Processing Plant~~
32 ~~can apply to control the Food Hazards identified as reasonably likely to occur.~~
33 ~~_____ (d) Review of the current process to determine whether modifications are~~
34 ~~necessary.~~
35 ~~_____ (e) The identification of Critical Control Points.~~
36 ~~_____ (3) The Hazard Analysis shall include Food Hazards that can be introduced both~~
37 ~~within and outside the Food Processing Plant environment, including Food Hazards that can~~
38 ~~occur before, during, and after harvest. The Hazard Analysis shall be developed by an~~
39 ~~individual or individuals who have been trained in accordance with Sub-section V of this~~

1 ~~section and shall be subject to the recordkeeping as specified in Sub sections R, S, T and U of~~
2 ~~this section.~~

3 ~~————— (4) — In evaluating what Food Hazards are reasonably likely to occur,~~
4 ~~consideration should be given, at a minimum, to the following:~~

5 ~~————— (a) — Microbiological contamination;~~
6 ~~————— (b) — Parasites;~~
7 ~~————— (c) — Chemical contamination;~~
8 ~~————— (d) — Unlawful pesticide residues;~~
9 ~~————— (e) — Decomposition in Food where a Food Hazard has been associated with~~
10 ~~decomposition;~~

11 ~~————— (f) — Natural toxins;~~
12 ~~————— (g) — Unapproved use of Food or color additives;~~
13 ~~————— (h) — Presence of undeclared ingredients that may be allergens; and~~
14 ~~————— (i) — Physical hazards.~~

15 ~~————— (5) — Food Processing Plants shall evaluate product ingredients, processing~~
16 ~~procedures, packaging, storage, and intended use; facility and equipment function and design;~~
17 ~~and Plant sanitation, including employee hygiene, to determine the potential effect of each on~~
18 ~~the safety of the finished Food for the intended consumer.~~

19 ~~————— N. — **Hazard Analysis and Critical Control Point (HACCP) Plan requirements.**~~

20 ~~————— (1) — Food Processing Plants shall have and implement a written HACCP Plan~~
21 ~~whenever a Hazard Analysis reveals one or more Food Hazards that are reasonably likely to~~
22 ~~occur during processing as specified in Sub section M of this section. The HACCP Plan shall~~
23 ~~be developed by an individual or individuals who have been trained as specified in Sub section~~
24 ~~V of this section and shall be subject to the recordkeeping requirements as specified in Sub~~
25 ~~sections R, S, T and U of this section. A HACCP plan shall be specific to:~~

26 ~~————— (a) — Each location where Food is processed.~~
27 ~~————— (b) — Each type of Food processed. The plan may group types of Food~~
28 ~~products together, or group types of production methods together, if the Food Hazards, Critical~~
29 ~~Control Points, Critical Limits, and procedures required to be identified and performed in Su~~
30 ~~section E Paragraph 1 of this section are essentially identical, provided that any required~~
31 ~~features of the plan that are unique to a specific product or method are clearly delineated in the~~
32 ~~plan and are observed in practice.~~

33 ~~————— (2) — The HACCP Plan shall, at a minimum:~~

34 ~~————— (a) — List all Food Hazards that are reasonably likely to occur and must be~~
35 ~~controlled for each product type as identified in accordance with Sub section M of this section.~~

36 ~~————— (b) — List the Critical Control Points for each of the identified Food Hazards~~
37 ~~that is reasonably likely to occur, including as appropriate:~~

38 ~~————— (i) — Critical Control Points designed to control Food Hazards that are~~
39 ~~reasonably likely to occur and could be introduced inside the Food Processing Plants~~
40 ~~environment; and~~

