



CHAPTER 246-215 WAC:

PROPOSED CHANGES TO RETAIL FOOD RULE

Susan Shelton

On the Menu: Presentation Objectives

- 1. Brief Summary of Food Safety Laws and Regulations**
Understand a bit of history and players
- 2. Rule Revision Process in Washington**
Understand the procedures used in our state
- 3. Proposed Changes to WAC 246-215**
Highlight key changes to continue input
Over 456 provisions in WAC 246-215
- 4. Stay Involved**
Understand your opportunities

Washington Retail Food Code WAC 246-215

Permanent Rule Changes are done for four reasons

- Legislative Changes
- Federal Law or Rule Changes
- State Court Decisions
- Public Petition

RCW 43.20.145 Food service rules—Consideration of federal food code

The state board shall consider the most recent version of the United States food and drug administration's food code for the purpose of adopting rules for food service.

- Conference for Food Protection
- FDA Annex

Food Code Adoption by State (as of 12/31/2017)

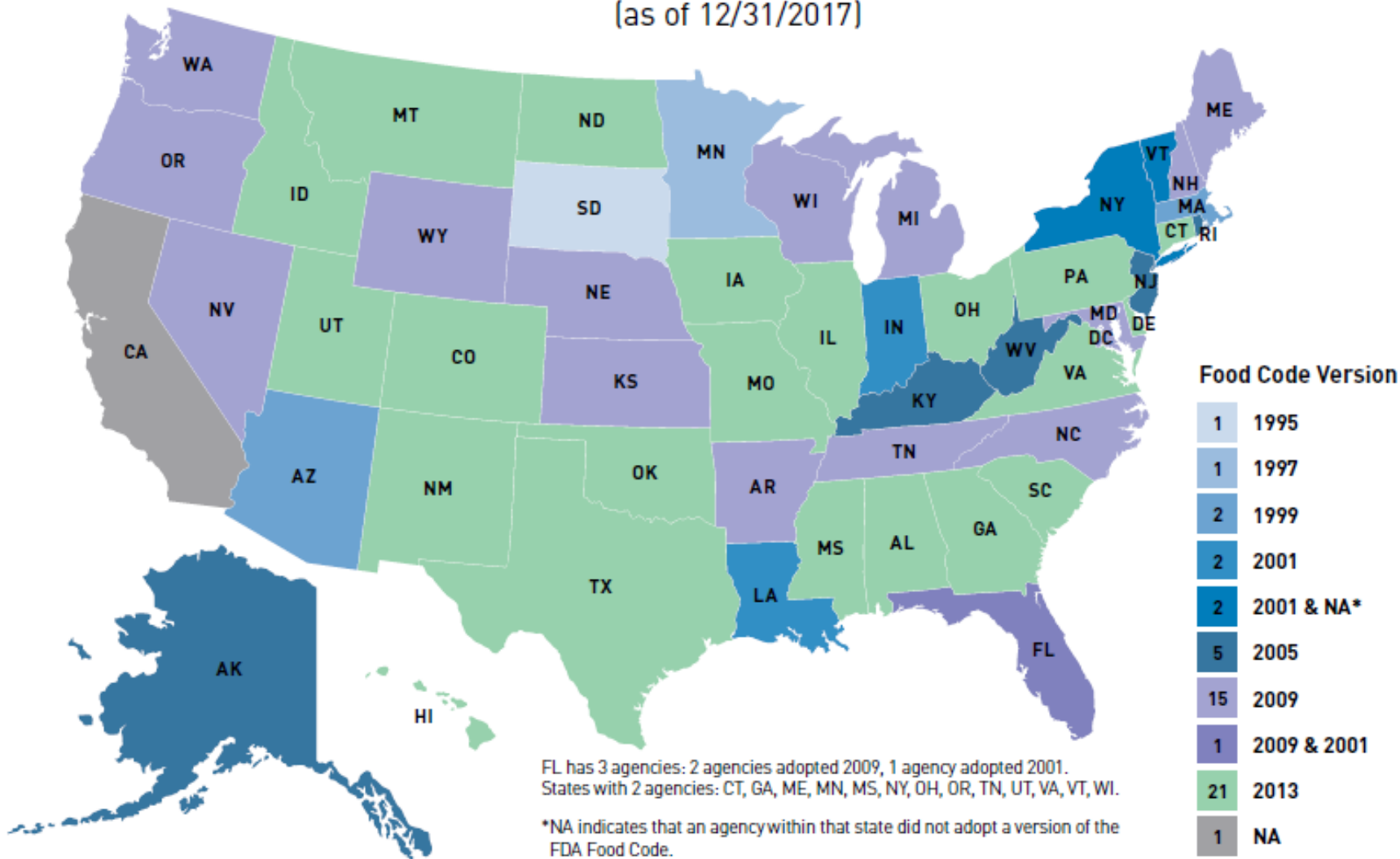


Figure 2: Food Code edition by State as of 2017.

United States Map of FDA Model Food Code Option by State

Image from the [Food & Drug Administration](#) "Adoption of the FDA Food Code by State and Territorial Agencies Responsible for the Oversight of Restaurants and Retail Food Stores"

Three steps for a permanent change to rules

1

- **CR101: Preproposal Statement of Inquiry.** No bill text needed. Needs to be published at least 30 days before moving to Step 2. **Completed 7/2/18.**
 - ◆ Reviewing changes with FSAC September-March.
 - ◆ Public Comment May-July 2019

2

- **CR 102: Proposed Rule Making** with proposed text attached (shown in bill drafting style with ~~strike through~~ and underscoring). Must be published 20 days before a public hearing can be held and adoption can take place. **Anticipated filing 11/19.**
 - Public Hearing and Response to Stakeholder Comments
January 2020

3

- **CR 103: Rule-Making Order (Permanent Rule)** Adoption and filing cannot take place before the stated "Date of Adoption" on the CR-102. Rule is effective 31 days after filing unless otherwise altered. **Anticipated filing 3/2020 for effective date May 2020.**

WAC 246-215 Rule Revision Process

