Report to the Board of Supervisors

Prepared by the Maricopa County Environmental Services Department

Environmental Services Department

Board of Health (BOH) Meeting Date:	October 27, 2014
Board of Supervisors Hearing Date:	December 10, 2014
Case #/Title:	ES-2014-001/2013 FDA Food Code Adoption
Supervisor Districts:	All Districts
Applicant:	Maricopa County Environmental Services Department (MCESD)
Request:	Approve proposed revision to Maricopa County Environmental Health Code (MCEHC) Chapter VIII – to adopt by reference the 2013 FDA Food Code, which will replace the currently adopted 2009 FDA Food Code.
Support/Opposition:	Stakeholder meetings were held on September 16, 2014 and October 8, 2014 and two stakeholders attended each meeting. Stakeholders in attendance did not express support or opposition to the proposed revision. Five supporting comments have been received; four through the Enhanced Regulatory Outreach Program (EROP) website and one via MCESD email. No opposition has been expressed.
MCESD Recommendation:	Approve
BOH Recommendation:	Approve per MCESD recommended language and proceed on the EROP expedited process.
Executive Summary:	On June 9, 2014, this regulatory change was suggested by the Ad Hoc Task Force Committee (Committee) and the Board of Supervisors voted to accept the Committee's proposal to adopt the 2013 FDA Food Code. The Committee believes the 2013 FDA Food Code offers changes that will better serve the industry. The MCEHC 2013 FDA Food Code adoption applies advanced food protection for the safety of Maricopa County residents.

Per the U.S. FDA, the 2013 FDA Food Code "edition reflects the input of regulatory officials, industry, academia, and consumers that participated in the 2012 meeting of the Conference for Food Protection (CFP). Collaboration with the CFP and our partners at the U.S. Department of Agriculture's Food Safety and Inspection Service and the Centers for Disease Control and Prevention of the U.S. Department of Health and Human Services helps ensure the Food Code establishes sound requirements that prevent foodborne illness and injury and eliminates the most important food safety hazards in retail and foodservice facilities."

This proposed regulatory change is following the EROP policy and workflow process and no fee changes are requested.

In accordance with the Maricopa County Resolution, "Moratorium on Increased Regulatory Burdens", the County Manager authorized MCESD to proceed with this case in July 2014.

MCESD conducted stakeholder meetings on September 16, 2014 and October 8, 2014. Then on October 27, 2014, MCESD presented a Staff Report for this case to the BOH at which time the BOH voted for this case to proceed on the EROP expedited process and that the Maricopa County Board of Supervisors adopt the proposed MCEHC revision.

Presented by: **John Kolman, R.S., MBA, Director**

Attachments: Report to BOH (49 pages)
Addendum (3 pages)

Report to the Board of Health

To Approve For Expedited Process

Prepared by the Maricopa County Environmental Services Department

Environmental Services Department

Case #/Title:	ES-2014-001/2013 FDA Food Code Adoption
Meeting Date:	October 27, 2014
Supervisor Districts:	All Districts
Applicant:	Department
Request:	Approve for the Enhanced Regulatory Outreach Program (EROP) Expedited Process this Maricopa County Environmental Health Code (MCEHC) proposal to adopt the 2013 FDA Food Code by reference and replace the currently adopted 2009 FDA Food Code.
Support/Opposition:	The Department has received four supporting comments; three through the Enhanced Regulatory Outreach Program (EROP) website and one via Department email. Two stakeholders attended the September 16, 2014 stakeholder workshop; one expressed support and the other did not express an opinion on the 2013 FDA Food Code Adoption. Two stakeholders attended the October 8, 2014 follow-up stakeholder workshop, they did not express support or opposition. No comments in opposition to this proposal have been received to date.
Department Recommendation:	Approve the request to process Case ES-2014-001 through the EROP Expedited Process. Per the EROP Policy, Section IV(E), the Expedited Process may only be used if the following criteria have been met: 1. The proposed amendment has been subject to at least one stakeholder workshop (posted on the County's website at least two weeks in advance) and one Citizens' Board or Commission meeting; 2. A draft of the regulatory change was available on the EROP website at least two weeks prior to the Citizens' Board or Commission meeting and was forwarded to the Board/Commission at least one week in advance of their review meeting; 3. No comments of opposition to the amendment have been received from the public; 4. The Citizens' Board or Commission reviewing the amendment recommends approval.

ES-2014-001/2013 FDA Food Code Adoption has met the criteria for the Expedited Process:

1. One stakeholder workshop on September 16, 2014 was held and an announcement was posted on the County's website at least two weeks in advance;
2. A draft of the regulatory change was available on the EROP website at least two weeks prior to the Board of Health (BOH) meeting;
3. No comments of opposition to the MCEHC proposal have been received from the public;
4. The Department is requesting the BOH approve the proposal for the EROP Expedited Process.

Discussion:

On June 9, 2014, this regulatory change was suggested by the Ad Hoc Task Force Committee (Committee) and the Board of Supervisors voted to accept the Committee's proposal to adopt the 2013 FDA Food Code. The Committee believes the 2013 FDA Food Code offers changes that will better serve the industry.

The MCEHC 2013 FDA Food Code adoption applies advanced food protection for the safety of Maricopa County residents.

Per the U.S. FDA, the 2013 FDA Food Code "edition reflects the input of regulatory officials, industry, academia, and consumers that participated in the 2012 meeting of the Conference for Food Protection (CFP). Collaboration with the CFP and our partners at the U.S. Department of Agriculture's Food Safety and Inspection Service and the Centers for Disease Control and Prevention of the U.S. Department of Health and Human Services helps ensure the Food Code establishes sound requirements that prevent foodborne illness and injury and eliminates the most important food safety hazards in retail and foodservice facilities."

This proposed regulatory change is following the EROP policy and workflow process and no fee changes are requested.

In accordance with the Maricopa County Resolution, "Moratorium on Increased Regulatory Burdens", the County Manager authorized the Department to proceed with this case in July 2014.

Presented by: John Kolman, R.S., MBA, Director

Attachments: County Manager Case Approval (1 Page)
Proposed MCEHC Revision Language (11 Pages)

Presentation – Stakeholder Meeting (9/16/14) – (4 Pages)
Minutes – Stakeholder Meeting (9/16/14) – (6 Pages)
Presentation – Follow-up Stakeholder Meeting (10/7/14) – (4 Pages)
Minutes – Stakeholder Meeting (10/8/14) – (6 Pages)
Other Stakeholder Input & Department Response (copies of written/electronic) (10 Pages)

Maricopa County

Environmental Services Department

Environmental Services Department

John Kolman RS, MBA
Director
1001 N. Central Avenue #401
Phoenix, Arizona 85004
Phone: (602) 506--6623
Fax (602) 506-5141
TDD 602 372-0622

Date: July 14, 2014

To: Tom Manos

Via: Joy Rich, AICP, Deputy County Manager

From: John Kolman, R.S., MBA, Director

Re: County Manager Approval- Enhanced Regulatory Outreach Process (EROP)
Case ES-2014-001/2013 FDA Food Code Adoption

In accordance with the Maricopa County Resolution, "Moratorium on Increased Regulatory Burdens," the Environmental Services Department is seeking your approval to proceed with EROP ES-2014-001/2013 FDA Food Code Adoption. This proposal qualifies for the County Manager approval under the moratorium, as these changes are needed to adopt advanced food science by reference into the Maricopa County Environmental Health Code (MCEHC) for the safety of Maricopa County residents.

This proposal will replace the 2009 FDA Food Code adopted by reference in the MCEHC Chapter VIII.

On June 9, 2014, this regulatory change was suggested by the Ad Hoc Task Force Committee (Committee) and the Board of Supervisors voted to accept the Committee's proposal to adopt the 2013 FDA Food Code. The Committee believes the 2013 FDA Food Code offers changes that will better serve the industry.

This proposal is following the EROP policy and workflow process and no fee changes are requested.

It is staff's opinion that this adoption is necessary "to provide adequate, timely or required service." We are requesting your approval to move this proposed revision forward in accordance with the Maricopa County Resolution, "Moratorium on Increased Regulatory Burdens."

Approved by Tom Manos, County Manager

MARICOPA COUNTY ENVIRONMENTAL HEALTH CODE

CHAPTER VIII

FOOD, FOOD PRODUCTS,
FOOD HANDLING ESTABLISHMENTS

SECTION 1

GENERAL PROVISIONS

REGULATION 1. Definitions

(1) to (26) No Change

(27) "Event" means a public celebration such as but not limited to a fair, festival, circus, exhibition, carnival, food and/or drink tasting.

(27) to (30) No Change

(31) Food Establishment - as defined in the U.S. Food and Drug Administration ~~2009~~ **2013** Food Code**.**

(a) "Food Establishment" includes:

(i) No Change.

(ii) No Change.

(iii) As defined in the U.S. Food and Drug Administration ~~2009~~ **2013** Food Code**.**

.

(b) "Food Establishment" does not include:

(i) No Change

(ii) No Change

(iii) No Change

(iv) No Change

(v) No Change.

(vi) As defined in the U.S. Food and Drug Administration ~~2009~~ **2013** Food Code.

(32) to (45) No Change

(46) "MICRO MARKET" MEANS AN UNATTENDED RETAIL FOOD ESTABLISHMENT WHERE COMMERCIALLY PREPACKAGED, TIME/TEMPERATURE CONTROL FOR SAFETY FOODS OR READY-TO-EAT FRUITS AND VEGETABLES ARE OFFERED FOR SALE.

(~~46~~ **47**) "Mislabeled" or "Misbranded" means wrongly labeled or branded and the term shall apply to any food if it does not conform to the Federal Food and Drug Administration requirements for labeling located in 21CFR101.

(~~47~~ **48**) "Mobile Food Establishment" means a food establishment selling, offering for sale or dispensing food for human consumption from any vehicle or other temporary or itinerant station. For the purpose of this Environmental Health Code, mobile food establishments are defined as follows:

(a) No Change

(b) No Change

(c) No Change

(d) "Temporary Food Establishment" means an event as defined in this Section and as defined in the **U.S. FOOD AND DRUG ADMINISTRATION** ~~2009~~ **2013** ~~FDA~~ Food Code**.**

(e) No Change

(f) No Change

(~~48~~ **49**) No Change

(~~49~~ **50**) No Change

(~~50~~ **51**) No Change

(~~51~~ **52**) Potentially Hazardous Food (time/temperature control for safety food) as defined in the U.S. Food And Drug Administration ~~2009~~ **2013** ~~FDA~~ Food Code and includes sun tea that is not brewed.

(~~52~~ **53**) No Change

(~~53~~ **54**) No Change

(~~54~~ **55**) No Change

(~~55~~ **56**) No Change

(~~56~~ **57**) No Change

(~~57~~ **58**) No Change

(~~58~~ **59**) No Change

(~~59~~ **60**) No Change

(~~60~~ **61**) No Change

(~~61~~ **62**) No Change

(~~62~~ **63**) No Change

(~~63~~ **64**) No Change

(~~64~~ **65**) No Change

(~~65~~ **66**) No Change

(~~66~~ **67**) No Change

(~~67~~ **68**) No Change

(~~68~~ **69**) No Change

(~~69~~ **70**) No Change

(~~70~~ **71**) No Change

(~~71~~ **72**) No Change

(~~72~~ **73**) No Change

(~~73~~ **74**) No Change

(~~74~~ **75**) No Change

REGULATION 2. to **REGULATION 11.** No Change

MARICOPA COUNTY ENVIRONMENTAL HEALTH CODE

CHAPTER VIII

FOOD, FOOD PRODUCTS,
FOOD HANDLING ESTABLISHMENTS

SECTION 2

FOOD ESTABLISHMENTS

REGULATION 1. Food Establishments

a. Effective ~~March 31, 2010~~ **TBD**, the U.S. Food and Drug Administration ~~2009~~ **2013** Food Code, and no future editions or amendments, is adopted and incorporated by reference, except as follows:

1. Section 3-304.15 is omitted;

2. Section 3-201.11(B) is amended to read: food prepared in a private home may not be used or offered for human consumption in a food establishment unless the food is prepared in compliance with A.R.S. § 36-136(H)(4)(g).

b. No Change

c. Copies of the U.S. Food and Drug Administration ~~2009~~ **2013** Food Code incorporated by reference herein are available from the U.S. Food and Drug Administration.

d. For the purpose of this Section, references to "Regulatory Authority" in the U.S. Food and Drug Administration ~~2009~~ **2013** Food Code mean**S** the Maricopa County Environmental Services Department.

