New or otherwise modified in the 2012 Nebraska Food Code

“Critical violation” replaced.

Priority item – contributes directly to the elimination, prevention or reduction of hazards associated with foodborne illness.

Priority Foundation - supports, facilitates or enables a priority item.

Core item – usually relates to general sanitation, operational controls, sanitation standard operating procedures, general maintenance.

Inspection form will show all three violations. Plans are now to enter Priority and Priority foundation into database; preprint on forms.

Definitions Chapter 1

Core Item.

(1) "Core item" means a provision in this Code that is not designated as a PRIORITY ITEM OR A PRIORITY FOUNDATION ITEM.

(2) "Core item" includes an item that usually relates to general sanitation, operational controls, sanitation standard operating procedures (SSOPs), facilities or structures, equipment design, or general maintenance.

"Corrosion-resistant material" means a material that maintains acceptable surface cleanability characteristics under prolonged influence of the FOOD to be contacted, the normal use of cleaning compounds and SANITIZING solutions, and other conditions of the use environment.

"Counter-mounted equipment" means EQUIPMENT that is not portable and is designed to be mounted off the floor on a table, counter, or shelf.

"Critical control point" means a point or procedure in a specific FOOD system where loss of control may result in an unacceptable health RISK.

Non-Continuous Cooking.

(1) "Non-continuous cooking" means the cooking of FOOD in a FOOD ESTABLISHMENT using a process in which the initial heating of the FOOD is intentionally halted so that it may be cooled and held for complete cooking at a later time prior to sale or service.

(2) "Non-continuous cooking" does not include cooking procedures that only involve temporarily interrupting or slowing an otherwise continuous cooking process.

Priority item

(1) "Priority item" means a provision in this Code whose application contributes directly to the elimination, prevention or reduction to an acceptable level, hazards associated with foodborne illness or injury and there is no other provision that more directly controls the hazard.
(2) "Priority item" includes items with a quantifiable measure to show control of hazards such as cooking, reheating, cooling, handwashing; and
(3) "Priority item" is an item that is denoted in this Code with a superscript $P$. 

Priority Foundation Item.

(1) "Priority foundation item" means a provision in this Code whose application supports, facilitates or enables one or more PRIORITY ITEMS.
(2) "Priority foundation item" includes an item that requires the purposeful incorporation of specific actions, equipment or procedures by industry management to attain control of risk factors that contribute to foodborne illness or injury such as personnel training, infrastructure or necessary equipment, HACCP plans, documentation or record keeping, and labeling; and
(3) "Priority foundation item" is an item that is denoted in this Code with a superscript $Pf$. 

Chapter 2

2-101.11 Assignment. Clarifying to allow one PIC for multiple departments at certain hours.

(A) Except as specified in ¶ (B) of this section, the PERMIT HOLDER shall be the PERSON IN CHARGE or shall designate a PERSON IN CHARGE and shall ensure that a PERSON IN CHARGE is present at the FOOD ESTABLISHMENT during all hours of operation. 

(B) In a FOOD ESTABLISHMENT with two or more separately PERMITTED departments that are the legal responsibility of the same PERMIT HOLDER and that are located on the same PREMISES, the PERMIT HOLDER may, during specific time periods when food is not being prepared, packaged, or served, designate a single PERSON IN CHARGE who is present on the PREMISES during all hours of operation, and who is responsible for each separately PERMITTED FOOD ESTABLISHMENT on the PREMISES. 

2-102.11 Demonstration. Replaces 81-2,272.02, deleted by LB 771.
Based on the RISKS inherent to the FOOD operation, during inspections and upon request the PERSON IN CHARGE shall demonstrate to the REGULATORY AUTHORITY knowledge of foodborne disease prevention, application of the HAZARD Analysis and CRITICAL CONTROL POINT principles, and the requirements of this Code. The PERSON IN CHARGE shall demonstrate this knowledge by:

(A) Complying with this Code by having no violations of PRIORITY ITEMS during the current inspection; 

(B) Being a certified FOOD protection manager who has shown proficiency of required information through passing a test that is part of an ACCREDITED PROGRAM; or 