1 ~~_____ (ii) Critical Control Points designed to control Food Hazards~~
2 ~~introduced outside the Food Processing Plants environment, including food hazards that occur~~
3 ~~before, during, and after harvest;~~
4 ~~_____ (e) List the Critical Limits that shall be met at each of the Critical Control~~
5 ~~Points;~~
6 ~~_____ (d) List the procedures, and the frequency with which they are to be~~
7 ~~performed, that will be used to monitor each of the Critical Control Points to ensure compliance~~
8 ~~with the Critical Limits;~~
9 ~~_____ (e) Include any Corrective Action plans that have been developed in~~
10 ~~accordance with Sub section M of this section, and that are to be followed in response to~~
11 ~~deviations from critical limits at Critical Control Points;~~
12 ~~_____ (f) List the Validation and Verification procedures, and the frequency with~~
13 ~~which they are to be performed, that the Food Processing Plant will use as specified in Sub-~~
14 ~~sections O and P of this section; and~~
15 ~~_____ (g) Provide for a recordkeeping system that documents the monitoring of~~
16 ~~the Critical Control Points in accordance with Sub sections R, S, T, and U of this section. The~~
17 ~~records shall contain the actual values and observations obtained during monitoring.~~
18 ~~(3) When a deviation from a Critical Limit occurs, a Food Processing Plant shall~~
19 ~~take Corrective Action by following the procedures as specified in Sub paragraphs (a) and (b)~~
20 ~~of this Paragraph.~~
21 ~~_____ (a) Food Processing Plants shall develop written Corrective Action plans,~~
22 ~~which become part of their HACCP plans, by which Food Processing Plants predetermine the~~
23 ~~corrective actions that they will take whenever there is a deviation from a Critical Limit. A~~
24 ~~corrective action plan that is appropriate for a particular deviation is one that describes the steps~~
25 ~~to be taken and assigns responsibility for taking those steps, to ensure that:~~
26 ~~_____ (i) No product enters commerce that is either injurious to health or~~
27 ~~is otherwise adulterated as a result of the deviation; and~~
28 ~~_____ (ii) The cause of the deviation is corrected.~~
29 ~~_____ (b) When a deviation from a Critical Limit occurs, and the Food~~
30 ~~Processing Plant does not have a corrective action plan that is appropriate for that deviation, the~~
31 ~~Food Processing Plant shall:~~
32 ~~_____ (i) Segregate and hold the affected product, at least until the~~
33 ~~requirements of ii v of this paragraph are met.~~
34 ~~_____ (ii) Perform or obtain a review to determine the acceptability of the~~
35 ~~affected product for distribution. The review shall be performed by an individual or individuals~~
36 ~~who have adequate training or experience to perform such review and are approved by the~~
37 ~~Regulatory Authority.~~
38 ~~_____ (iii) Take corrective action, when necessary, with respect to the~~
39 ~~affected product to ensure that no product enters commerce that is either injurious to health or~~
40 ~~is otherwise adulterated as a result of the deviation.~~

1 ~~_____ (iv) Take corrective action, when necessary, to correct the cause of~~
2 ~~the deviation.~~
3 ~~_____ (v) Perform or obtain timely verification as specified in Sub-section~~
4 ~~O of this section, by an individual or individuals who have been trained in accordance with~~
5 ~~Sub-section V of this section, to determine whether modification of the HACCP Plan is~~
6 ~~required to reduce the risk of recurrence of the deviation, and to modify the HACCP Plan as~~
7 ~~necessary.~~
8 ~~_____ (e) All corrective actions taken in accordance with this section shall be~~
9 ~~fully documented in records that are subject to verification in accordance Sub-section O or this~~
10 ~~section and the recordkeeping requirements of Sub-sections S, T, and U of this Section.~~
11 ~~**O. Verification Requirements.** Food processing plants shall verify that the~~
12 ~~HACCP system is being implemented according to design.~~
13 ~~_____ (1) Verification activities shall include:~~
14 ~~_____ (a) A review of any consumer complaints that have been received by the~~
15 ~~Food processing plants shall verify that the HACCP system is being implemented according to~~
16 ~~design to determine whether such complaints relate to the performance of the HACCP Plan or~~
17 ~~reveal previously unidentified critical control points;~~
18 ~~_____ (b) The calibration of process monitoring instruments;~~
19 ~~_____ (c) At the option of the Food Processing Plant, the performance of~~
20 ~~periodic end-product or in-process testing.~~
21 ~~_____ (d) A review, including signing and dating, by an individual who has been~~
22 ~~trained in accordance with Sub-section V of this section, of the records that document:~~
23 ~~_____ (i) The monitoring of critical control points. The purpose of this~~
24 ~~review shall be, at a minimum, to ensure that the records are complete and to verify that the~~
25 ~~records document values that are within the Critical Limits. This review shall occur within 7~~
26 ~~days of the day that the records are made;~~
27 ~~_____ (ii) The taking of corrective actions. The purpose of this review~~
28 ~~shall be, at a minimum, to ensure that the records are complete and to verify that appropriate~~
29 ~~corrective actions were taken in accordance with Paragraph 3 of Sub-section N. This review~~
30 ~~shall occur within 7 days of the day that the records are made;~~
31 ~~_____ (iii) The calibrating of any process monitoring instruments used at~~
32 ~~Critical Control Points and the performance of any periodic end-product or in-process testing~~
33 ~~that is part of the Food Processing Plants Verification activities. The purpose of these reviews~~
34 ~~shall be, at a minimum, to ensure that the records are complete and that these activities~~
35 ~~occurred in accordance with the Food Processing Plant's written procedures. These reviews~~
36 ~~shall occur within seven (7) days of the day that the records are made; and~~
37 ~~_____ (iv) The following of procedures as specified in Paragraph 3 of Sub-~~
38 ~~section N when any Verification procedure, including the review of consumer complaints,~~
39 ~~establishes the need to take a corrective action.~~