REGULATION 2. and **REGULATION 3.** No Change

REGULATION 4. Dog Friendly Patio

In addition to the U.S. Food and Drug Administration ~~2009~~ **2013** Food Code Rule 6.501.115, no dog shall be allowed on a food establishment premises unless the Department has issued a Dog Friendly Patio Permit to the food establishment. A Dog Friendly Patio Permit shall not be issued unless the food establishment complies with the following conditions and standards:

a. to j. No Change

REGULATION 5. Gloves, Use Limitation

If used, single-use gloves shall be used for only one task, such as working with ready-to-eat food or with raw animal food. Single-use gloves shall be used for no other purpose, and shall be discarded when damaged or soiled or when interruptions occur in the operation.

a. Slash-resistant gloves that are used to protect the hands during operations requiring cutting shall not be used in direct contact with food, unless that food is subsequently cooked as specified under Part 3-4 of the U.S. Food and Drug Administration ~~2009~~ **2013** Food Code, such as frozen food or a primal cut of meat.

b. No Change

c. Cloth gloves may not be used in direct contact with food unless the food is subsequently cooked as specified under Part 3-4 of the U.S. Food and Drug Administration ~~2009~~ **2013** Food Code, such as frozen food or a primal cut of meat.

d. No Change

REGULATION 6. MICRO MARKETS

(A) A MICRO MARKET SHALL BE LOCATED WHERE ACCESS CAN BE LIMITED TO EMPLOYEES AND CUSTOMERS OF THE BUSINESS.

(B) THE AREA OF A MICRO MARKET IN WHICH FOOD IS DISPLAYED SHALL BE LIMITED TO A SPACE OF THREE HUNDRED (300) SQUARE FEET OR LESS.

(C) ALL MICRO MARKET DISPLAY UNITS OFFERING TIME/TEMPERATURE CONTROLLED FOR SAFETY FOOD SHALL HAVE AN AUTOMATIC CONTROL THAT PREVENTS THE EQUIPMENT FROM OPENING:

1) IF THERE IS A POWER FAILURE, MECHANICAL FAILURE, OR OTHER CONDITION THAT RESULTS IN AN INTERNAL EQUIPMENT TEMPERATURE THAT CANNOT MAINTAIN FOOD TEMPERATURES AS SPECIFIED UNDER CHAPTER 3 OF THE U.S. FOOD AND DRUG ADMINISTRATION 2013 CODE; AND

2) IF A CONDITION SPECIFIED UNDER SUBPARAGRAPH (C)(1) OF THIS REGULATION OCCURS, UNTIL THE EQUIPMENT IS SERVICED AND RESTOCKED WITH FOOD THAT HAS BEEN MAINTAINED AT TEMPERATURES

SPECIFIED UNDER CHAPTER 3 OF THE U.S. FOOD AND DRUG ADMINISTRATION 2013 FOOD CODE.

(D) WHEN THE AUTOMATIC SHUTOFF WITHIN A DISPLAY DESCRIBED UNDER PARAGRAPH (C) OF THIS REGULATION IS ACTIVATED, THE AMBIENT TEMPERATURE MAY NOT EXCEED 41 DEGREES FAHRENHEIT FOR MORE THAN THIRTY MINUTES IMMEDIATELY AFTER THE DISPLAY IS FILLED, SERVICED, OR RESTOCKED.

(E) LABELING REQUIREMENTS FOR PREPACKAGED FOOD ITEMS SHALL BE MET AS REQUIRED BY THE U.S. FOOD AND DRUG ADMINISTRATION 2013 FOOD CODE.

(F) REFRIGERATED, READY-TO-EAT, TIME/TEMPERATURE CONTROLLED FOR SAFETY FOOD, DISPLAYED AT A MICRO MARKET, SHALL BE DISCARDED IF THE AUTOMATIC SHUTOFF CONTROL IS ACTIVATED AS SPECIFIED IN (C)(1) OF THIS REGULATION.

(G) ALL MICRO MARKET DISPLAY UNITS OFFERING TIME/TEMPERATURE CONTROLLED FOR SAFETY FOOD SHALL BE EQUIPPED WITH A SELF-CLOSING DOOR, AN AUTOMATIC SHUT-OFF DEVICE, AND SHALL COMPLY WITH ALL APPLICABLE REGULATIONS OF THIS CODE AS DETERMINED BY THE DEPARTMENT.

(H) THE PERMIT APPLICANT SHALL SUBMIT FOR REVIEW AND APPROVAL A COMPLETE SET OF PLANS AND SPECIFICATIONS DOCUMENTING THE EQUIPMENT IS CERTIFIED OR CLASSIFIED FOR SANITATION BY AN AMERICAN NATIONAL STANDARDS INSTITUTE (ANSI)-ACCREDITED CERTIFICATION PROGRAM.

MARICOPA COUNTY ENVIRONMENTAL HEALTH CODE

CHAPTER VIII

FOOD, FOOD PRODUCTS,
FOOD HANDLING ESTABLISHMENTS

SECTION 3

MOBILE FOOD ESTABLISHMENTS

REGULATION 1. **Definitions**

a. "Mobile Food Establishment" means a food establishment offering for sale or dispensing food for human consumption from any vehicle or other temporary or itinerant station.

For the purpose of this Environmental Health Code, mobile food establishments are defined as follows:

(1) No Change

(2) No Change

(3) No Change

(4) "Temporary Food Establishment" means an event as defined in Section 1 of this Chapter and as defined in the **U.S FOOD AND DRUG ADMINISTRATION**~~2009~~ **2013** ~~FDA~~ Food Code.

(5) and (6) No Change

b. No Change

REGULATION 2. to **REGULATION 12.** No Change

MARICOPA COUNTY ENVIRONMENTAL HEALTH CODE

CHAPTER VIII

FOOD, FOOD PRODUCTS,
FOOD HANDLING ESTABLISHMENTS

SECTION 4

VENDING MACHINES

In addition to complying with the regulations in section 1 and 2 of this Chapter, vending machine operations shall comply with the following regulations.

REGULATION 1. to **REGULATION 3.** No Change

REGULATION 4. Vending Machines, Automatic Shutoff

a. Refer to the U.S. Food and Drug Administration ~~2009~~ **2013** ~~FDA~~ Food Code, ~~Regulation~~ § 4-204.111, adopted by reference.

REGULATION 5. to **REGULATION 8.** No Change

REGULATION 9. Sturdy Construction and Design

a. Refer to the U.S. Food and Drug Administration ~~2009~~ **2013** ~~FDA~~ Food Code, ~~Regulation~~ **§** 4-204.123, adopted by reference.

REGULATION 10. Condensing Units

a. Refer to the U.S. Food and Drug Administration ~~2009~~ **2013** ~~FDA~~ Food Code, ~~Regulation~~ **§** 4-204.18, adopted by reference.

REGULATION 11. Service Connections

a. Refer to the U.S. Food and Drug Administration ~~2009~~ **2013** ~~FDA~~ Food Code, ~~Regulation~~ **§** 4-204.123, adopted by reference.

REGULATION 12. to **REGULATION 14.** No Change

REGULATION 15. Dispensing Equipment, Protection of Equipment and Food.

a. Refer to the U.S. Food and Drug Administration ~~2009~~ **2013** ~~FDA~~ Food Code, ~~Regulation~~ **§** 4-204.13, adopted by reference.

REGULATION 16. No Change

REGULATION 17. Container Opening Devices

a. Refer to the U.S. Food and Drug Administration ~~2009~~ **2013** ~~FDA~~ Food Code, ~~Regulation~~ **§** 4-204.19, adopted by reference.

REGULATION 18. to **REGULATION 22.** No Change

REGULATION 23. Vending Machines, Liquid Waste Products.

a. Refer to the U.S. Food and Drug Administration ~~2009~~ **2013** ~~FDA~~ Food Code, ~~Regulation~~ **§** 4-204.121, adopted by reference.

REGULATION 24. and **REGULATION 25.** No Change

REGULATION 26. Sanitary Standards for Food Employees

a. Refer to the U.S. Food and Drug Administration ~~2009~~ **2013** ~~FDA~~ Food Code, ~~Regulation~~ **§** 3-301.12 and **§** 3-301.11, adopted by reference.

REGULATION 27. No Change

MARICOPA COUNTY ENVIRONMENTAL HEALTH CODE

CHAPTER VIII

FOOD, FOOD PRODUCTS,
FOOD HANDLING ESTABLISHMENTS

SECTION 6

FOOD RELATED FACILITIES

No Change

REGULATION 1. to **REGULATION 8.** No Change

REGULATION 9. Confectionary Food Establishment

a. In facilities that do not meet §4-301.12 of the **U.S FOOD AND DRUG ADMINISTRATION** ~~2009~~ **2013** ~~FDA~~ Food Code, warewashing can be accomplished using alternative cleaning and sanitizing procedures approved by the Department. The Department will evaluate the type/quantity of utensils required to be cleaned, the type of warewashing equipment available, and the cleaning procedures developed by the applicant as part of the approval process.

b. to f. No Change

Initial Stakeholder Meeting

Proposed Revisions
Maricopa County Environmental Health Code

CASE # ES-2014-001
2013 FDA Food Code Adoption

Maricopa County Environmental Services Department
September 16, 2014

Maricopa County Environmental Services Department

Working with our community to ensure a safe and healthy environment

VISION STATEMENT:
As the recognized regional environmental leader, we will develop and foster innovative environmental health protection programs for the safety of our residents and their environment.

MISSION STATEMENT:
The mission of the Environmental Services Department is to provide safe food, water, waste disposal and vector borne disease reduction controls to the people of Maricopa County so that they may enjoy living in a healthy and safe community.

Building Relationships — Maricopa County

Home | Air Quality | Environmental Services | Flood Control | Planning and Development | Procurement Services | Transportation | Comments | Definitions | Notifications

MARICOPA COUNTY ENHANCED REGULATORY OUTREACH PROGRAM

Maricopa County's Enhanced Regulatory Outreach Program (EROP) Departments seek to ensure the safety and well-being of our community. Because we understand that regulations and rule-making decisions, discussions, and meetings can be confusing, we have developed this web-site to allow citizens to easily monitor and engage in the adoption and amendment of all regulations.

AIR QUALITY • ENVIRONMENTAL SERVICES • FLOOD CONTROL • PLANNING & DEVELOPMENT • PROCUREMENT SERVICES • TRANSPORTATION

http://www.maricopa.gov/regulations/

Building Relationships — Maricopa County

Home | Air Quality | Environmental Services | Flood Control | Planning and Development | Procurement Services | Transportation | Comments | Definitions | Notifications

Current Location: Regulatory Departments | Environmental Services | Regulatory Process

ENHANCED REGULATORY OUTREACH PROGRAM — Ten Step Process Detail

STEP 1 - County Manager Briefed the Board of Supervisors — Comment Now!