Initial Comment/Input Period

- July-August 2018
- 144 comments received
 - Shaped rule, guidance materials

Stakeholder Review Through FSAC

- September 2018-April 2019
- Monthly LHJ Calls

Draft Language for Stakeholder Input

- May-August 2019
- Public Presentations July 2019

Stakeholder Final Review at FSAC

- September 2019

File CR-102

- November 2019

Recent Changes to FDA Model Food Code
 This table includes a summary of modifications to the FDA Model Food Code since the 2009 Food Code was adopted in Chapter 246-215 WAC, Food Service. Those interested in providing comment during the rule revision process are encouraged to review WAC 246-215 and FDA Food Code to provide suggestions for inclusion, exclusion, or modification. A public issue submission process is open until August 17, 2018.

Additional information on the rule revision process and the comment submission form are available online www.doh.wa.gov/CommunityandEnvironment/Food/FoodWorkerandIndustry/FoodSafetyRules/FoodCodeRuleRevision

Chapter 1 Purpose and Definitions		
Change	First Appearance	Comments
No change.	2011 FDA Food Code Supplement	
Deleted "Enterohemorrhagic <i>Escherichia coli</i> " (EHEC) as use of EHEC terminology is outdated.	2013 FDA Food Code	
Added new term "Intact Meat" to mean a cut of whole muscle(s) MEAT that has not undergone COMMINATION, INJECTION, MECHANICAL TENDERIZATION, or reconstruction.	2017 FDA Food Code	
Amended "Packaged" in (1) to delete the term "securely" to avoid undue emphasis on nature of the package; Amended "Packaged" in (2) to remove the phrase "or other nondurable container" to clarify when foods packaged at retail need to be labeled so that it reads: "Packaged" does not include wrapped or placed in a carry-out container to protect the food during service or delivery to the consumer, by a food employee, upon consumer request.	2013 FDA Food Code	
Deleted the term "Potentially Hazardous Food" (PHF/TCS) and made a universal change throughout the Code to replace it with the term "Time/Temperature Control for Safety Food" (TCS). The definition remains the same.	2013 FDA Food Code	Washington currently uses Potentially Hazardous Food (and not TCS)
Revised "Reduced Oxvren Packaaine" subnaraaranh	2013 FDA Food	