1 ~~———— P. — Validation of HACCP Plan. Food Processing Plants shall validate that the~~
2 ~~HACCP Plan is adequate to control Food Hazards that are reasonably likely to occur.~~
3 ~~———— (1) — Validation shall:~~
4 ~~———— (a) — Occur at least once within 12 months after implementation and at least~~
5 ~~annually thereafter or whenever any changes in the process occur that could affect the hazard~~
6 ~~analysis or alter the HACCP Plan in any way. Such changes may include: Raw materials or~~
7 ~~source of raw materials; product formulation; processing methods or systems, including~~
8 ~~computers and their software; packaging; finished product distribution systems; or the intended~~
9 ~~use or consumers of the finished product.~~
10 ~~———— (b) — Be performed by an individual or individuals who have been trained in~~
11 ~~accordance with Sub-section V and shall be subject to the recordkeeping requirements of Sub-~~
12 ~~sections R, S, T, and U of this section.~~
13 ~~———— (2) — The HACCP Plan shall be modified immediately when a validation reveals~~
14 ~~that the plan is no longer adequate to fully meet the requirements of this Section.~~
15 ~~———— (3) — The modified HACCP Plan shall be submitted to the Regulatory Authority~~
16 ~~for Approval within twenty four (24) hours of making modifications as specified Paragraph 3~~
17 ~~of this sub-section.~~
18 ~~———— Q. — Validation of the Hazard Analysis.~~
19 ~~———— (1) — Whenever a Food Processing Plant has no HACCP Plan because a Hazard~~
20 ~~Analysis has revealed no Food Hazards that are reasonably likely to occur, the Food Processing~~
21 ~~Plant shall reassess the adequacy of that Hazard Analysis whenever there are any changes in~~
22 ~~the process that could reasonably affect whether a Food Hazard exists.~~
23 ~~———— (2) — Such changes may include: Raw materials or source of raw materials;~~
24 ~~product formulation; processing methods or systems, including computers and their software;~~
25 ~~packaging; finished product distribution systems; or the intended use or intended consumers of~~
26 ~~the finished product.~~
27 ~~———— (3) — The Validation of the Hazard Analysis shall be performed by an individual~~
28 ~~or individuals who have been trained in accordance with Sub-section V of this Section, and,~~
29 ~~records documenting the validation shall be subject to the recordkeeping requirements of Sub-~~
30 ~~sections R, S, T, and U of this section.~~
31 ~~———— R. — Required records. Food Processing Plants shall maintain the following records~~
32 ~~documenting the HACCP system:~~
33 ~~———— (1) — Records documenting the implementation of the Sanitation Standard~~
34 ~~Operating Procedures (SSOP's).~~
35 ~~———— (2) — The written Hazard Analysis.~~
36 ~~———— (3) — The written HACCP Plan.~~
37 ~~———— (4) — Records documenting the ongoing application of the HACCP Plan that~~
38 ~~include:~~

1 ~~_____ (a) Monitoring of Critical Control Points and their Critical Limits,~~
2 ~~including the recording of actual times, temperatures, or other measurements, as prescribed in~~
3 ~~the HACCP Plan.~~

4 ~~_____ (b) Corrective Actions, including all actions taken in response to a~~
5 ~~deviation.~~

6 ~~_____ (c) Records documenting Verification of the HACCP system and~~
7 ~~Validation of the HACCP Plan or Hazard Analysis, as appropriate.~~