Item Number
ES 2014-001
ES 2014-002
ES 2014-003

REGULATORY ADOPTION PROCESS STEP-BY-STEP

Step 1	County Manager Briefed Board of Supervisors
Step 2	Conduct Stakeholder Workshop
Step 3	Stakeholder Notification 2 Weeks Prior to Citizen's Board or Commission
Step 4	Public Meeting to Initiate Regulatory Change
Step 5	Specific Departmental Processes
Step 6	Stakeholder Notification 2 Weeks Prior to Citizen's Board or Commission
Step 7	Public Meeting to Make Recommendation to Board of Supervisors
Step 8	Schedule BOS Public Hearing
Step 9	Board of Supervisor Public Hearing
Step 10	Item Adopted

http://www.maricopa.gov/regulations/es/process.aspx

Building Relationships — Maricopa County

Home | Air Quality | Environmental Services | Flood Control | Planning and Development | Procurement Services | Transportation | Comments | Definitions | Notifications

Current Location: Regulatory Departments | Notifications

EROP Notifications Include:

- Follow the Regulatory Process
- Regulatory Meetings
- Current Regulatory Index
- Substantive Policy Statements

http://www.maricopa.gov/regulations/Notifications.aspx

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Home | Air Quality | Environmental Services | Flood Control | Planning and Development | Procurement Services | Transportation | Comments | Definitions | Notifications

Current Location: Regulatory Departments | Comments

Citizen Comments

Your input will be collected and forwarded to the appropriate department. We appreciate your comments and your time. If you prefer, you can send your comments via email.

Case Information

* ---------- Select Case # ----------

I would like to: * ------- Select -------

Your Information

First Name * | Last Name *

Organization

City * | Zip

Email *

Phone Number | Phone Type: mobile work home

Would you like for someone to contact you? yes no

Comments

If you would like to attach supporting documentation associated with your comment, please click here.

Submit

http://www.maricopa.gov/regulations/comments.aspx

2013 FDA Food Code

"The Food Code establishes practical, science-based guidance and enforceable provisions for mitigating risk factors known to cause foodborne illness."

2013 FDA Food Code

"…conformance with acceptable procedures and practices is far more likely where regulatory officials ***'speak with one voice'*** about what is required to protect the public health, why it is important, and which alternatives for compliance may be accepted."

2013 FDA Food Code

Adopt 2013 FDA Food Code by reference in the Maricopa County Environmental Health Code

MARICOPA COUNTY ENVIRONMENTAL HEALTH CODE

CHAPTER VIII

FOOD, FOOD PRODUCTS,
FOOD HANDLING ESTABLISHMENTS

SECTION 2

FOOD ESTABLISHMENTS

REGULATION 1. Food Establishments

a. Effective March 31, 2010, the U.S. Food and Drug Administration 2009 Food Code, and no future editions or amendments, is adopted and incorporated by reference, except as follows:

2013 FDA Food Code
Summary of Changes

Completed summary of changes is available here:

http://www.fda.gov/Food/GuidanceRegulation/RetailFoodProtection/FoodCode/ucm374759.htm

2013 FDA Food Code
Summary of Changes

Chapter 1 – Purpose and Definitions

- Replace Potentially Hazardous Food (Time/Temperature Control for Safety Food)" (PHF/TCS) and with the term "Time/Temperature Control for Safety Food" (TCS). The definition remains the same.
- Revised definition. Deletes the phrase "placed in a hermetically sealed, impermeable bag" and replace it with "vacuum packaged in an impermeable bag" so it clearly defines the sous vide process as outlined in Annex 6(2)(B)(4)(b). It now reads: "Sous vide packaging, in which raw or partially cooked food is vacuum packaged in an impermeable bag, cooked in the bag, rapidly chilled, and refrigerated at temperatures that inhibit the growth of psychrotrophic pathogens."

2013 FDA Food Code
Summary of Changes

Chapter 2 – Management and Personnel

- Big 5 Foodborne Illnesses (Norovirus, Hepatitis A, Shigella spp, STEC E. Coli, and Salmonella Typhi) – Now the Big 6, to include all non-typhoidal Samlonella (NTS)
- Glove Use – Clarifies that if a person is still working with the same food product and contamination has not occurred, then the employee may change gloves and continue working with the same product, while not being required to wash hands

2013 FDA Food Code
Summary of Changes

Chapter 3 – Food

- Bare Hand Contact – Allows for touching ready to eat foods with bare hands if the ready to eat food is an ingredient that will be heated to at least 63°C (145°F).
- Refilling Returnables – Allows for a consumer to bring a refillable container to an establishment (to fill with TCS food or drink), but the container must meet specific requirements such as: material of good construction, in good repair, can be cleaned and sanitized, and can be visually inspected.
- Non Continuous Cooking – Allows for raw animal food that is being cooked in a non-continuous method to follow normal cooking requirements (3-401.11 (A)-(C). (Does not require a final cooking temperature of 165°F for 15 seconds for all food products)

(example: placing grill marks on a steak that will be cooked at a later time)

2013 FDA Food Code
Summary of Changes

Chapter 3 – Food

- Thawing – Specifies that frozen fish which have been packaged using a ROP method be removed from the ROP environment either prior to initiating thawing procedures under refrigeration or immediately upon completion of thawing.
- Date Marking – Exempts raw, live in-shell molluscan shellfish. Clarifies that the exemption from date marking for shelf stable dry fermented sausages produced in USDA-regulated facilities is not dependent on the product retaining the original casing.

2013 FDA Food Code
Summary of Changes

Chapter 3 – Food

- Reduced Oxygen Packaging –
  - Package of TCS food that has been package by using ROP must discard the food within 30 days.
  - Cook-Chill or Sous Vide: amended subparagraph to allow for cold holding at 41°F for 7 days after cooling to 41°F.
  - HACCP Plan is not required for ROP TCS foods (labeled, held at 41°F, removed from its package within 48 hours of being packaged)

2013 FDA Food Code
Summary of Changes

Chapter 4 – Equipment, Utensils, and Linens

- Cleaning Between Raw Animal Foods – Amended paragraph to only allow between raw animal foods that are not a major food allergen, such as fish. Example: if a fish product was cut on a cutting board, the board would now be required to be cleaned and sanitized before another food product, due to possible allergen contamination).

2013 FDA Food Code
Summary of Changes

Chapter 8 – Compliance and Enforcement

- HACCP Plan – Clarify that a food establishment submit a HACCP Plan prior to engaging in Reduced Oxygen Packaging.
- Responsibilities of the Permit Holder – Added a new paragraph which requires the permit holder to post a sign or placard notifying the public that inspectional information is available for review

Micro Markets

Champion Vending

Micro Markets

"Micro Market" means a retail food establishment located within an area of a business that is secure from general public access and is not under the full-time supervision of a food employee that offers for sale food items that are commercially prepackaged, refrigerated or frozen, time/temperature controlled for safety foods or ready to eat fruits and vegetables in displays not more than 300 hundred square feet.

Micro Markets

(A) All micro market display units offering time/temperature controlled for safety food shall have an automatic control that prevents the equipment from opening if:

1) There is a power failure, mechanical failure, or other condition that results in an internal equipment temperature that cannot maintain food temperatures as specified under chapter 3 of the U.S. Food and Drug Administration 2013 Code, and

2) A condition specified under subparagraph (A)(1) of this regulation occurs, until the equipment is serviced and restocked with food that has been maintained at temperatures specified under chapter 3 of the U.S. Food and Drug Administration 2013 Code.

Micro Markets

(B) When the automatic shutoff within a display described under paragraph (A) of this regulation is activated the ambient temperature may not exceed 41 degrees Fahrenheit for more than thirty minutes immediately after the display is filled, serviced, or restocked.

(C) Refrigerated, ready-to-eat, time/temperature controlled for safety food, displayed at a micro market, shall be discarded if the automatic shutoff control is activated as specified in (A)(1) of this regulation.

(D) All micro market display units offering time/temperature controlled for safety food shall be equipped with a self-closing door, an automatic shut-off device and shall comply with all applicable regulations of this Code as determined by the Department.

Micro Markets

Micro Market Reference Plan Review –

- Reference plan may apply to multiple locations without further plan review approval. Deviation from the reference plan would require the owner apply and receive approval for the new plan.
- A permit to operate would be required for each Micro Market location.

Thank you for your participation!
We welcome your questions and comments.

http://www.maricopa.gov/regulations/

Hether Krause, R.S., CPM
Andrew Linton, R.S., CPM
Maricopa County Environmental Services Department
1001 N. Central Ave.
Phoenix, AZ 85004

Environmental Services Department

Stakeholder Meeting
ES-2014-001 2013 FDA Food Code Adoption
Tuesday September 16, 2014

Stakeholders Present: Norm Barnett – Frys Food Stores, Elaine Arena – NAMA

Staff Present: Andy Linton – Division Manager Environmental Health, Ken Conklin – Division Manager Quality & Compliance, Kevin Chadwick – Division Manager Water & Waste Management, Hether Krause – Environmental Operations Program Supervisor Quality & Compliance, David Morales – Supervisor Quality & Compliance, Pat Valadez – Administrative Assistant Quality & Compliance.

Presenter(s): Hether Krause and Andy Linton.

Minutes*: Hether Krause started off the meeting by discussing the Enhanced Regulatory Outreach Program (EROP) and the updated website. The EROP was put together by the Board of Supervisors (BOS) to allow for more transparency of any regulatory changes and updates. Stakeholders present were familiar with the process.
Andy Linton briefed the stakeholders on the recent BOS task force meetings and discussed that the adoption of the 2013 FDA Food Code was one of the recommendations. The 2013 FDA Food Code has the most updated food science and industry practices. The adoption of the 2013 FDA Food Code will be a revision to the Maricopa County Environmental Health Code (MCEHC) Chapter 8, Section 2. The proposed revisions to the MCEHC were discussed in more detail as outlined on the presentation. The 2013 FDA Food Code will not be written into our MCEHC, but adopted by reference. Aside from adoption of the 2013 FDA Food Code, there is one other addition to MCEHC Chapter 8, Section 2 and this is the regulation on Micro Market requirements..
A detailed list of all the changes from the 2009 FDA Food Code to the 2013 FDA Food Code is listed on the FDA website. Some of the more relevant changes were discussed and handed out to the stakeholders (attached).

Stakeholder questions and MCESD answers:

- If the food borne illness' covers all types of Salmonella, why is it important to put "non-Typhoidal Salmonella" instead of just Salmonella?
    - It will be listed separately to say "Salmonella Typhi" and "non-Typhoidal Salmonella", so it will be part of the "Big 6" instead of the "Big 5".
- How will Growlers be affected?
    - Refilling growlers is currently allowed under the 2009 FDA Food Code and will still be allowed under the 2013 FDA Food Code. There are some changes, however, to the section on refilling returnable containers with food. These changes will allow, under certain requirements, for food containers to be refilled.
- How will the ROP changes be related to "Fresh Fish" that the customer takes home, there is no guarantee that the customer will use that within 48 hours?

- The requirements for reduced oxygen packaging in the 2013 FDA Food Code are not specific to retail sales in a grocery store setting. The establishment is responsible for the requirements while the product is under their control.