(C) Responding correctly to the inspector's questions as they relate to the specific FOOD operation. The areas of knowledge include:
(1) Describing the relationship between the prevention of foodborne disease and the personal hygiene of a FOOD EMPLOYEE; \( \text{PF} \)

(2) Explaining the responsibility of the PERSON IN CHARGE for preventing the transmission of foodborne disease by a FOOD EMPLOYEE who has a disease or medical condition that may cause foodborne disease; \( \text{PF} \)

(3) Describing the symptoms associated with the diseases that are transmissible through FOOD; \( \text{PF} \)

(4) Explaining the significance of the relationship between maintaining the time and temperature of POTENTIALLY HAZARDOUS FOOD (TIME/TEMPERATURE CONTROL FOR SAFETY FOOD) and the prevention of foodborne illness; \( \text{PF} \)

(5) Explaining the HAZARDS involved in the consumption of raw or undercooked MEAT, POULTRY, EGGS, and FISH; \( \text{PF} \)

(6) Stating the required FOOD temperatures and times for safe cooking of POTENTIALLY HAZARDOUS FOOD (TIME/TEMPERATURE CONTROL FOR SAFETY FOOD) including MEAT, POULTRY, EGGS, and FISH; \( \text{PF} \)

(7) Stating the required temperatures and times for the safe refrigerated storage, hot holding, cooling, and reheating of POTENTIALLY HAZARDOUS FOOD (TIME/TEMPERATURE CONTROL FOR SAFETY FOOD); \( \text{PF} \)

(8) Describing the relationship between the prevention of foodborne illness and the management and control of the following:

(a) Cross contamination, \( \text{PF} \)
(b) Hand contact with READY-TO-EAT FOODS, \( \text{PF} \)
(c) Handwashing, \( \text{PF} \) and
(d) Maintaining the FOOD ESTABLISHMENT in a clean condition and in good repair; \( \text{PF} \)

(9) Describing FOODS identified as MAJOR FOOD ALLERGENS and the symptoms that a MAJOR FOOD ALLERGEN could cause in a sensitive individual who has an allergic reaction. \( \text{PF} \)

(10) Explaining the relationship between FOOD safety and providing EQUIPMENT that is:

(a) Sufficient in number and capacity, \( \text{PF} \) and
(b) Properly designed, constructed, located, installed, operated, maintained, and cleaned; \( \text{PF} \)
(11) Explaining correct procedures for cleaning and SANITIZING UTENSILS and FOOD-CONTACT SURFACES of EQUIPMENT; Pf

(12) Identifying the source of water used and measures taken to ensure that it remains protected from contamination such as providing protection from backflow and precluding the creation of cross connections; Pf

(13) Identifying POISONOUS OR TOXIC MATERIALS in the FOOD ESTABLISHMENT and the procedures necessary to ensure that they are safely stored, dispensed, used, and disposed of according to LAW; Pf

(14) Identifying CRITICAL CONTROL POINTS in the operation from purchasing through sale or service that when not controlled may contribute to the transmission of foodborne illness and explaining steps taken to ensure that the points are controlled in accordance with the requirements of this Code; Pf

(15) Explaining the details of how the PERSON IN CHARGE and FOOD EMPLOYEES comply with the HACCP PLAN if a plan is required by the LAW, this Code, or an agreement between the REGULATORY AUTHORITY and the FOOD ESTABLISHMENT; Pf

(16) Explaining the responsibilities, rights, and authorities assigned by this Code to the:

(a) FOOD EMPLOYEE, Pf
(b) CONDITIONAL EMPLOYEE, Pf
(c) PERSON IN CHARGE, Pf
(d) REGULATORY AUTHORITY; Pf

(17) Explaining how the PERSON IN CHARGE, FOOD EMPLOYEES, and CONDITIONAL EMPLOYEES comply with reporting responsibilities and EXCLUSION or RESTRICTION of FOOD EMPLOYEES. Pf

Chapter 3

3-201.11 Compliance with Food Law. (E) included in this adoption.