Screenshot of Document of Changes in FDA Model Food Code Compared to WAC 246-215

Food Safety Advisory Council

Representing	First	Last	Phone	Email	Term
Academia	Stephanie	Smith	509-335-0972	steph.smith@wsu.edu	10/1/2019
Consumers	Sarah	Schacht	-	sarahschacht@mac.com	10/1/2019
Farmers Markets/Temporary Food	Colleen	Donovan	-	colleen@wafarmersmarkets.org	10/1/2019
FDA	David	Engelskirchen	206-452-9762	david.engelskirchen@fda.hhs.gov	10/1/2019
Grocery	Michael	Latham	206-423-4076	mchlatham@tc-markets.com	10/1/2019
Local Health Jurisdiction – Voting	Jessica	Gehle	253-798-4444	jgehle@tpchd.org	10/1/2019
Local Health Jurisdiction – Voting	David	Kavanagh	509-493-6211	davidk@klickitatcounty.org	10/1/2019
Local Health Jurisdiction – Voting	Steve	Main	509-324-1594	smain@srhd.org	10/1/2019
Local Health Jurisdiction – Voting	Jessica	Pankey	360-417-2418	jpankey@co.clallam.wa.us	10/1/2019
Local Health Jurisdiction – Alternate	Lisa	Breen	509-324-1585	lbreen@srhd.org	10/1/2019
Local Health Jurisdiction – Alternate	Kristina	Hollatz	360-964-1673	khollatz@co.grays-harbor.wa.us	10/1/2019
Local Health Jurisdiction – Alternate	Adam	Lim	360-397-8428 x7261	adam.lim@clark.wa.gov	10/1/2019
Local Health Jurisdiction – Alternate	Timm	Taff	509-488-2031	timmt@co.adams.wa.us	10/1/2019
Mobile Foods	Lori	Johnson	360-223-3801	lori@wafoodtrucks.org	10/1/2019
Restaurant	Samantha	Louderback	360-789-7477	samanthal@wahospitality.org	10/1/2019
Schools	Leanne	Eko	360-725-0410	leanne.eko@k12.wa.us	10/1/2019
State Facilities	Susan	Shelton	509-212-1206	susan.shelton@doh.wa.gov	10/1/2019
Tribes	Karin	Knopp	-	kbkconsulting@comcast.net	10/1/2019

Mission

The mission of the Retail Food Safety Advisory Council is to foster public-private sector communication and cooperation and to promote food safety through the consistent implementation and evidence-based application of the Washington State Retail Food Code.

AMC & CFPM

New Definition Added:

- ACTIVE MANAGERIAL CONTROL means the purposeful incorporation of specific actions and procedures in the FOOD ESTABLISHMENT to attain control over foodborne illness risk factors. It embodies a preventive rather than reactive approach to food safety through a continuous system of training, monitoring and verification.

Certified Food Protection Manager

- Food establishments must have at least one PERSON IN CHARGE obtain a certified FOOD protection manager accreditation from an ACCREDITED PROGRAM by July 1, 2021.
- Note: Low risk food establishments are exempt from the CFPM requirement.

TCS and Date Marking

Potentially Hazardous Foods

Replaced with **Time-Temperature Control** for Safety Foods

- *Evaluation and Definition of Potentially Hazardous Foods* report on 12/31/01 recommended change
- TCS introduced in FDA Model Food Code since 2005.

Date marking

Label foods at risk of being sources of *Listeria monocytogenes* with a 7-day refrigerated shelf-life.

1. Ready-To-Eat;
2. PHF; AND
3. Prepared or opened and held refrigerated for more than 24 hours

Returnable Reusables

2017 FDA Food Code allows refilling of a cleaned take-home container that is **supplied by the food establishment** and **verified as clean** by the food employee.

Washington modification:

A FOOD ESTABLISHMENT under a **written** plan may allow CONSUMERS to refill a CONSUMER-owned container with **Non READY-TO-EAT FOOD and PACKAGED FOOD** when using a contamination-free process and allow an EMPLOYEE of the FOOD ESTABLISHMENT to refill a CONSUMER-owned container with FOOD when using a contamination-free process.