Micro Markets were discussed along with some of the new requirements (see presentation). In case ES-2014-002/Fee Table Adjustments, the permit and plan review fees for Micro Markets will be discussed. The fee model is not completely finished yet, but it's looking like the fee will be somewhere around $150-$250 range for each Micro Market location. The plan approval fee will likely be in the range of $250-$300 and a fee for accepting a standard, or reference plan, for multiple location has been included in the proposal. Andy made it clear that these numbers were not yet finalized. He mentioned these ranges to give those in attendance a general sense of what these fees may be.

- Would it be possible to get a couple of the slides related to the Micro Markets?
  - Yes, the entire presentation will also be available as part of the Staff Report that will be presented to the Board of Health (BOH) on the EROP website.

Any comments related to these proposed changes will be welcomed on the comment section on the EROP website.

Both of the stakeholders present expressed their support for the proposed changes.

Another stakeholder meeting will be scheduled for Monday October 6, 2014. This case is scheduled to be presented to the BOH on October 27, 2014.

Attachment: Summary of 2009 vs 2013 FDA Food Code.

Meeting adjourned.

*In order for the minutes to be relevant; only those questions and comments that were applicable to the topic presented were recorded. All other questions and comments not relevant to the topic were addressed either at the time of the meeting or shortly thereafter.

Summary of 2009 vs 2013 FDA Food Code

Chapter 1 Purpose and Definitions

Definition Changes

2009: Big 5 Foodborne Illnesses includes the term "Enterohemorrhagic *Escherichia coli*" *(EHEC)* O157:H7 along with the other 4 illnesses
2013: Deletes "Enterohemorrhagic *Escherichia coli*" *(EHEC)* O157:H7 as use of EHEC terminology is outdated. Uses the term "Shiga toxin-producing *Escherichia coli*" (STEC), which includes any E. Coli capable of producing Shiga toxin. Example of a STEC is E. Coli O157:H7

2009: Definition of the term "Packaged"
2013: Clarified definition of packaged food to "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.

2009: Uses the term Potentially Hazardous Foods/Time/Time Control for Safety (PHF/TCS)
2013: Deletes the term Potentially Hazardous Food (Time/Temperature Control for Safety 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.

2009: Definition of Reduced Oxygen Packaging
2013: Revised definition. Deletes the phrase "placed in a hermetically sealed, impermeable bag" and replace it with "vacuum packaged in an impermeable bag" so it clearly defines the sous vide process as outlined in Annex 6(2)(B)(4)(b). It now reads: "Sous vide packaging, in which raw or partially cooked food is vacuum packaged in an impermeable bag, cooked in the bag, rapidly chilled, and refrigerated at temperatures that inhibit the growth of psychrotrophic pathogens."

Chapter 2 Management and Personnel

Chapter 2-201.11, 2-201.12, 2-201.13

2009: Big 5 Foodborne Illnesses (Norovirus, Hepatitis A, Shigella spp, STEC E. Coli, and Salmonella Typhi
2013: Now the Big 6, to include all non-typhoidal Samlonella (NTS)

2-301.14(H) When to Wash Hands

2009: Employee must wash hands before donning gloves
2013: Clarifies that if a person is still working with the same food product and contamination has not occurred, then the employee may change gloves and continue working with the same product, while not being required to wash hands

2-301.16(A)(2) Hand Antiseptics

2009: Describes that hand antiseptics comply with an FDA publication based on the safety and effectiveness
2013: Deleted section (A)(2)(b)(i-ii) and added new subparagraphs (A)(2)(b-e) to clarify and align the codified text with applicable CFR's and the FD&C Act with regard to the use of hand antiseptics as a food additive.

Chapter 3 Food

3-201.16(A) Wild Mushrooms

2009: Mushroom species picked in the wild shall be obtained from sources where each mushroom is individually inspected and found to be safe by an APPROVED mushroom identification expert
2013: Removed the need for an approved mushroom identification expert and now recognizes a regulatory authority's ability to approve the sale of wild mushrooms within a food establishment

3-301.11(D) Preventing Contamination from Hands

2009: Requires a written procedure to touch foods with bare hands
2013: Revised subparagraph (D)(2) to clarify that Paragraph (B) does not apply where a ready-to-eat food is added as an ingredient to another food that does not contain a raw animal food and the combined product will be heated to at least 63°C (145°F). This allows for touching ready to eat foods with bare hands if the ready to eat food is an ingredient that will be heated to at least 63°C (145°F).

3-302.11 Packaged and Unpackaged Food-Separation, Packaging, and Segregation
2009: Cleaning EQUIPMENT and UTENSILS as specified under ¶ 4-602.11(A) and SANITIZING as specified under § 4-703.11
2013: Removed above subparagraph and renumbered the remaining paragraphs

3-304.11 Food Contact with Equipment and Utensils

2009: Defines what food can come into contact with
2013: Added a new paragraph that clarifies that food may contact surfaces of linens and napkins

3-304.13 Linens and Napkins, Use Limitation
2009: Allows for linens and napkins to be used in contact with food if they are used to line a container for the service of food and then replaced each time the container is refilled for a new consumer
2013: Clarified that napkins in this section refers to cloth napkins and they are by definition considered linens.

3-304.17 Refilling Returnables

2009: Returnable containers cannot be refilled with a PHF/TCS product
2013: This now allows for a consumer to bring a refillable container to an establishment (to fill with TCS food or drink), but the container must meet specific requirements such as: material of good construction, in good repair, can be cleaned and sanitized, and can be visually inspected.

3-401.14 Non Continuous Cooking of Raw Animal Foods

2009: Requires that when an establishment is cooking raw animal food using a non-continuous method (ex. placing grill marks on a steak that will be cooked at a later time), the food must then be cooked to temperature that heats all parts of the food to 165°F for 15 seconds (does not matter what the original cooking requirement is of the raw animal food)
2013: Revises paragraph D to allow that the raw animal food that is being cooked in a non-continuous method can now follow normal cooking requirements (3-401.11 (A)-(C). (Does not require a final cooking temperature of 165°F for 15 seconds for all food products)

3-402.11 Parasite Destruction

2009: Defines freezing requirements for parasite destruction and exemptions
2013: Added a new paragraph to clarify that scallop products consisting solely of the shucked adductor muscle are excluded from the requirements for parasite destruction and re-numbered existing paragraphs

3-403.11 Reheating and Hot Holding

2009: Requires that ready to eat food from a commercially processed plant must be reheated to 135°F for hot-holding.
2013: Clarifies paragraph 3-403.11(C) and states that this provision applies to all commercially processed (pre-cooked) TCS foods that are ready-to-eat. The product must be reheated to135°F.

3-501.13 Thawing

2009: Describes proper thawing

2013: Added new paragraph which specifies that frozen fish which have been packaged using a ROP method be removed from the ROP environment either prior to initiating thawing procedures under refrigeration or immediately upon completion of thawing. It also clarifies that "time of use" means when removed from packaging, such as when fish is thawed in the establishment.

3-501.17 Ready to Eat, Time/Temperature Control for Safety Food, Date Marking

2009: Requirements for date marking
2013: Added new paragraph that exempts raw, live in-shell molluscan shellfish from date marking and re-numbers paragraphs.
Also, the code amended an existing subparagraph to clarify that the exemption from date marking for shelf stable dry fermented sausages produced in USDA-regulated facilities is not dependent on the product retaining the original casing. Due to this, paragraphs were re-numbered.

3-502.11 Variance Requirement

2009: Reviews when a variance is required
2013: Amended to revise paragraph D to clarify that only TCS foods prepared under ROP methods that do not control for growth of and toxin formation by *Clostridium botulinum* and the growth of *Listeria monocytogenes* require a variance.

3-502.12 Reduced Oxygen Packaging Without a Variance, Criteria

3-502.12 (B) Reduced Oxygen Packaging (ROP)
2009: Package of TCS food that has been package by using ROP must discard the food within 14 days
2013: Package of TCS food that has been package by using ROP must discard the food within 30 days
New paragraph specifying that a HACCP plan be provided to the regulatory authority prior to inspection.

3-502.12 (D) Cook-Chill or Sous Vide
2009: Cook-Chill or Sous Vide: After proper cooking, can hold product for 72 hours before discarding
2013: Cook-Chill or Sous Vide: amended paragraph to delete the word "FOOD" and replace it with the term "Time/Temperature control for safety food" to clarify that this section applies to TCS food.
2013: Cook-Chill or Sous Vide: amended subparagraph to allow for cold holding at 41°F for 7 days after cooling to 41°F.

3-502.12 (F) HACCP Plan not required when a food establishment uses ROP to package TCS
2009: Does not exist
2013: New paragraph added to identify the conditions under which a HACCP Plan is not required for ROP TCS foods (labeled, held at 41°F, removed from its package within 48 hours of being packaged)

Amended paragraphs (B), (D), and (E) lead-in paragraphs to reference new paragraph (F) of this section.
Amended paragraph (B) lead in paragraph and subparagraphs (B)(6)(c), (D)(1), and (E)(2) to reference ¶8-201.14(B) along with existing reference to ¶ (D).
Amended to delete existing subparagraph 3-502.12(D)(2)(e)(iii) and amended subparagraph 3-502.12(D)(2)(e)(iv) to renumber it as the new subparagraph (D)(2)(e)(iii).

3-602.11 Food Labels

2009: Defined food label requirements
2013: Amended paragraph B to clarify the information that a label should include. The term "sub ingredients" was added to this subparagraph to clarify that individual component ingredients of a main ingredient must be disclosed in the statement of ingredients. This clarification helps to make clear that all individual ingredients in a packaged food will be disclosed in the statement of ingredients.

Chapter 4 Equipment Utensils and Linens

4-302.13 Temperature Measuring Devices, Manual and Mechanical Warewashing

2009: Section called Temperature Measuring Devices, Manual Warewashing
2013: Added the term Mechanical to the tagline to now read: Temperature Measuring Devices, Manual and Mechanical Warewashing
Also, Paragraph B now changes the term "temperature measuring device" (thermometer) to "irreversible registering temperature indicator" shall be provided and readily accessible for reading utensil surface temperature in hot water mechanical dish machines.

4-602.11 (B) Equipment Food –Contact Surfaces and Utensils

2009: Describes the exemption to cleaning (if food contact surface then is used for a food with a higher cooking temperature requirement, such as a cutting board used to cut raw fish, then raw chicken)
2013: Amended paragraph to only allow between raw animal foods that are not a major food allergen, such as fish. (ex. if a fish product was cut on a cutting board, the board would now be required to be cleaned and sanitized before another food product, due to possible allergen contamination).

4-802.11 Laundering Specifications

2009: Defined frequency of cleaning linens
2013: Amended paragraph to clarify that napkin in this section refers to cloth napkins and they are by definition considered linens

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Chapter 7 Poisonous or Toxic Materials

7-204.12 Chemicals for Washing, Treatment, Storage and Processing Fruits and Vegetables, Criteria.

2009: Defined requirements for using chemicals to wash produce.
2013: Amended paragraph A into a lead-in paragraph with four new subparagraphs: Added 21 CFR 173 Secondary Direct Food Additives Permitted in Food for Human Consumption as new subparagraph (A)(1); Added GRAS ingredients as new subparagraph (A)(2); Added effective food contact notifications as new subparagraph (A)(3); Added 40 CFR 156 Labeling Requirements for Pesticides and Devices as new subparagraph (A)(4) to allow the use of other antimicrobial agents allowed under the food contact notification program for washing fruits and vegetables as well as GRAS ingredients permitted as antimicrobials or for general food use.

Chapter 8 Compliance and Enforcement

8-201.13 When a HACCP Plan is Required

2009: Defined when a HACCP plan is required
2013: Amended paragraph B to add new language to have the food establishment notify the Regulatory Authority through submission of a HACCP plan that they will be conducting ROP operations (Before engaging in Reduced Oxygen Packaging, a business must submit to the Department a HACCP plan).