(E) WHOLE-MUSCLE, INTACT BEEF steaks that are intended for consumption in an undercooked form without a CONSUMER advisory as specified in ¶ 3-401.11(C) shall be:

(1) Obtained from a FOOD PROCESSING PLANT that, upon request by the purchaser, packages the steaks and labels them, to indicate that the steaks meet the definition of WHOLE-MUSCLE, INTACT BEEF, Pf or
(2) Deemed acceptable by the REGULATORY AUTHORITY based on other evidence, such as written buyer specifications or invoices, that indicates that the steaks meet the definition of WHOLE-MUSCLE, INTACT BEEF, and

(3) If individually cut in a FOOD ESTABLISHMENT:

(a) Cut from WHOLE-MUSCLE INTACT BEEF that is labeled by a FOOD PROCESSING PLANT as specified in Subparagraph (E)(1) of this section or identified as specified in Subparagraph (E)(2) of this section, and

(b) Prepared so they remain intact, and

(c) If PACKAGED for undercooking in a FOOD ESTABLISHMENT, labeled as specified in Subparagraph (E)(1) of this section or identified as specified in (E)(2) of this section.

3-301 (B), (C), and (D) removed from Code. 81-2,272.10 is still part of the Code.

(A) Food employees shall wash their hands as specified under § 2-301.12.

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

Raw animal FOODS that are cooked using a NON-CONTINUOUS COOKING process shall be:

(A) Subject to an initial heating process that is no longer than sixty minutes in duration;

(B) Immediately after initial heating, cooled according to the time and temperature parameters specified for cooked POTENTIALLY HAZARDOUS FOOD (TIME /TEMPERATURE CONTROL FOR SAFETY FOOD) under ¶ 3-501.14(A); and

(C) After cooling, held frozen or cold, as specified for POTENTIALLY HAZARDOUS FOOD (TIME/TEMPERATURE CONTROL FOR SAFETY FOOD) under ¶ 3-501.16(A)(2); and

(D) Prior to sale or service, cooked using a process that heats all parts of the FOOD to a temperature of at least 74°C (165°F) for 15 seconds; and

(E) Cooled according to the time and temperature parameters specified for cooked POTENTIALLY HAZARDOUS FOOD (TIME/TEMPERATURE CONTROL FOR SAFETY FOOD) under ¶ 3-501.14(A) if not either hot held as specified under ¶3-501.16(A), served immediately, or held using time as a public health control as specified under § 3-501.19 after complete cooking; and

(F) Prepared and stored according to written procedures that:

(1) Have obtained prior APPROVAL from the REGULATORY AUTHORITY; and

(2) Are maintained in the FOOD ESTABLISHMENT and are available to the REGULATORY AUTHORITY upon request;
(3) Describe how the requirements specified under ¶(A)-(E) of this Section are to be monitored and documented by the PERMIT HOLDER and the corrective actions to be taken if the requirements are not met. Pr

(4) Describe how the FOODS, after initial heating, but prior to complete cooking, are to be marked or otherwise identified as FOODS that must be cooked as specified under ¶(D) of this section prior to being offered for sale or service, Pr and

(5) Describe how the FOODS, after initial heating but prior to cooking as specified under ¶(D) of this section, are to be separated from READY-TO-EAT FOODS as specified under ¶ 3-302.11 (D). Pr

3-404.11 Treating Juice.

JUICE PACKAGED in a FOOD ESTABLISHMENT shall be:

(A) Treated under a HACCP PLAN as specified in ¶¶ 8-201.14(B) - (E) to attain a 5-log reduction, which is equal to a 99.999% reduction, of the most resistant microorganism of public health significance; Pr or

81-2,272.01 Potentially hazardous food, hot and cold holding. (Replaces 3-501.16)

(1) Except during preparation, cooking, or cooling or when time is used as the public health control as specified under Nebraska Pure Food Act, and except as specified under subsection (2) of this section, potentially hazardous food (time/temperature control for safety food) shall be maintained:

(a) At one hundred thirty-five degrees Fahrenheit (fifty-seven degrees Celsius) or above, except that roasts cooked to a temperature and for a time specified in the Nebraska Pure Food Act or reheated as specified in the act may be held at a temperature of one hundred thirty degrees Fahrenheit (fifty-four degrees Celsius) or above; or

(b) At:

(i) Forty-one degrees Fahrenheit (five degrees Celsius) or less; or
(ii) Forty-five degrees Fahrenheit (seven degrees Celsius) or between forty-one degrees Fahrenheit (five degrees Celsius) and forty-five degrees Fahrenheit (seven degrees Celsius) in existing refrigeration equipment that is not capable of maintaining the food at forty-one degrees Fahrenheit (five degrees Celsius) or above if:

(A) The equipment is in place and in use in the food establishment, and
(B) Refrigeration equipment that is not capable of meeting a cold holding temperature of forty-one degrees Fahrenheit (five degrees Celsius) that is in use on the operative date of this act shall, upon replacement of the equipment or at a change of ownership of the food establishment, be replaced with equipment that is capable of maintaining foods at forty-one degrees Fahrenheit (five degrees Celsius) or below.
(2) Eggs that have not been treated to destroy all viable Salmonellae shall be stored in refrigerated equipment that maintains an ambient air temperature of forty-five degrees Fahrenheit (seven degrees Celsius) or less.

(3) Potentially hazardous food (time/temperature control for safety food) in a homogenous liquid form may be maintained outside of the temperature control requirements, as specified under (1) of this section, while contained within specially designed equipment that complies with the design and construction requirements as specified in this act.

**Consumer Advisory 81-2,272.17 is repealed.**

3-603.11 Consumption of Animal Foods that are Raw, Undercooked, or Not Otherwise Processed to Eliminate Pathogens.

(A) Except as specified in § 3-401.11(C) and Subparagraph 3-401.11(D)(4) and under § 3-801.11(C), if an animal FOOD such as beef, EGGS, FISH, lamb, milk, pork, POULTRY, or shellfish is served or sold raw, undercooked, or without otherwise being processed to eliminate pathogens, either in READY-TO-EAT form or as an ingredient in another READY-TO-EAT FOOD, the PERMIT HOLDER shall inform CONSUMERS of the significantly increased RISK of consuming such FOODS by way of a DISCLOSURE and REMINDER, as specified in § 3-401.11(B) and (C) of this section using brochures, deli case or menu advisories, label statements, table tents, placards, or other effective written means.

(B) DISCLOSURE shall include:

(1) A description of the animal-derived FOODS, such as "oysters on the half shell (raw oysters)," "raw-EGG Caesar salad," and "hamburgers (can be cooked to order)," or

(2) Identification of the animal-derived FOODS by asterisking them to a footnote that states that the items are served raw or undercooked, or contain (or may contain) raw or undercooked ingredients.

(C) REMINDER shall include asterisking the animal-derived FOODS requiring DISCLOSURE to a footnote that states:

(1) Regarding the safety of these items, written information is available upon request;

(2) Consuming raw or undercooked MEATS, POULTRY, seafood, shellfish, or EGGS may increase your RISK of foodborne illness.
(3) Consume raw or undercooked MEATS, POULTRY, seafood, shellfish, or EGGS may increase your RISK of foodborne illness, especially if you have certain medical conditions. 

Chapter 4 81-2,272.36 is repealed.

4-204.111 Vending Machines, Automatic Shutoff.

(A) A machine vending POTENTIALLY HAZARDOUS FOOD (TIME/TEMPERATURE CONTROL FOR SAFETY FOOD) shall have an automatic control that prevents the machine from vending FOOD:

(1) If there is a power failure, mechanical failure, or other condition that results in an internal machine temperature that cannot maintain FOOD temperatures as specified under Chapter 3; and
(2) If a condition specified under Subparagraph (A)(1) of this section occurs, until the machine is serviced and restocked with FOOD that has been maintained at temperatures specified under Chapter 3.

(B) When the automatic shutoff within a machine vending POTENTIALLY HAZARDOUS FOOD (TIME/TEMPERATURE CONTROL FOR SAFETY FOOD) is activated:

(1) In a refrigerated vending machine, the ambient air temperature may not exceed 5°C (41°F) for more than 30 minutes immediately after the machine is filled, serviced, or restocked; or
(2) In a hot holding vending machine, the ambient air temperature may not be less than 57°C (135°F) for more than 120 minutes immediately after the machine is filled, serviced, or restocked.