Verifiable Employee Health

Person in Charge Duties

FOOD EMPLOYEES and CONDITIONAL EMPLOYEES are informed in a **verifiable** manner of their responsibility to report in accordance with LAW, to the PERSON IN CHARGE, information about their health and activities as they relate to diseases that are transmissible through FOOD

Written procedures and plans such as a clean up plan for vomiting and diarrhea, where specified by this Code and as developed by the FOOD ESTABLISHMENT to ensure **ACTIVE MANAGERIAL CONTROL**, are maintained and implemented as required.

Cleanup of Vomiting and Diarrheal Events

A FOOD ESTABLISHMENT shall have **written** procedures for EMPLOYEES to follow when responding to vomiting or diarrheal events that involve the discharge of vomitus or fecal matter onto surfaces in the FOOD ESTABLISHMENT.

Procedures shall address the specific actions EMPLOYEES must take to minimize the spread of contamination and the exposure of EMPLOYEES, consumers, FOOD, and surfaces to vomitus or fecal matter.

BHC with RTE Food 246-215-03300(4)

Food employees not serving a highly susceptible population may contact exposed, ready-to-eat food with their bare hands if:

(a) The permit holder obtains prior approval from the regulatory authority;

(b) Written procedures are maintained in the food establishment: ...

(g) Documentation of ~~that~~ corrective actions s is taken when (a) through (f) of this subsection are not followed.

(h) If the allowance for a food establishment to contact ready-to-eat foods with bare hands is voluntarily or involuntarily discontinued, suspended or revoked, a food establishment may not reinstate bare hand contact with ready-to-eat foods without written approval from the regulatory authority.

Specific Menu Items

- Raising **comminuted meat to instantaneous 158°F** with option to cook to 155°F with a 17 second hold time
- Proposing a modification of the consumer advisory for **undercooked fresh fish**
- Adding a second date to **shellfish tags** to indicate date range of service/sale
- Adding language to facilitate **food salvage and donation**

Temperature	Time
145°F (63°C)	3 minutes
150°F (66°C)	1 minute
<u>155°F (68°C)</u>	<u>17 seconds</u>

Mobile Food Units

Two new state laws modified chapter 43.20 RCW

- Commissary Exemption (2018)
- Plan Review Reciprocity (May 2019)

SBOH Proposal to Modify WAC 246-215

- Increased allowable distance to restrooms to 500'

Dogs in Outdoor Environments

Dogs may be allowed in an outdoor area on the premises:

- The permit holder has an APPROVED plan.
- The dog is on a leash and under the control of the dog owner or confined in a pet carrier.
- Dogs do not go through the food establishment.
- Dogs are not allowed on chairs, benches, seats, etc.
- The outdoor area is not used for food or drink prep.
- If provided by the FOOD ESTABLISHMENT, food and water provided to dogs in single-use disposables.
- Food employees do not have direct contact with dogs.
- APPROVED animal waste clean up plan.
- Compliance with local ordinances related to sidewalks, public nuisance, and sanitation.

Current WAC 246-215 Timeline

May 2019: Share Draft Language with Stakeholders

July 2019: Conduct Public Comment presentations

- **Benton-Franklin Health District** 7/16/19: 2-4pm
- **Spokane Regional Health District** 7/17/19: 9-11am
- **Ferndale Library (Bellingham)** 7/22/19 1-3pm
- **Renton Technical College** 7/23/19 1-3pm
- **Vancouver Library** 7/24/19 2-4pm
- **Webinar** 7/25/19 9-11am

August 2019: Address Comments and Update Stakeholders

Sep 25, 2019: FSAC Meeting to review revised WAC 246-215

October 2019: 2-year FSAC service complete

November 2019: File CR102 and continue training materials

January 2020: Proposed Public Comment Period

Want More?

- ❑ Sign up to receive updates: food.safety@doh.wa.gov
- ❑ Review revised rule and accessory documents
 - Documents will include the public health rationale and input received for each provision
- ❑ Participate in public information session in July
- ❑ Reach out to your local stakeholders
- ❑ Attend September FSAC meeting in Kent or by phone
- ❑ Consider joining FSAC
- ❑ Attend Fall Food Safety Workshops
- ❑ Consider going to Conference for Food Protection
 - Denver CO | March 30 - April 3, 2020
- ❑ Ask questions and provide comments

Thank you.



Susan Shelton

Susan.Shelton@doh.wa.gov

509-212-1206



@WADeptHealth