8-304.11 Responsibility of the Permit Holder

2009: Requirements of a permit holder to retain a permit
2013: Added a new paragraph which requires the permit holder to post a sign or placard notifying the public that inspectional information is available for review.

Follow-Up Stakeholder Meeting

Proposed Revisions
Maricopa County Environmental Health Code

CASE # ES-2014-001
2013 FDA Food Code Adoption

Maricopa County Environmental Services Department
October 8, 2014

Maricopa County Environmental Services Department

Working with our community to ensure a safe and healthy environment

VISION STATEMENT:
As the recognized regional environmental leader, we will develop and foster innovative environmental health protection programs for the safety of our residents and their environment.

MISSION STATEMENT:
The mission of the Environmental Services Department is to provide safe food, water, waste disposal and vector borne disease reduction controls to the people of Maricopa County so that they may enjoy living in a healthy and safe community.

Building Relationships — Maricopa County

Home | Air Quality | Environmental Services | Flood Control | Planning and Development | Procurement Services | Transportation | Comments | Definitions | Notifications

MARICOPA COUNTY ENHANCED REGULATORY OUTREACH PROGRAM

Maricopa County's Enhanced Regulatory Outreach Program (EROP) Departments seek to ensure the safety and well-being of our community. Because we understand that regulations and rule-making decisions, discussions, and meetings can be confusing, we have developed this web-site to allow citizens to easily monitor and engage in the adoption and amendment of all regulations.

AIR QUALITY • ENVIRONMENTAL SERVICES • FLOOD CONTROL • PLANNING & DEVELOPMENT • PROCUREMENT SERVICES • TRANSPORTATION

http://www.maricopa.gov/regulations/

Building Relationships — Maricopa County

Home | Air Quality | Environmental Services | Flood Control | Planning and Development | Procurement Services | Transportation | Comments | Definitions | Notifications

Current Location: Regulatory Departments | Environmental Services | Regulatory Process

ENHANCED REGULATORY OUTREACH PROGRAM — Ten Step Process Detail

STEP 1 - County Manager Briefed the Board of Supervisors — Comment Now!

Item Number
ES 2014-001
ES 2014-002
ES 2014-003

REGULATORY ADOPTION PROCESS STEP-BY-STEP

Step 1	County Manager Briefed Board of Supervisors
Step 2	Conduct Stakeholder Workshop
Step 3	Stakeholder Notification 2 Weeks Prior to Citizen's Board or Commission
Step 4	Public Meeting to Initiate Regulatory Change
Step 5	Specific Departmental Processes
Step 6	Stakeholder Notification 2 Weeks Prior to Citizen's Board or Commission
Step 7	Public Meeting to Make Recommendation to Board of Supervisors
Step 8	Schedule BOS Public Hearing
Step 9	Board of Supervisor Public Hearing
Step 10	Item Adopted

http://www.maricopa.gov/regulations/es/process.aspx

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Current Location: Regulatory Departments | Notifications

EROP Notifications Include:

- Follow the Regulatory Process
- Regulatory Meetings
- Current Regulatory Index
- Substantive Policy Statements

http://www.maricopa.gov/regulations/Notifications.aspx

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Citizen Comments

Your input will be collected and forwarded to the appropriate department. We appreciate your comments and your time. If you prefer, you can send your comments via email.

Case Information

* ---------- Select Case # ----------

I would like to: * ------- Select -------

Your Information

First Name * | Last Name *

Organization

City * | Zip

Email *

Phone Number | Phone Type: mobile work home

Would you like for someone to contact you? yes no

Comments

If you would like to attach supporting documentation associated with your comment, please click here.

Submit

http://www.maricopa.gov/regulations/comments.aspx

2013 FDA Food Code

"The Food Code establishes practical, science-based guidance and enforceable provisions for mitigating risk factors known to cause foodborne illness."

2013 FDA Food Code

"…conformance with acceptable procedures and practices is far more likely where regulatory officials ***'speak with one voice'*** about what is required to protect the public health, why it is important, and which alternatives for compliance may be accepted."

2013 FDA Food Code

Adopt 2013 FDA Food Code by reference in the Maricopa County Environmental Health Code

MARICOPA COUNTY ENVIRONMENTAL HEALTH CODE

CHAPTER VIII

FOOD, FOOD PRODUCTS,
FOOD HANDLING ESTABLISHMENTS

SECTION 2

FOOD ESTABLISHMENTS

REGULATION 1. Food Establishments

a. Effective March 31, 2010, the U.S. Food and Drug Administration 2009 Food Code, and no future editions or amendments, is adopted and incorporated by reference, except as follows:

2013 FDA Food Code
Summary of Changes

Completed summary of changes is available here:

http://www.fda.gov/Food/GuidanceRegulation/RetailFoodProtection/FoodCode/ucm374759.htm

2013 FDA Food Code
Summary of Changes

Chapter 1 – Purpose and Definitions

- Replace Potentially Hazardous Food (Time/Temperature Control for Safety Food)" (PHF/TCS) and with the term "Time/Temperature Control for Safety Food" (TCS). The definition remains the same.
- Revised definition. Deletes the phrase "placed in a hermetically sealed, impermeable bag" and replace it with "vacuum packaged in an impermeable bag" so it clearly defines the sous vide process as outlined in Annex 6(2)(B)(4)(b). It now reads: "Sous vide packaging, in which raw or partially cooked food is vacuum packaged in an impermeable bag, cooked in the bag, rapidly chilled, and refrigerated at temperatures that inhibit the growth of psychrotrophic pathogens."

2013 FDA Food Code
Summary of Changes

Chapter 2 – Management and Personnel

- Big 5 Foodborne Illnesses (Norovirus, Hepatitis A, Shigella spp, STEC E. Coli, and Salmonella Typhi) – Now the Big 6, to include all non-typhoidal Samlonella (NTS)
- Glove Use – Clarifies that if a person is still working with the same food product and contamination has not occurred, then the employee may change gloves and continue working with the same product, while not being required to wash hands

2013 FDA Food Code
Summary of Changes

Chapter 3 – Food

- Bare Hand Contact – Allows for touching ready to eat foods with bare hands if the ready to eat food is an ingredient that will be heated to at least 63°C (145°F).
- Refilling Returnables – Allows for a consumer to bring a refillable container to an establishment (to fill with TCS food or drink), but the container must meet specific requirements such as: material of good construction, in good repair, can be cleaned and sanitized, and can be visually inspected.
- Non Continuous Cooking – Allows for raw animal food that is being cooked in a non-continuous method to follow normal cooking requirements (3-401.11 (A)-(C). (Does not require a final cooking temperature of 165°F for 15 seconds for all food products)

(example: placing grill marks on a steak that will be cooked at a later time)

2013 FDA Food Code
Summary of Changes

Chapter 3 – Food

- Thawing – Specifies that frozen fish which have been packaged using a ROP method be removed from the ROP environment either prior to initiating thawing procedures under refrigeration or immediately upon completion of thawing.
- Date Marking – Exempts raw, live in-shell molluscan shellfish. Clarifies that the exemption from date marking for shelf stable dry fermented sausages produced in USDA-regulated facilities is not dependent on the product retaining the original casing.

2013 FDA Food Code
Summary of Changes

Chapter 3 – Food

- Reduced Oxygen Packaging –
  - Package of TCS food that has been package by using ROP must discard the food within 30 days.
  - Cook-Chill or Sous Vide: amended subparagraph to allow for cold holding at 41°F for 7 days after cooling to 41°F.
  - HACCP Plan is not required for ROP TCS foods (labeled, held at 41°F, removed from its package within 48 hours of being packaged)

2013 FDA Food Code
Summary of Changes

Chapter 4 – Equipment, Utensils, and Linens

- Cleaning Between Raw Animal Foods – Amended paragraph to only allow between raw animal foods that are not a major food allergen, such as fish. Example: if a fish product was cut on a cutting board, the board would now be required to be cleaned and sanitized before another food product, due to possible allergen contamination).

2013 FDA Food Code
Summary of Changes

Chapter 8 – Compliance and Enforcement

- HACCP Plan – Clarify that a food establishment submit a HACCP Plan prior to engaging in Reduced Oxygen Packaging.
- Responsibilities of the Permit Holder – Added a new paragraph which requires the permit holder to post a sign or placard notifying the public that inspectional information is available for review

Micro Markets

Champion Vending

Micro Markets

"MICRO MARKET" means an unattended retail food establishment where commercially prepackaged, time/temperature control for safety foods or ready-to-eat fruits and vegetables are offered for sale.

Micro Markets

(A) A MICRO MARKET shall be located within an area that is secure from general public access.

(B) The area of a MICRO MARKET in which food is displayed shall be limited to a space of three hundred (300) square feet or less.

Micro Markets

(C) All micro market display units offering time/temperature controlled for safety food shall have an automatic control that prevents the equipment from opening if:

1) There is a power failure, mechanical failure, or other condition that results in an internal equipment temperature that cannot maintain food temperatures as specified under chapter 3 of the U.S. Food and Drug Administration 2013 Code, and

2) A condition specified under subparagraph (A)(1) of this regulation occurs, until the equipment is serviced and restocked with food that has been maintained at temperatures specified under chapter 3 of the U.S. Food and Drug Administration 2013 Code.

Micro Markets

(D) When the automatic shutoff within a display described under paragraph (A) of this regulation is activated the ambient temperature may not exceed 41 degrees Fahrenheit for more than thirty minutes immediately after the display is filled, serviced, or restocked.

(E) Labeling requirements for prepackaged food items shall be met as required by the U.S. Food and Drug Administration 2013 Food Code.

(F) Refrigerated, ready-to-eat, time/temperature controlled for safety food, displayed at a micro market, shall be discarded if the automatic shutoff control is activated as specified in (A)(1) of this regulation.

(G) All micro market display units offering time/temperature controlled for safety food shall be equipped with a self-closing door, an automatic shut-off device and shall comply with all applicable regulations of this Code as determined by the Department.

Micro Markets

Micro Market Reference Plan Review –

(H) The permit applicant shall submit for review and approval a complete set of plans and specifications documenting the equipment is certified or classified for sanitation by an American National Standards Institute (ANSI)-accredited certification program.

- Reference plan may apply to multiple locations without further plan review approval. Deviation from the reference plan would require the owner apply and receive approval for the new plan.
- A permit to operate would be required for each Micro Market location.

Thank you for your participation! We welcome your questions and comments.

http://www.maricopa.gov/regulations/

Ken Conklin, M.P.A., R.S., C.P.O.I.
Andrew Linton, R.S., CPM
Maricopa County Environmental Services Department
1001 N. Central Ave.
Phoenix, AZ 85004

Environmental Services Department

Stakeholder Meeting
ES-2014-001 2013 FDA Food Code Adoption
Wednesday October 8, 2014

Stakeholders Present: Roberto Angel – Albertson, Aimee Wrigt - Albertson

Staff Present: Andy Linton – Division Manager Environmental Health, Ken Conklin – Division Manager Quality & Compliance, David Morales – Supervisor Quality & Compliance, Vonda Canaan – Supervisor Quality & Compliance, Lene Pope – Development Service Technician – Quality & Compliance.

Presenter(s): Ken Conklin and Andy Linton.