8 ~~_____ **S. General records requirements.** All records required by this Section shall~~
9 ~~include:~~

10 ~~_____ (1) The name and address of the Food Processing Plant.~~

11 ~~_____ (2) The date and time of the activity that the record reflects, except that records~~
12 ~~required by Paragraphs 2, 3, and 5 of Sub section R of this section need not include the time;~~

13 ~~_____ (3) The signature or initials of the person performing the operation or creating~~
14 ~~the record.~~

15 ~~_____ (4) The identity of the product and where appropriate, the batch number or lot~~
16 ~~number of the product. Processing and other information shall be entered on records at the time~~
17 ~~that it is observed. The records shall contain the actual values and observations obtained during~~
18 ~~monitoring.~~

19 ~~_____ **T. Signing of records.**~~

20 ~~_____ (1) The records in Paragraphs 2 and 3 of Sub Section R of this section shall be~~
21 ~~signed and dated by the most responsible individual onsite at the Food Processing Plant or by a~~
22 ~~higher level official of the Food Processing Plant. These signatures shall signify that these~~
23 ~~records have been accepted by the firm.~~

24 ~~_____ (2) The records required in Paragraphs 2 and 3 of Sub Section R of this section~~
25 ~~shall be signed and dated:~~

26 ~~_____ (a) Upon initial acceptance.~~

27 ~~_____ (b) Upon any modification.~~

28 ~~_____ (c) Upon verification and validation in accordance with Sub sections O~~
29 ~~and P of this section.~~

30 ~~_____ **U. Record retention.**~~

31 ~~_____ (1) All records required by this part shall be retained at the food processing plant~~
32 ~~for, in the case of perishable or refrigerated food, at least one year after the date that such~~
33 ~~products were prepared, and for, in the case of frozen, preserved, or shelf stable products, two~~
34 ~~years or the shelf life of the product, whichever is greater, after the date that the products were~~
35 ~~prepared.~~

36 ~~_____ (2) Offsite storage of processing records is permitted after six (6) months~~
37 ~~following the date that the monitoring occurred, if such records can be retrieved and provided~~
38 ~~onsite within twenty four (24) hours of request for official review. Electronic records are~~
39 ~~considered to be onsite if they are accessible from an onsite location and comply with~~
40 ~~Paragraph 5 of this sub section.~~

1 ~~————— (3) If the processing facility is closed for a prolonged period between seasonal~~
2 ~~packs, the records may be transferred to some other reasonably accessible location at the end of~~
3 ~~the seasonal pack but shall be immediately returned to the processing facility for official review~~
4 ~~upon request.~~

5 ~~————— (4) All records required by this section shall be available for review and copying~~
6 ~~by the Regulatory Authority at reasonable times.~~

7 ~~————— (5) The maintenance of computerized records is acceptable if the Food~~
8 ~~Processing Plant can demonstrate the accuracy, consistency, and retention capabilities to the~~
9 ~~Regulatory Authority.~~

10 ~~—————~~ **V. Training.**

11 ~~————— (1) In addition to meeting the Certified food protection manager requirement as~~
12 ~~specified in Section 2-102.12 of the Food Code, employees performing the functions listed in~~
13 ~~Paragraph B of this Sub-section shall have successfully completed Approved training in the~~
14 ~~application of HACCP principles, or shall be otherwise qualified through job experience and~~
15 ~~Approved to perform these functions. Job experience may qualify an employee to perform~~
16 ~~these functions if such experience has provided knowledge at least equivalent to that provided~~
17 ~~through the Approved training.~~

18 ~~————— (2) Only an employee who has met the requirements of Paragraph 1 of this Sub-~~
19 ~~section shall be responsible for the following functions:~~

20 ~~————— (a) Developing the Hazard Analysis, including delineating control~~
21 ~~measures.~~

22 ~~————— (b) Developing a HACCP Plan that is appropriate for a specific Food~~
23 ~~Processing Plant location.~~

24 ~~————— (c) Verifying and modifying the HACCP Plan in accordance with the~~
25 ~~Corrective Action procedures and the Validation activities specified in this Section.~~

26 ~~————— (d) Performing the record review required by Sub-paragraph 1d of Sub-~~
27 ~~section O of this section.~~

