



**DEPARTMENT OF HEALTH & HUMAN SERVICES**  
COMMITTED TO CARING

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**To:** Food and Beverage Managers of Tribally owned/operated facilities in the California Area

**From:** Carolyn Garcia, MSPH, REHS  
Director, Division Environmental Health Services  
Office of Environmental Health & Engineering

**Date:** January 5, 2016

**RE:** Implementation of the 2013 FDA Food Code in California

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Effective January 1, 2016, The California Area Indian Health Service will begin using the 2013 Food and Drug Administration (FDA) Food Code as the primary reference for all retail food services provided by the California Area Division of Environmental Health Services (DEHS).

Below is a summary of the key revisions from the previously used 2009 FDA Food Code which will likely impact your food service operation. Please note that a complete and detailed list of these changes may be found on the FDA website using this link:

[www.fda.gov/Food/GuidanceRegulation/RetailFoodProtection/FoodCode/ucm374759.htm](http://www.fda.gov/Food/GuidanceRegulation/RetailFoodProtection/FoodCode/ucm374759.htm).

The following are key changes contained in the 2013 FDA Food Code:

1. The definition of “Packaged” has been redefined so it does not include foods that have been wrapped or placed in a carry-out container by a food employee at the request of the customer, for the purpose of protecting the food during service or delivery. Food that is enclosed in a container or wrapped for placement inside a customer self-service display must meet the labeling requirements in 3-602.11.
2. The term “Potentially Hazardous/Time-Temperature Control for Safety” foods has been replaced by the term “Time/Temperature Control for Safety” (TCS) foods in the Code. TCS foods refer to those food items which must be prepared, cooked and/or held using a specific time/temperature regime to control the growth of foodborne pathogens. DEHS staff have been instructed to make determinations about TCS foods based on Table 1 and 2 in the Annex of the 2013 FDA Food Code. If a food item needs a product assessment, our staff will treat the food as a TCS food until documentation which indicates otherwise is provided by the establishment.
3. The definition of “Reduced Oxygen Packaging” (ROP) has been revised to refer to any food that has been “vacuum packaged” in an impermeable bag. Therefore, all

- references to ROP foods in the 2013 FDA Food Code apply to all sous vide food products.
4. Food handlers must receive training pertaining to nontyphoidal Salmonella (NTS) in addition to those illnesses specified in the 2009 FDA Food Code (i.e. Salmonella typhi, Norovirus, Hepatitis A, Shigella spp, STEC (shiga toxin producing Escherichia coli)).
  5. In the 2013 FDA Food Code, food handlers who have been diagnosed, via a stool sample, with a non-thyphoidal Salmonella (NTS) infection MUST be excluded from food handling activities per 2-201.12(G). In previous editions of the FDA Food Code, the food employee exclusion requirements only pertained to a diagnosis of Salmonella typhi.
  6. Employees must report to the management any diagnosis of a non-thyphoidal Salmonella (NTS) infection, or when they are caring for individuals with NTS. DEHS staff are instructed to document compliance with this requirement if they observe any one of the following:
    - a. a FDA form A1 and B1 completed annually by each employee; or
    - b. documentation (e.g. a sign-in sheet) that employees have completed training that pertains to their responsibility to report illness; or
    - c. a signed copy of the facility's employee health policy; or
    - d. pocket cards or postings within the workplace that remind employees when and what illnesses they are required to report.
  7. The certified food manager of a food service facility must have management/ supervisory responsibilities and the authority to direct and control food preparation.
  8. The requirement for a food handler to wash their hands before donning gloves is specific to the beginning of a food preparation task and does not necessarily include every glove change made during a single food preparation activity. (Example: An employee who soils their glove with mayonnaise while preparing dinner rolls may change their gloves and continue with that food preparation activity without first washing their hands as long as they have not handled any raw animal foods as part of that activity. Refer to 2-301.14(H) for details.)
  9. Bare hand contact with Ready To Eat (RTE) foods is allowable when the RTE food is added as an ingredient to another food containing a raw animal food as a main ingredient. The rationale for this revision is the food will be subsequently heated to the mandatory minimum temperature or combined with food items that are subsequently heated to at least 145°F (63°C).
  10. There are new requirements pertaining to contamination events within a food establishment (e.g. vomiting and diarrheal events). Each food establishment must have procedures for employees to follow when responding to the discharge of vomitus or fecal matter onto surfaces within the facility. The procedure must identify the specific actions employees are to take to minimize the spread of contamination and the risk of exposure to employees, consumers, food, and surfaces.

11. Final cooking temperatures for raw animal foods prepared using a non-continuous cooking method have been revised. The requirement to heat all foods prepared using this method to a final temperature of 165°F for 15 seconds has been modified for some TCS foods. Refer to 3-401.14 for specific details.
12. Scallop products consisting solely of the shucked adductor muscle are excluded from the requirements for parasite destruction. Refer to 3-402.11 for details.
13. Frozen fish packaged using reduced oxygen packaging (ROP) must be removed from the packaging before thawing or immediately upon completion of thawing. The rationale for this revision is the risk of fostering the growth of *Clostridium botulinum* type E (botulism) while thawing ROP packaged fish, given *C. botulinum* grows between 38°F and 113°F.
14. Exceptions to date marking have been added for raw, live in-shell molluscan shellfish. Since *Listeria* does not grow in live shellfish, the code has been modified to reflect the low risk of fostering the growth of *Listeria* during storage.
15. Shelf stable dry fermented sausages produced in a USDA regulated facility are exempted from date marking requirements, even if removed from their original casing, since it is characterized by properties which inhibit the growth of foodborne pathogens (i.e. low moisture content and acidic pH). Refer to 3-501.17 for details.
16. All ingredients, including the ingredients that comprise a subcomponent of a food product, must be disclosed in the statement of ingredients. The revised Code has created a labeling method that uses “Sub-ingredients” in the statement of ingredients. Sub-ingredients refers to the ingredients that are contained by a main ingredient which may now be listed in parenthesis after the main ingredient has been listed by name on the label.
17. A Hazard Analysis Critical Control Point (HACCP) Plan is no longer required when a food establishment uses a ROP method to package TCS foods as long as it is labeled with a production time and date, held at 41°F or lower and is removed from its packaging within **48 hours**. Any process where the food is held for more than 2 days still requires a plan.
18. TCS food that has been ROP packaged under section 5-302.12 requirements must now be discarded within 30 days rather than within 14 days as previously required under the 2009 FDA Food Code.
19. Sous Vide or cook-chill foods may be held for up to 7 days at 41°F or colder once it has been cooled to 41°F. In the 2009 FDA Food Code, these foods were required to be discarded after 72 hours.
20. For hot water sanitizing ware washing machines, irreversible temperature indicators must be provided for use in measuring utensil surface temperatures.

21. The exception that allows the reuse of equipment and utensils without first washing and sanitizing because these items would subsequently be used to prepared a raw animal food with a higher final cooking temperature has been revised. Any equipment or utensils that have come in contact with a major food allergen, such as fish, must always be cleaned and sanitized before and after each use.

At this time we are working to improve our services and provide a more risk based approach in our food service inspection program. Please feel free to contact us with any questions you may have regarding the changes contained in the 2013 FDA Food Code.

We look forward to supporting you in your efforts to protect public health by ensuring safe food handling within your establishments in the upcoming year.