Minutes*: Ken Conklin started off the meeting by discussing the Enhanced Regulatory Outreach Program (EROP) and the updated website. The EROP was adopted by the Board of Supervisors (BOS) to allow for more transparency of any regulatory changes and updates. Stakeholders present were familiar with the process.
Andy Linton briefed the stakeholders on the recent BOS task force meetings and discussed that the adoption of the 2013 FDA Food Code was one of the recommendations. The 2013 FDA Food Code has the most updated food science and industry practices. The adoption of the 2013 FDA Food Code will be a revision to the Maricopa County Environmental Health Code (MCEHC) Chapter 8, Section 2. The proposed revisions to the MCEHC were discussed in more detail as outlined on the presentation. The 2013 FDA Food Code will not be written into our MCEHC, but adopted by reference. Aside from adoption of the 2013 FDA Food Code, there is one other addition to MCEHC Chapter 8, Section 2 and this is the regulation on Micro Market requirements.
A detailed list of all the changes from the 2009 FDA Food Code to the 2013 FDA Food Code is listed on the FDA website. Some of the more relevant changes were discussed and handed out to the stakeholders (attached).

Stakeholder questions and MCESD answers:

- Will there be a separate permit for the Micro Markets?
    - Yes, we are proposing that there will be a separate Micro Market permit for this, along with a reference plan review fee. The actual fees for this are being proposed in another code revision case (ES-2014-002/Fee Table Adjustments). That case is currently on hold.
- Is there a definition of what "the general public" means?
    - We have had some feedback from other stakeholders on clarifying this terminology and will be modifying the definition for further stakeholder consideration.
- Could you set up a Micro Market in an Airport?
    - Given the fact that the micro market is unattended, our intent would be for the micro market to be in a more controlled environment. We've received feedback from

stakeholders that the location of micro markets is already limited by the nature of the business and may not need to be included in the language.

Any comments related to these proposed changes will be welcomed on the comment section on the EROP website.

Attachment: Summary of 2009 vs 2013 FDA Food Code.

Meeting adjourned.

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2009: Big 5 Foodborne Illnesses (Norovirus, Hepatitis A, Shigella spp, STEC E. Coli, and Salmonella Typhi
2013: Now the Big 6, to include all non-typhoidal Samlonella (NTS)

2-301.14(H) When to Wash Hands

2009: Employee must wash hands before donning gloves
2013: Clarifies that if a person is still working with the same food product and contamination has not occurred, then the employee may change gloves and continue working with the same product, while not being required to wash hands

2-301.16(A)(2) Hand Antiseptics

2009: Describes that hand antiseptics comply with an FDA publication based on the safety and effectiveness
2013: Deleted section (A)(2)(b)(i-ii) and added new subparagraphs (A)(2)(b-e) to clarify and align the codified text with applicable CFR's and the FD&C Act with regard to the use of hand antiseptics as a food additive.

Chapter 3 Food

3-201.16(A) Wild Mushrooms

2009: Mushroom species picked in the wild shall be obtained from sources where each mushroom is individually inspected and found to be safe by an APPROVED mushroom identification expert
2013: Removed the need for an approved mushroom identification expert and now recognizes a regulatory authority's ability to approve the sale of wild mushrooms within a food establishment

3-301.11(D) Preventing Contamination from Hands

2009: Requires a written procedure to touch foods with bare hands
2013: Revised subparagraph (D)(2) to clarify that Paragraph (B) does not apply where a ready-to-eat food is added as an ingredient to another food that does not contain a raw animal food and the combined product will be heated to at least 63°C (145°F). This allows for touching ready to eat foods with bare hands if the ready to eat food is an ingredient that will be heated to at least 63°C (145°F).

3-302.11 Packaged and Unpackaged Food-Separation, Packaging, and Segregation
2009: Cleaning EQUIPMENT and UTENSILS as specified under ¶ 4-602.11(A) and SANITIZING as specified under § 4-703.11
2013: Removed above subparagraph and renumbered the remaining paragraphs

3-304.11 Food Contact with Equipment and Utensils

2009: Defines what food can come into contact with
2013: Added a new paragraph that clarifies that food may contact surfaces of linens and napkins

3-304.13 Linens and Napkins, Use Limitation
2009: Allows for linens and napkins to be used in contact with food if they are used to line a container for the service of food and then replaced each time the container is refilled for a new consumer
2013: Clarified that napkins in this section refers to cloth napkins and they are by definition considered linens.

3-304.17 Refilling Returnables

2009: Returnable containers cannot be refilled with a PHF/TCS product
2013: This now allows for a consumer to bring a refillable container to an establishment (to fill with TCS food or drink), but the container must meet specific requirements such as: material of good construction, in good repair, can be cleaned and sanitized, and can be visually inspected.

3-401.14 Non Continuous Cooking of Raw Animal Foods

2009: Requires that when an establishment is cooking raw animal food using a non-continuous method (ex. placing grill marks on a steak that will be cooked at a later time), the food must then be cooked to temperature that heats all parts of the food to 165°F for 15 seconds (does not matter what the original cooking requirement is of the raw animal food)
2013: Revises paragraph D to allow that the raw animal food that is being cooked in a non-continuous method can now follow normal cooking requirements (3-401.11 (A)-(C). (Does not require a final cooking temperature of 165°F for 15 seconds for all food products)

3-402.11 Parasite Destruction

2009: Defines freezing requirements for parasite destruction and exemptions
2013: Added a new paragraph to clarify that scallop products consisting solely of the shucked adductor muscle are excluded from the requirements for parasite destruction and re-numbered existing paragraphs

3-403.11 Reheating and Hot Holding

2009: Requires that ready to eat food from a commercially processed plant must be reheated to 135°F for hot-holding.
2013: Clarifies paragraph 3-403.11(C) and states that this provision applies to all commercially processed (pre-cooked) TCS foods that are ready-to-eat. The product must be reheated to135°F.

3-501.13 Thawing

2009: Describes proper thawing

2013: Added new paragraph which specifies that frozen fish which have been packaged using a ROP method be removed from the ROP environment either prior to initiating thawing procedures under refrigeration or immediately upon completion of thawing. It also clarifies that "time of use" means when removed from packaging, such as when fish is thawed in the establishment.

3-501.17 Ready to Eat, Time/Temperature Control for Safety Food, Date Marking

2009: Requirements for date marking
2013: Added new paragraph that exempts raw, live in-shell molluscan shellfish from date marking and re-numbers paragraphs.
Also, the code amended an existing subparagraph to clarify that the exemption from date marking for shelf stable dry fermented sausages produced in USDA-regulated facilities is not dependent on the product retaining the original casing. Due to this, paragraphs were re-numbered.

3-502.11 Variance Requirement

2009: Reviews when a variance is required
2013: Amended to revise paragraph D to clarify that only TCS foods prepared under ROP methods that do not control for growth of and toxin formation by *Clostridium botulinum* and the growth of *Listeria monocytogenes* require a variance.

3-502.12 Reduced Oxygen Packaging Without a Variance, Criteria

3-502.12 (B) Reduced Oxygen Packaging (ROP)
2009: Package of TCS food that has been package by using ROP must discard the food within 14 days
2013: Package of TCS food that has been package by using ROP must discard the food within 30 days
New paragraph specifying that a HACCP plan be provided to the regulatory authority prior to inspection.

3-502.12 (D) Cook-Chill or Sous Vide
2009: Cook-Chill or Sous Vide: After proper cooking, can hold product for 72 hours before discarding
2013: Cook-Chill or Sous Vide: amended paragraph to delete the word "FOOD" and replace it with the term "Time/Temperature control for safety food" to clarify that this section applies to TCS food.
2013: Cook-Chill or Sous Vide: amended subparagraph to allow for cold holding at 41°F for 7 days after cooling to 41°F.

3-502.12 (F) HACCP Plan not required when a food establishment uses ROP to package TCS
2009: Does not exist
2013: New paragraph added to identify the conditions under which a HACCP Plan is not required for ROP TCS foods (labeled, held at 41°F, removed from its package within 48 hours of being packaged)

Amended paragraphs (B), (D), and (E) lead-in paragraphs to reference new paragraph (F) of this section.
Amended paragraph (B) lead in paragraph and subparagraphs (B)(6)(c), (D)(1), and (E)(2) to reference ¶8-201.14(B) along with existing reference to ¶ (D).
Amended to delete existing subparagraph 3-502.12(D)(2)(e)(iii) and amended subparagraph 3-502.12(D)(2)(e)(iv) to renumber it as the new subparagraph (D)(2)(e)(iii).

3-602.11 Food Labels

2009: Defined food label requirements
2013: Amended paragraph B to clarify the information that a label should include. The term "sub ingredients" was added to this subparagraph to clarify that individual component ingredients of a main ingredient must be disclosed in the statement of ingredients. This clarification helps to make clear that all individual ingredients in a packaged food will be disclosed in the statement of ingredients.

Chapter 4 Equipment Utensils and Linens

4-302.13 Temperature Measuring Devices, Manual and Mechanical Warewashing

2009: Section called Temperature Measuring Devices, Manual Warewashing
2013: Added the term Mechanical to the tagline to now read: Temperature Measuring Devices, Manual and Mechanical Warewashing
Also, Paragraph B now changes the term "temperature measuring device" (thermometer) to "irreversible registering temperature indicator" shall be provided and readily accessible for reading utensil surface temperature in hot water mechanical dish machines.

4-602.11 (B) Equipment Food –Contact Surfaces and Utensils

2009: Describes the exemption to cleaning (if food contact surface then is used for a food with a higher cooking temperature requirement, such as a cutting board used to cut raw fish, then raw chicken)
2013: Amended paragraph to only allow between raw animal foods that are not a major food allergen, such as fish. (ex. if a fish product was cut on a cutting board, the board would now be required to be cleaned and sanitized before another food product, due to possible allergen contamination).

4-802.11 Laundering Specifications

2009: Defined frequency of cleaning linens
2013: Amended paragraph to clarify that napkin in this section refers to cloth napkins and they are by definition considered linens

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Chapter 7 Poisonous or Toxic Materials

7-204.12 Chemicals for Washing, Treatment, Storage and Processing Fruits and Vegetables, Criteria.

2009: Defined requirements for using chemicals to wash produce.
2013: Amended paragraph A into a lead-in paragraph with four new subparagraphs: Added 21 CFR 173 Secondary Direct Food Additives Permitted in Food for Human Consumption as new subparagraph (A)(1); Added GRAS ingredients as new subparagraph (A)(2); Added effective food contact notifications as new subparagraph (A)(3); Added 40 CFR 156 Labeling Requirements for Pesticides and Devices as new subparagraph (A)(4) to allow the use of other antimicrobial agents allowed under the food contact notification program for washing fruits and vegetables as well as GRAS ingredients permitted as antimicrobials or for general food use.

Chapter 8 Compliance and Enforcement

8-201.13 When a HACCP Plan is Required

2009: Defined when a HACCP plan is required
2013: Amended paragraph B to add new language to have the food establishment notify the Regulatory Authority through submission of a HACCP plan that they will be conducting ROP operations (Before engaging in Reduced Oxygen Packaging, a business must submit to the Department a HACCP plan).

8-304.11 Responsibility of the Permit Holder

2009: Requirements of a permit holder to retain a permit
2013: Added a new paragraph which requires the permit holder to post a sign or placard notifying the public that inspectional information is available for review.

From:	Joan Minichiello - ENVX on behalf of EROP Stakeholders
To:	asanchez@ckr.com
Subject:	Response/ES-2014-001 - Revisions to Maricopa County Environmental Health Code - Chapter 8, 2013 FDA Food Code Adoption
Date:	Wednesday, October 08, 2014 2:57:30 PM
Attachments:	image001.png

Dear Angela Sanchez:

Thank you for registering your supportive comment regarding Maricopa County Enhanced Regulatory Outreach Program (EROP) case ES-2014-001/2013 FDA Food Code Adoption via the EROP website.