28 ~~—————~~ **W. Labeling requirements.**

29 ~~————— (1) Food Processing Plants shall label packaged food in accordance with the~~
30 ~~applicable requirements of Title 21, Code of Federal Regulation, Part 101 or Title 9.~~

31 ~~————— (2) Packaged food that does not comply with the requirements of this Sub-~~
32 ~~section shall be deemed to be Misbranded.~~

33 ~~—————~~ **X. Sanitation Standard Operating Procedures Requirements.**

34 ~~————— (1) Sanitation controls. Food Processing Plants shall have and implement~~
35 ~~Sanitation Standard Operating Procedures (SSOPs) that addresses sanitation conditions and~~
36 ~~practices before, during, and after processing. The SSOPs shall address:~~

37 ~~————— (a) Safety of the water that comes into contact with Food or food contact~~
38 ~~surfaces or that is used in the manufacture of ice;~~

39 ~~————— (b) Condition and cleanliness of food contact surfaces, including utensils,~~
40 ~~gloves, and outer garments;~~

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~~————— (e) — Prevention of cross-contamination from insanitary objects to Food, food packaging material, and other food contact surfaces, including utensils, gloves, and outer garments, and from raw product to processed product;~~

~~————— (d) — Maintenance of hand washing, hand sanitizing, and toilet facilities;~~

~~————— (e) — Protection of Food, food packaging material, and food contact surfaces from adulteration with lubricants, fuel, pesticides, cleaning compounds, sanitizing agents, condensate, and other chemical, physical, and biological contaminants;~~

~~————— (f) — Proper labeling, storage, and use of toxic compounds;~~

~~————— (g) — Control of Employee health conditions that could result in the microbiological contamination of Food, food packaging materials, and food contact surfaces; and~~

~~————— (h) — Exclusion of pests from the Food Processing Plant.~~

~~(2) — Monitoring. Food Processing Plants shall monitor the conditions and practices during processing with sufficient frequency to ensure, at a minimum, conformance with those conditions and practices specified in this Section that are appropriate both to the plant and to the Food being processed. Each Food Processing Plant shall correct, in a timely manner, those conditions and practices that are not met.~~

~~(3) — Records. Food Processing Plants shall maintain SSOPs records that, at a minimum, document the monitoring and corrections prescribed by Paragraph 1 of this sub-section. These records are subject to the recordkeeping requirements as specified in Sub-sections R, S, T and U of this section.~~

~~(4) — Relationship to Hazard Analysis and Critical Control Point (HACCP) plan. Sanitation Standard Operating Procedure controls may be included in the HACCP plan. However, to the extent that they are implemented in accordance with this sub-section, they need not be included in the HACCP plan.~~

~~[7.6.2.11 NMAC Rp, 7 NMAC 6.1.006, 08/12/2000; Rp, x/x/2016]~~

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7.6.2.12 JERKY MANUFACTURED FOOD REQUIREMENTS:

A. In addition to complying with the requirements specified in Section 11 of this part, Food Processing Plants that produce Jerky shall comply with the requirements specified in this Section.

B. Food Processing Plants that produce Jerky shall have the appropriate Approved equipment to measure and monitor food safety factors related to the production of Jerky.

C. Cooking. The following parameters shall be achieved in a sealed oven, for a minimum of one hour, and no less than 50% of the cooking time, during the Jerky cooking process:

(1) Minimum internal temperature of 145⁰F for 4 minutes for Meat and 165⁰F instantaneous for Poultry.

~~(2) — Achieve and maintain a minimum wet bulb temperature of 125⁰F or above with a corresponding dry bulb temperature resulting in a minimum relative humidity of 27%.~~

1 (3) Maintain a steady or increasing relative humidity level throughout the
2 cooking process.

3 ~~(4) Maintain requirements in Sub-paragraph b of this paragraph. The cooking for~~
4 ~~a minimum of one hour, and no less than 50% of the cooking time.~~

5 ~~(5) Prior to beginning the cooking time as specified in Sub-paragraph d of this~~
6 ~~paragraph, the conditions outlined in Sub-paragraph b of this paragraph are met.~~

7 ~~D. In lieu of complying with the cooking parameters specified in Sub-section C of this section~~
8 ~~the Regulatory Authority may Approve alternative methods for treating product provided that the~~
9 ~~proposed method is scientifically-based and adequately documented by data developed according~~
10 ~~to an experimental protocol.~~

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11 **DE.** Food Establishments that produce Jerky shall:

- 12 (1) Meet the requirements of Sub-sections B and C this section.
- 13 (2) Have an approved Operational Plan for each product produced.
- 14 (3) Keep the Operational Plan on file at the Food Establishment.
- 15 (4) Follow the approved Operational Plan and not deviate from it without

16 approval from the Regulatory Authority.

