

# STATE OF COLORADO

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Colorado Department  
of Public Health  
and Environment

<b>PROGRAM:</b>	RETAIL FOOD
<b>EFFECTIVE REGULATION:</b>	<i>Colorado Retail Food Establishment Rules and Regulations, July 1, 2013</i>
<b>INTERPRETIVE MEMO NO.:</b>	<b>14-16</b>
<b>DATE:</b>	January 10, 2014
<b>SUBJECT:</b>	Instruction for Marking Violation on the Retail Food Inspection Form (In/Out/NA/NO)

As a result of revisions to the *Colorado Retail Food Establishment Rules and Regulations* (regulations), effective July 1, 2013, the retail food inspection form has been updated to include compliance status options for all critical violations. The compliance status options allow inspectors to mark critical regulatory requirements as in compliance (In), out of compliance (Out), not applicable (NA), or not observed (NO) during each inspection.

Implementing the In/Out/NA/NO options significantly increases our ability to accurately measure compliance with critical regulatory requirements and to compare compliance statewide. To assure uniform application of the regulations, it is essential for all agencies using these compliance status options to fully implement the attached instructions. Agencies that do not have these compliance status options available are encouraged to adopt the system as soon as they are able.

The attached "Instructions for Marking the Colorado Retail Food Establishment Inspection Report Form Foodborne Illness Risk Factors and Critical Item Violations" contains the substantive instructions and implementation details for the In/Out/NA/NO compliance status options.

All previous interpretive memoranda issued pertaining to this subject are hereby superseded as of the effective date above.

Jeff Lawrence, Director  
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Attachment A – Instructions for Marking the Colorado Retail Food Establishment Inspection Report Form Foodborne Illness Risk Factors and Critical Item Violations

25-4-1601 C.R.S. provides CDPHE's authority for the uniform statewide administration, implementation, interpretation, and enforcement of *The Colorado Retail Food Establishment Rules and Regulations*. This interpretive memo is issued in accordance with this authority and CDPHE expects its contents to be implemented in accordance with the statutory requirement.



## Division of Environmental Health and Sustainability

### **Instructions for Marking Colorado Retail Food Establishment Inspection Report Form Foodborne Illness Risk Factors and Critical Item Violations**

These instructions are to be used by inspectors to ensure that compliance with the *Colorado Retail Food Establishment Rules and Regulations* (regulation) is verified during inspections, and that inspection observations are accurately recorded on the Retail Food Establishment Inspection Report form. These procedures outline the steps to be taken when completing a hard copy paper inspection form, but the compliance evaluation and documentation methodologies are equally applicable for those agencies using electronic reporting. To further assist the inspector when determining and documenting compliance, the Retail Food Establishment Inspection Report form is broken into subsections with headings derived from the foodborne illness risk factors and critical item violations.

#### **General Marking Instructions for Foodborne Illness Risk Factors and Critical Item Violations**

The Retail Food Establishment Inspection Report form is comprised of fifteen violation item categories (violation item numbers 01 through 15) arranged in two columns for recording observed conditions. Violation categories on the left side of the form are critical, those on the right side are non-critical.

Violation items 01 through 08 are the critical item violations pertinent to protecting consumer health and preventing foodborne illness. Headings for the critical violation categories are highlighted in red on the left side of the Report form. Violation items 09 through 15 are non-critical item violations, that if not addressed may lead to critical item or foodborne illness risk factor violations. Headings for the non-critical violation categories are not highlighted and are found on the right side of the Report form.