We appreciate your participation in the Maricopa County Environmental Services Department's efforts to develop regulations that serve our community and ensure a safe and healthy environment.

Environmental Health Division
Maricopa County Environmental Services Department
1001 N. Central Avenue, Phoenix, AZ 85004
esd.maricopa.gov | **maricopa.gov/regulations/es**

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Environmental Services Department

From: Suzanne Gray - PLANDEVX
Sent: Tuesday, October 07, 2014 8:24 AM
To: Ken Conklin - ENVX
Subject: Comments

From: asanchez@ckr.com[SMTP:ASANCHEZ@CKR.COM]
Sent: Tuesday, October 07, 2014 7:18:27 AM
To: Regulatory
Subject: Regulatory Outreach
Auto forwarded by a Rule

Citizen Comments

Issue: ES-2014-001 – Revisions to Maricopa County Environmental Health Code – FDA Food Code Adoption

Citizen's Name: Angela Sanchez
Organization: CKE Restaurants Holdings Inc
City: Ontario
Zip: 92373
Phone Number: 714-254-4556

Phone Type: work
Email: asanchez@ckr.com

Does citizen want to be contacted:

Comment is regarding: express support

Comments:
CKE Restaurants Holdings, Inc. ("CKE") is a privately held company headquartered in Carpinteria, Calif. Through its subsidiaries, CKE owns and licenses Carl's Jr.® and Hardee's® quick-service restaurants. CKE operates Carl's Jr. and Hardee's as one brand under two names acknowledging the regional heritage of both banners. CKE has a total of 3,532 franchised or company-operated restaurants in 42 states and 31 foreign countries and U.S. territories. There are 49 restaurants located in Maricopa County all operated by local franchisees. We support adoption of the 2013 FDA Food Code and applaud your efforts to update and align Maricopa County Food Code and for cutting edge Environmental Health Programs that use current science. As commonly known, the FDA updates its Food Code with input from local, state and federal regulators, academia, consumers, industry and via the Conference for Food Protection. Food Code update from outcome of the Conference for Food Protection results in a progressive, science based, peer reviewed Code addressing current risks and issues in the interest of public health. We see benefit for the following reasons: 1. Uniform national standards for retail food safety reduce complexity and better ensure compliance. 2. Ensures food safety regulations reflect the most current science available and evolve to reflect new science and knowledge, emerging technologies and to remain current with other federal laws. 3. Created through a coordinated and collaborative process (Conference for Food Protection), the Food Code reflects input from all stakeholders: National, state and local regulators, industry, academia and consumers. 4. Stakeholders can take advantage of scientific and personnel resources expended by FDA and other agencies to ensure the FDA Food Code is complete. 5. Provides effective means of reducing the risks of foodborne illnesses within retail establishments, thus protecting consumers and industry from potentially devastating health consequences and financial losses. 6. Provides a comprehensive approach to food safety management and provides extensive supporting documents and training. 7. Facilitates and allows for standardization of inspections and inspectors. 8. May result in cost savings related to the conduct of inspections. 9. Reduces complexity and the paperwork burden for industry and government alike. 10. Improves consumers' understanding of food safety expectations. 11. Allows an establishment to use national standards in development of their own food safety policies and reduces the need to modify policies to accommodate different requirements from state to state. 12. Reduces industry Food Safety training costs by allowing the utilization of training materials which can be used across all jurisdictions. 13. Creates a common/standardized food safety language that can improve communication between regulators and industry operators. 14. Uniformity of using the same Food Code allows comparison of performance across national chains by providing standardized inspection criteria. Thereby an establishment can target resources according to science and risk to improve the public health performance of restaurants. 15. Reduces and minimizes the food safety risks within an establishment.

Time of Request: 10/7/2014 7:18:27 AM

From: Andrew Linton - ENVX
Sent: Friday, October 17, 2014 4:54 PM
To: 'Elaine Arena'
Subject: RE: Food Code

Elaine,

Thus far, the case for the 2013 FDA Food Code, which contains the micro market requirements, is on an expedited track. If ultimately approved by the Board of Supervisors, these changes will be in place several months before any proposed changes to the fee table are reviewed through the EROP process.

It is certainly helpful to provide your opinion on any of the cases by entering your comments via the EROP website. You can comment specifically on the fee schedule adjustment case by selecting case ES-2014-002 from the drop down menu titled "Case Information" located here: http://www.maricopa.gov/regulations/comments.aspx

Thank you,

Andrew Linton, CPM, R.S.
Division Manager | Environmental Health Division
Maricopa County Environmental Services Department
1001 N. Central Avenue, Suite # 300, Phoenix 85004
Desk: 602.506.6971 | Fax: 602.506.6862
alinton@mail.maricopa.gov | **esd.maricopa.gov**

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From: Elaine Arena [mailto:eharena51@gmail.com]
Sent: Wednesday, October 15, 2014 1:01 PM
To: Andrew Linton - ENVX
Subject: Re: Food Code

That would be "fee" not "few".

Is there anything we can do to help? We are happy with the code language but until the few is set I'm concerned that they will have to continue to pay higher fees.

Elaine Arena
Sent from my iPhone
(With apologies for auto spell errors)

On Oct 15, 2014, at 1:09 PM, Andrew Linton - ENVX <Alinton@mail.maricopa.gov> wrote:

Elaine,

In reviewing my response I realized I did not answer your questions about the fee process - we still have not received word on when the fee case will proceed.

Thank you,

Andrew Linton, CPM, R.S.

Division Manager | Environmental Health Division
Maricopa County Environmental Services Department
1001 N. Central Avenue, Suite # 300, Phoenix 85004
Desk: 602.506.6971 | Fax: 602.506.6862
alinton@mail.maricopa.gov | **esd.maricopa.gov**

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From: Andrew Linton - ENVX
Sent: Thursday, October 09, 2014 3:35 PM
To: 'Elaine Arena'
Subject: RE: Food Code

Hello Elaine,

The stakeholder meeting went smoothly. The only stakeholders in attendance were from the grocery store industry and both verbally expressed support for the case.

Based on your feedback, we've been looking into drafting alternatives to the "general public access" language. Let me know if you feel any of the alternatives below are in line with your suggestion. Alternatively, if you have specific language you would like to provide, we would certainly be open to including it in the draft.

Current proposed language:
"A MICRO MARKET SHALL BE LOCATED WITHIN AN AREA THAT IS SECURE FROM GENERAL PUBLIC ACCESS."

Alternatives:

1. **A MICRO MARKET SHALL BE LOCATED WHERE ACCESS CAN BE LIMITED TO CUSTOMERS WHO ARE KNOWN BY THE BUSINESS, SUCH AS GUESTS AND EMPLOYEES OF THE BUSINESS.**

2. **A MICRO MARKET SHALL BE LOCATED WHERE ACCESS CAN BE LIMITED TO EMPLOYEES AND CUSTOMERS OF THE BUSINESS.**

3. **A MICRO MARKET SHALL BE LOCATED WITHIN A BUSINESS AND CAN BE ACCESSED ONLY BY CUSTOMERS WHO ARE KNOW BY THE BUSINESS, SUCH AS GUESTS AND EMPLOYEES OF THE BUSINESS.**

Thank you,

Andrew Linton, CPM, R.S.
Division Manager | Environmental Health Division
Maricopa County Environmental Services Department
1001 N. Central Avenue, Suite # 300, Phoenix 85004
Desk: 602.506.6971 | Fax: 602.506.6862
alinton@mail.maricopa.gov | **esd.maricopa.gov**

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From: Elaine Arena [mailto:eharena51@gmail.com]
Sent: Thursday, October 09, 2014 9:16 AM
To: Andrew Linton - ENVX
Cc: Hether Krause - ENVX
Subject: Re: Food Code

Thank you Andy.

How did the stakeholder meeting go? Were there handouts and or revisions?

Elaine Arena
Arena Government Communications, Inc.
Land Line 480 860 2727
Mobile 602 228 2980

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From: Andrew Linton - ENVX
Sent: Monday, October 06, 2014 1:33 PM
To: 'Elaine Arena'
Subject: RE: Food Code

Hello Elaine,

I'll ensure your comments are included with this case. Also, thank you for your feedback on the language.

Thank you,

Andrew Linton, CPM, R.S.
Division Manager | Environmental Health Division
Maricopa County Environmental Services Department
1001 N. Central Avenue, Suite # 300, Phoenix 85004
Desk: 602.506.6971 | Fax: 602.506.6862
alinton@mail.maricopa.gov | **esd.maricopa.gov**

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Attachment

Proposed permit and plan review (MCEHC, Chapter I, Regulation 5):

Operating permit type: MICRO MARKET Fee: TBD*
Plan Review type: MICRO MARKET REFERENCE PLAN Fee: TBD*

** Description – a Micro Market operating permit would have be be obtained for each micro market location. The micro market reference plan would be a one time fee. An owner with an approved Micro Market Reference Plan could use this plan for multiple micro market locations without further plan review/approval so long as the installation of the micro market was according to the approved reference plan. Deviations from the approved reference plan would require a new Micro Market Reference Plan submittal be reviewed and approved.*

Proposed definition (MCEHC, Chapter VIII, Section 1):

"MICRO MARKET" MEANS AN UNATTENDED RETAIL FOOD ESTABLISHMENT WHERE COMMERCIALLY PREPACKAGED, TIME/TEMPERATURE CONTROL FOR SAFETY FOODS OR READY-TO-EAT FRUITS AND VEGETABLES ARE OFFERED FOR SALE.

Proposed regulations (MCEHC, Chapter VII, Section 2):

REGULATION 6. MICRO MARKET

(A) A MICRO MARKET SHALL BE LOCATED WITHIN AN AREA THAT IS SECURE FROM GENERAL PUBLIC ACCESS.

(B) THE AREA OF A MICRO MARKET IN WHICH FOOD IS DISPLAYED SHALL BE LIMITED TO A SPACE OF 300 HUNDRED SQUARE FEET OR LESS.

(C) ALL MICRO MARKET DISPLAY UNITS OFFERING TIME/TEMPERATURE CONTROLLED FOR SAFETY FOOD SHALL HAVE AN AUTOMATIC CONTROL THAT PREVENTS THE EQUIPMENT FROM OPENING:

1) ***IF THERE IS A POWER FAILURE, MECHANICAL FAILURE, OR OTHER CONDITION THAT RESULTS IN AN INTERNAL EQUIPMENT TEMPERATURE THAT CANNOT MAINTAIN FOOD TEMPERATURES AS SPECIFIED UNDER CHAPTER 3 OF THE U.S. FOOD AND DRUG ADMINISTRATION 2013 CODE; AND***

2) ***IF A CONDITION SPECIFIED UNDER SUBPARAGRAPH (A)(1) OF THIS REGULATION OCCURS, UNTIL THE EQUIPMENT IS SERVICED AND RESTOCKED WITH FOOD THAT HAS BEEN MAINTAINED AT TEMPERATURES SPECIFIED UNDER CHAPTER 3 OF THE U.S. FOOD AND DRUG ADMINISTRATION 2013 FOOD CODE.***

(D) WHEN THE AUTOMATIC SHUTOFF WITHIN A DISPLAY DESCRIBED UNDER PARAGRAPH (A) OF THIS REGULATION IS ACTIVATED, THE AMBIENT TEMPERATURE MAY NOT EXCEED 41 DEGREES FAHRENHEIT FOR MORE THAN THIRTY MINUTES IMMEDIATELY AFTER THE DISPLAY IS FILLED, SERVICED, OR RESTOCKED.