17 (5) Monitor and record Food safety factors, including but not limited to, time,
18 temperature, and humidity and make the records available to the Regulatory Authority.

19 [7.6.2.12 NMAC - Rp, 7 NMAC 6.1.006, 08/12/2000; Rp, x/x/2016]

21 7.6.2.13 BOTTLED DRINKING WATER MANUFACTURED FOOD 22 REQUIREMENTS:

23 **A.** In addition to meeting the requirements specified in Section 11 of this part, Food
24 Processing Plants that produce Bottled Drinking Water shall comply with the requirements
25 specified in this Section.

26 **B.** Bottled Drinking Water processing operational requirements and standards.

27 (1) The Bottled Drinking Water plant shall follow generally accepted Good
28 Manufacturing Practice such as contained in 21 CFR Part 129 or the International Bottled
29 Water Association Bottled Water Code of Practice.

30 (2) Bottled Drinking Water which is bottled through lines or equipment used for
31 food or milk products shall demonstrate (assure) that the cleaning process prevents adulteration
32 of the bottled water. Bottled Drinking Water shall not be transported or stored in bulk tanks
33 used for any non-food product, nor processed or bottled through equipment or lines used for
34 any non-food product.

35 **C. Bottled Drinking Water labeling requirements.** All Bottled Drinking Water
36 labels shall meet the requirements specified in Sub-section W of Section 11 of this part.

37 **D. Analytical requirements.** Unless otherwise provided in this part, samples shall
38 be collected, prepared, and examined using the most current methods for the examination of
39 drinking water listed in 40 CFR Part 14) or by other methods for the examination of drinking

1 water approved by the United States Environmental Protection Agency. Examination of
2 samples shall be performed by an Approved laboratory.

3 **E. Monitoring requirements.**

4 (1) Bottled Drinking Water plants shall be required to submit one
5 microbiological sample per finished product per week. A copy of the microbiological analysis
6 report shall be submitted within ten working days of analysis to the Regulatory Authority.
7 Any coliform or fecal coliform positive result shall require the plant owner or operator to notify
8 the Regulatory Authority within twenty-four (24) hours and to submit to resampling guidelines
9 specified in 20.7.10 NMAC.

10 (2) Bottled Drinking Water Plants that know that a Maximum Contaminant
11 Level, as specified in 20.7.10 NMAC, has been exceeded or who have reason to believe
12 circumstances exist that may adversely affect the safety of Bottled Drinking Water, including
13 but not limited to source contamination, spills, accidents, natural disasters, or breakdowns in
14 treatment, shall notify the Regulatory Authority within twenty-four (24) hours.
15 [7.6.2.13 NMAC - Rp, 7 NMAC 6.1.006, 08/12/2000; Rp, x/x/2016]

16
17 **7.6.2.14 SHELLFISH REQUIREMENTS: Adoption of National Shellfish Sanitation**
18 **Program (NSSP) Guide for Control of Molluscan Shellfish.** Except as otherwise provided, the
19 2013 NSSP Guide for Control of Molluscan Shellfish is hereby incorporated by reference.
20 [7.6.2.14 NMAC - Rp, 7 NMAC 6.1.006, 08/12/2000; Rp, x/x/2016]

21
22 **7.6.2.15 HOME-BASED FOOD PROCESSING:**

23 **A. Plan Review, Permitting, Inspection, and Training Requirements.**

24 (1) No person shall operate a Home-based Food Processing Operation without a
25 Permit.
26 (2) In addition to meeting the applicable requirements of Chapters 1-8 of the Food
27 Code and Section 11 of this part, Home-based Food Processing Operations shall comply with the
28 requirements specified in this Section.

29 (3) Home-Based Food Processing Operations shall meet the specifications of Part
30 2-1 of the Food Code.

31 (4) The Permit issued shall be displayed at the Home-based Food Processing
32 Operation. A copy of the Permit shall be displayed at places at which the operator sells Food at
33 times when the operator is selling the home-based processed Foods.