As a subset of the critical violation categories, foodborne illness (FBI) risk factor related violations are further highlighted in the inspection form and shaded in grey within these instructions under violation item numbers 01, 02, 03 and 06. FBI risk factors are food preparation practices and employee behaviors most commonly reported to the Centers for Disease Control and Prevention (CDC) as contributors to foodborne illness outbreaks. Risk factors include:

- Food from unsafe sources
- Improper holding temperatures
- Inadequate cooking
- Contaminated equipment, and
- Poor personal hygiene

#### **These instructions apply only to violation items 01 through 08 for FBI risk factors and critical item violations.**

For each item on the left side of the inspection report form (Critical Items and FBI risk factors), the inspector shall indicate the compliance status using one of the following:

- "IN" which means that all conditions for the item are in compliance;
- "OUT" which means that any condition of the item is not in compliance;

- "N.O." which means that the item was not observed during the inspection; or
- "N.A." which means that the item is not applicable for the establishment.

If "N.A." is not listed as an option for a particular item, this means that this item should be evaluated during the inspection and a compliance status should be determined.

If "N.O." is not listed as an option for a particular item, this means that this item should be evaluated during the inspection and a compliance status should be determined.

Compliance status should be determined as a result of observations that establish a situation of non-compliance. Consideration should be given to the seriousness of the observation when determining corrective actions with regard to prevention of foodborne illness.

**If an item is marked "OUT", document the details of each violation for the item number in the "Remarks" and "Methods of/for Correction" sections on the second page of the inspection report.** For items marked "OUT", indicate the compliance status of the violation using one of the following categories:

- Corrected On-Site (**COS**) during the inspection,
- Follow-up Inspection needed (**Follow-up**),
- Critical Item Violation Correction Sheet needed (**CIVCS**) or
- Compliance Agreement needed (**Compliance Agreement**).

Marking **COS** indicates that all violations cited under that particular item number were corrected and verified before completing the inspection. The actual corrective action taken for each violation should be documented in the "Remarks" and "Methods of/for Correction" sections on the second page of the inspection report.

For violations with a compliance status indicated as "**Follow-up**", "**CIVCS**", or "**Compliance Agreement**", the required corrective action and a timeframe for correction must be documented in the "Correct By" section of the second page of the inspection report.

**Specific Marking Instructions for each Foodborne Illness Risk Factor and Critical Item Violation on the Inspection Report**

**Violation Item Number 01 - Food Source**

**01a. Approved source (IN/OUT)**

This item should be marked IN or OUT of compliance based on direct observations of food products, food labels and packaging, water analyses, and discussion with the PIC or other food employees. This item should be marked IN compliance when the regulatory authority is able to determine that all foods have been obtained from approved food sources. A review of supplier names, shipment invoices, buyer specification plans, molluscan shellfish tags, proof of regulatory registration/licensure of a food source, etc. can be used to document approved food sources. Milk and milk products must comply with Grade A Standards. This item should be marked OUT of compliance when an approved food source cannot be determined.

For molluscan shellfish received raw, the compliance designation should be marked IN or OUT based on direct observations of the shellstock, labels and packaging, and discussion with the PIC or other food employees. In addition, a review of supplier names, shipment invoices, buyer specification plans, molluscan shellfish tags, proof of regulatory registration/licensure of a food source, etc. can be used to document approved food source. This item should be marked OUT of compliance -when there are no shellstock tags available, when the shellstock tags are incomplete, when there is evidence of commingling of shellstock or when no date is recorded to indicate the last day the shellstock was sold or served.

For fish intended to be served raw or undercooked, the compliance designation should be marked IN or OUT based on direct observations of fish in storage, labels and packaging, discussion with the PIC or other food employees and records of freezing of fish for parasite destruction. In order to determine compliance, the licensee shall provide a statement from supplier(s) identifying that fish provided as raw, raw-marinated or undercooked is frozen by supplier for parasite destruction; or there are freeze records maintained by the licensee when fish are frozen for parasite destruction on the premises. This item should be marked OUT of compliance when no records of freezing of fish for parasite destruction are available.

For food additives, this item should be marked IN or OUT of compliance based on direct observations of food ingredients in storage and listed as product ingredients, supplemented by discussion with the PIC. Approved food additives are listed and have threshold limits in accordance with the CFRs, and does not apply to food additives that are considered Generally Recognized as Safe (GRAS), such as salt, pepper, etc.