(E) THE STANDARD MANDATORY LABELING REQUIREMENTS FOR PREPACKAGED FOOD ITEMS SHALL BE MET AS REQUIRED BY THE U.S. FOOD AND DRUG ADMINISTRATION 2013 FOOD CODE.

(F) REFRIGERATED,READY-TO-EAT,TIME/TEMPERATURE CONTROLLED FOR SAFETY FOOD, DISPLAYED AT A MICRO MARKET, SHALL BE DISCARDED IF THE AUTOMATIC SHUTOFF CONTROL IS ACTIVATED AS SPECIFIED IN (A)(1) OF THIS REGULATION.

(G) ALL MICRO MARKET DISPLAY UNITS OFFERING TIME/TEMPERATURE CONTROLLED FOR SAFETY FOOD SHALL BE EQUIPPED WITH A SELF-CLOSING DOOR, AN AUTOMATIC SHUT-OFF DEVICE AND SHALL COMPLY WITH ALL APPLICABLE REGULATIONS OF THIS CODE AS DETERMINED BY THE DEPARTMENT.

THE PERMIT APPLICANT SHALL SUBMIT FOR REVIEW AND APPROVAL A COMPLETE SET OF PLANS AND SPECIFICATIONS DOCUMENTING THE EQUIPMENT IS NSF/ANSI APPROVE

From: Elaine Arena [mailto:eharena51@gmail.com]
Sent: Sunday, October 05, 2014 6:20 PM
To: Andrew Linton - ENVX
Cc: Hether Krause - ENVX
Subject: Re: Food Code

Hello Andy,

I filed the comment on line. This is my first go-round with the process so I'm not sure I did it correctly so I'm attaching the document here as well.

I am not able to attend the second meeting coming up on October 8. Please send any documents that are provided and I will follow-up with you by phone or e-mail.

Thank you.

Best regards,

Elaine Arena's attachment is the Regulatory Outreach comment she submitted below on 10/5/2014 at 6:15:10 PM:

From: Joan Minichiello - ENVX **On Behalf Of** EROP Stakeholders
Sent: Tuesday, October 07, 2014 7:12 AM
To: ehrena51@gmail.com
Subject: Response/ES-2014-001 - Revisions to Maricopa County Environmental Health Code - Chapter 8, 2013 FDA Food Code Adoption

Dear Elaine Arena:

Thank you for registering your supportive comment regarding Maricopa County Enhanced Regulatory Outreach Program (EROP) case ES-2014-001/2013 FDA Food Code Adoption via the EROP website.

We appreciate your participation in the Maricopa County Environmental Services Department's efforts to develop regulations that serve our community and ensure a safe and healthy environment.

Environmental Health Division
Maricopa County Environmental Services Department
1001 N. Central Avenue, Phoenix, AZ 85004
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From: Suzanne Gray - PLANDEVX
Sent: Monday, October 06, 2014 8:13 AM
To: Ken Conklin - ENVX
Subject: EROP Comments

From: ehrena51@gmail.com[SMTP:EHRENA51@GMAIL.COM]
Sent: Sunday, October 05, 2014 6:15:10 PM

To: Regulatory
Subject: Regulatory Outreach
Auto forwarded by a Rule

Citizen Comments

Issue: ES-2014-001 – Revisions to Maricopa County Environmental Health Code – FDA Food Code Adoption

Citizen's Name: Elaine Arena
Organization: Arizona Automatic Merchandising Council
City: Scottsdale
Zip: 85260
Phone Number: 602 228 2980
Phone Type: mobile
Email: ehrena51@gmail.com

Does citizen want to be contacted: yes

Comment is regarding: express support

Comments:
The Arizona Automatic Merchandising Council (AAMC) supports the adoption of the 2013 USDA Food Code. We appreciate that the department recognizes the need to create a sub-category within the retail category to address a new and growing segment of food services, micro markets. AAMC urges the County to use the expedited regulatory process allow the new category of micro markets be established as soon as possible. There are micro markets ready to go however the current regulations, which do not address micro markets, are overly cumbersome and costly. We request draft Regulation 6 (A) be modified. The draft language requires a micro market to be in an area secure from general public access. Micro markets are currently geared to the workplace that while not regularly visited by the general public, may not be secure from general public access. It is also possible that this growing segment may expand beyond the break room and therefore further suggest the language be more general as to location. In fact, there may be no need to address location in the regulation. The micro market operator will for its own benefit provide an appropriate level of security, which may be addressed in various ways. AAMC strongly supports the use of a Reference Plan that can serve as a template for an operator's micro markets. We understand that the permit fee section will incorporate use of a Reference Plan, as a boilerplate that will not require a separate plan review for each location that adheres to the reference plan. AAMC urges that the expedited fee provision regulatory process be undertaken as soon as possible. We appreciate the opportunity to participate and the efforts of staff to address the micro market segment allowing people to have more choices and healthy options. Respectfully submitted, Elaine Arena on behalf of the Arizona Automatic Merchandising Council

Time of Request: 10/5/2014 6:15:10 PM

From:	Joan Minichiello - ENVX on behalf of EROP Stakeholders
To:	davidludwig9@gmail.com
Subject:	Response/ES-2014-001 - Revisions to Maricopa County Environmental Health Code - Chapter 8, 2013 FDA Food
Date:	Monday, October 13, 2014 1:31:50 PM

Dear David Ludwig:

Thank you for registering your supportive comment regarding Maricopa County Enhanced Regulatory Outreach Program (EROP) case ES-2014-001/2013 FDA Food Code Adoption via the EROP website.

We appreciate your participation in the Maricopa County Environmental Services Department's efforts to develop regulations that serve our community and ensure a safe and healthy environment.

Environmental Health Division
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1001 N. Central Avenue, Phoenix, AZ 85004
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From: Regulatory
Sent: Friday, October 10, 2014 3:29 PM
To: Suzanne Gray - PLANDEVX
Subject: FW: Regulatory Outreach

From: davidludwig9@gmail.com[SMTP:DAVIDLUDWIG9@GMAIL.COM]
Sent: Friday, October 10, 2014 3:29:19 PM
To: Regulatory
Subject: Regulatory Outreach
Auto forwarded by a Rule

Citizen Comments

Issue: ES-2014-001 – Revisions to Maricopa County Environmental Health Code – FDA Food Code Adoption

Citizen's Name: David Ludwig
Organization: DFL Environmental & Food Safety
City: Gilbert
Zip: 85233
Phone Number: 4803260544
Phone Type:
Email: davidludwig9@gmail.com

Does citizen want to be contacted: no

Comment is regarding: express support

Comments:
I support Maricopa County initiative to provide the most updated version of FDA's scientific based food safety code. This adoption would update the 2009 Code the County currently is using and advances Maricopa County even further beyond the 1999 code used by the State of Arizona. This forward thinking is Industry friendly and provides for national consistency.

Time of Request: 10/10/2014 3:29:19 PM

From: Andrew Linton - ENVX
Sent: Friday, October 17, 2014 1:49 PM
To: 'Chianne Hewer'
Subject: RE: Support for 2013 FDA Food Code Adoption

Dear Chianne,

Thank you for registering your supportive comment on behalf of the Arizona Restaurant Association regarding Maricopa County Enhanced Regulatory Outreach Program (EROP) case ES-2014-001/2013 FDA Food Code Adoption. Your comment will be included with the case.

We appreciate your participation in the Maricopa County Environmental Services Department's efforts to develop regulations that serve our community and ensure a safe and healthy environment.

Thank you,

Andrew Linton, CPM, R.S.
Division Manager | Environmental Health Division
Maricopa County Environmental Services Department
1001 N. Central Avenue, Suite # 300, Phoenix 85004
Desk: 602.506.6971 | Fax: 602.506.6862
alinton@mail.maricopa.gov | **esd.maricopa.gov**

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From: Chianne Hewer [mailto:Chianne@azrestaurant.org]
Sent: Wednesday, October 15, 2014 5:21 PM
To: Andrew Linton - ENVX
Subject: Support for 2013 FDA Food Code Adoption

Dear Andrew,

On behalf of the Arizona Restaurant Association, I would like to offer our support and encouragement for Maricopa County Environmental Health Department to adopt the FDA 2013 food code. The updated food code will be in line with keeping best food safety practices while also allowing a restaurant to continue efficient and effective practices. The county's adoption of the 2013 FDA Food Code will be an improvement and is a necessary change.

Thank you for your consideration.

Best,
Chianne

Chianne Hewer
Public Affairs and Communications Manager

4250 N Drinkwater Boulevard, Suite 350
Scottsdale, AZ 85251

P 602.307.9134
F 602.307.9139
C 480.586.7484
azrestaurant.org

Report to the Board of Supervisors

ADDENDUM

Prepared by the Maricopa County Environmental Services Department

Environmental Services Department

Meeting Date: December 10, 2014

Case #/Title: ES-2014-001/2013 FDA Food Code Adoption

Stakeholder comments and Maricopa County Environmental Services Department responses for input received after the Maricopa County Board of Health meeting on October 27, 2014 are attached.

From:	Lene Pope - ENVX on behalf of EROP Stakeholders
To:	Norm Barnett
Subject:	Response/ES-2014-001 - Revisions to Maricopa County Environmental Health Code - Chapter 8, 2013 FDA Food
Date:	Wednesday, November 05, 2014 3:58:34 PM
Attachments:	image001.png

Dear Norman Barnett:

Thank you for registering your supportive comment regarding Maricopa County Enhanced Regulatory Outreach Program (EROP) case ES-2014-001/2013 FDA Food Code Adoption via the EROP website.

We appreciate your participation in the Maricopa County Environmental Services Department's efforts to develop regulations that serve our community and ensure a safe and healthy environment.

Environmental Health Division
Maricopa County Environmental Services Department
1001 N. Central Avenue, Phoenix, AZ 85004
esd.maricopa.gov | **maricopa.gov/regulations/es**

Working with our community
to ensure a safe and healthy environment

Environmental Services Department

From: Suzanne Gray - PLANDEVX
Sent: Wednesday, November 05, 2014 2:21 PM
To: Ken Conklin - ENVX
Subject: FW: Regulatory Outreach

From: Regulatory [mailto:regulations@mail.maricopa.gov]
Sent: Wednesday, November 05, 2014 2:05 PM
To: Suzanne Gray - PLANDEVX
Subject: FW: Regulatory Outreach

From: norman.barnett@frysfood.com[SMTP:NORMAN.BARNETT@FRYSFOOD.COM]
Sent: Wednesday, November 05, 2014 2:05:05 PM
To: Regulatory
Subject: Regulatory Outreach
Auto forwarded by a Rule

Citizen Comments

Issue: ES-2014-001 – Revisions to Maricopa County Environmental Health Code – FDA Food Code Adoption

Citizen's Name: Norman Barnett
Organization: Frys Food & Drug Stores
City: Tolleson

Zip: 85353
Phone Number: 602-442-9011
Phone Type: work
Email: norman.barnett@frysfood.com

Does citizen want to be contacted: no

Comment is regarding: express support

Comments:
As the Food Safety Manager for Fry's Food & Drug, I wish to express our Company's support of ES-2014-001, Revisions to Maricopa County Environmental Health Code - FDA Food Code Adoption. Representing 119 stores throughout the state of AZ, (not just those Maricopa County), we believe adoption of the 2013 Food Code is undeniably in the best interst of the community and our valued customers. I wish to thank Mr. Andy Linton and all those who have worked diligently to bring this to the Board for adoption. Thank you, Norman Barnett

Time of Request: 11/5/2014 2:05:05 PM