34 **B. Food Protection Requirements.**

35 (1) Home-based processed Food products and components shall be stored separate
36 and apart from residential Foods and protected from contamination, insects, rodents, pests, water
37 leaks, dust, dirt and other contaminants.

38 (2) Home-Based Food Processing Operations must keep a sample of each
39 processed Food batch for fourteen days. The samples shall be labeled with the production date
40 and time.

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1 **(3)** Vehicles used in transporting home-based processed Food products shall be
2 maintained in a safe and sanitary manner. Vehicle compartments used to transport animals shall
3 not be used for transporting home-based processed Foods.

4 **C. Exceptions and Limitations.**

5 **(1)** The following provisions from the Food Code shall not apply to Home-based
6 Food Processing Operations:

- 7 **(a)** 8-407.11;
- 8 **(b)** 4-301.12(A);
- 9 **(c)** 5-501.11;
- 10 **(d)** 4-903.11;
- 11 **(e)** 4-803.11;
- 12 **(f)** 6-202.112;
- 13 **(g)** 4-803.13(A);
- 14 **(h)** 4-402.11;
- 15 **(i)** 4-402.12;
- 16 **(j)** 4-205.10
- 17 **(k)** 8-101.10(B)
- 18 **(l)** 6-202.14
- 19 **(m)** 6-201.14
- 20 **(n)** 6-201.13
- 21 **(o)** 4-701.10
- 22 **(p)** 5-204.11
- 23 **(q)** 6-301.12(A)
- 24 **(r)** 2-401.11
- 25 **(s)** 6-501.115
- 26 **(t)** 5-501.10

27 **(2)** Food products processed by Home-based Food Processing Operations shall
28 not be Potentially Hazardous Foods and shall be Approved by the Regulatory Authority.

29 **(3)** Home-based Food Processing Operations shall only sell their products at
30 farmer's markets, roadside stands, festivals, or other venues in which the producer sells directly
31 to the consumer.

32 **(4)** Products processed by a Home-based Food Processing Operation shall not be
33 sold, used, or offered for consumption in Food Establishments including, but not limited to,
34 restaurants, grocery stores and convenience stores, by internet sales, or sold in interstate
35 commerce.

36 **(5)** Pets shall not be permitted in the kitchen and shall be kept out of Food
37 preparation areas during home-based food processing related activities.

38 **(6)** Non-employees shall not be allowed entry into the kitchen during home-based
39 food processing related activities. Home-based Food Processing Operations shall not wash out or
40 clean pet cages, pans or similar items in the kitchen.

41 **(7)** Household cooking may not occur in the kitchen during home-based food
42 processing related activities.

43 **(8)** The following provisions from the Food Code are applicable to Home-based
44 Food Processing Operations only during Home-based Food Processing related activities:

- 45 **(a)** 3-304.11;
- 46 **(b)** 5-205.11;

- (c) 6-301.12;
- (d) 2-401.11;
- (e) 6-501.115;
- (f) 5-501.13.

(9) Home-based Food Processing Operations shall submit ~~an Operational Plan and~~ a detailed procedure to be used to clean and sanitize the kitchen sink before and during Home-based Food Processing related activities

(10) Home-Based Food Processing Operations shall comply with Sub-section 5-402.11 of the Food Code unless an alternative method is Approved.

D. Home-Based Food Labeling. A Home-based Food Processing Operation shall properly label all Foods in accordance with Sub-section W of Section 11 of this part and include the words “Home Produced” in bold conspicuous 12 point type on the principal display panel. [7.6.2.15 NMAC - Rp, 7 NMAC 6.1.103, 08/12/2000, 01/01/2010; Rp, x/x/2016]

HISTORY OF 7.6.2 NMAC:

Pre-NMAC History: Material in the part was derived from that previously filed with the commission of public records - state records center and archives:

- EIB Rule 73-1, Regulations Governing Food Protection In Food-Service Establishments, 6/25/73
- EIB Rule FQM 2, Food Service Regulations; 10/15/80
- EIB Rule FQM 2, Food Service Regulations; 11/14/85
- EIB Rule FQM 2, Food Service and Processor Regulations; 5/22/90
- EIB Rule FQM 2, Food Service And Processor Regulations; 12/02/92

History of Repealed Material:

7 NMAC 6.1 Food Service And Food Processing Regulations - Repealed, 08/12/2000