This item is marked IN compliance when all foods are confirmed from approved sources and approved food and color additives are on site and used properly or if sulfites are on the premises, and they are not applied to fresh fruits/vegetables for raw consumption.

This item is marked OUT of compliance when unapproved additives are found on the premises or approved additives are improperly used, such as sulfites being applied to fresh fruits or vegetables.

**N.A. - Do Not Mark** this item N.A.

**N.O. - Do Not Mark** this item N.O.

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**01b. Wholesome, free of spoilage (IN/OUT)**

This item should be marked IN or OUT of compliance based on direct observations of the integrity of product packaging, wholesomeness, and signs of adulteration. This item should be marked IN compliance when a dent in a canned food has not compromised the hermetic seal; cuts made in outer cardboard packaging during opening of the case do not enter the inner product packaging; the true appearance, color, or quality of a food is not misrepresented. This item should be marked OUT of compliance when the integrity of food packaging has been compromised or the true appearance, color, or quality of a food has been intentionally altered. This item is marked OUT of compliance when food is found unsafe, adulterated, misrepresented, or ready-to-eat food is contaminated by employees and is not discarded or reconditioned according to an approved procedure, or if previously served unwrapped, unprotected food is observed being re-served.

For establishments serving highly susceptible populations, this item should be marked IN or OUT of compliance based on direct observations and discussions with the PIC and food employees regarding whether or not certain foods are served or certain practices occur in an establishment. This item should be marked IN compliance when only treated/pasteurized juices/juice beverages are served; only pasteurized eggs are used in recipes if eggs are undercooked and if eggs are combined, unless there is a cook step or HACCP plan to control *Salmonella enteritidis*; no raw or partially cooked animal foods or raw seed sprouts are served; and no unopened packaged food is re-served following service to patients in medical isolation or quarantine.

**NOTE:** Discussions with the PIC and employees regarding whether or not certain foods are served or certain practices occur in the establishment, along with observations should be used to determine compliance.

**N.A. - Do Not Mark** this item N.A.

**N.O. - Do Not Mark** this item N.O.

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**01c. Cross-contamination (IN/OUT/N.A./N.O.)**

This item should be marked IN or OUT of compliance based on direct observations of food storage and food handling practices. This item should be marked OUT of compliance when ready-to-eat foods are subject to potential contamination by raw animal foods; raw animal foods are observed not separated by type based on minimum cook temperatures by spacing or placing in separate containers; or food is in contact with soiled equipment and utensils; or single-use gloves are used for more than one task.

Frozen, sealed/intact commercially packaged raw animal foods stored or displayed with or above frozen, sealed/intact commercially packaged RTE foods should be considered IN compliance with the requirements.

This item may be marked N.A. when there are no raw animal foods used in the establishment and only prepackaged foods are sold.

This item is marked N.O. when raw animal foods are used or served seasonally and you are unable to determine compliance.

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**01d. HACCP plan (IN/OUT/N.A.)**

This item should be marked IN or OUT of compliance based on direct observations of food preparation and storage, a discussion with the PIC to determine if food items are packaged using a reduced oxygen packaging method and/or if there are specialized food processes [i.e. smoking food, curing food, using food additives to render a food non-PHF (non-TCS Food), cook chill, sous vide etc.] and the record review of standard operating procedures and HACCP documentation. This item should be marked IN compliance when observations of food

operations and review of available records indicate compliance is being met with regards to specialized food processes. This item should be marked OUT of compliance when the inspection reveals specialized food processes that are not approved by the regulatory authority are performed or not conducted in accordance with the HACCP plan.

This item may be marked N.A. when the establishment is not required by regulation to have a HACCP plan, juice is not packaged or reduced oxygen packaging is not done on the premises.

**N.O. - Do Not Mark** this item N.O.

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**01e. Date Marking (IN/OUT/N.A./N.O.)**

This item should be marked IN or OUT of compliance only if date marking applies to the establishment serving primarily a highly susceptible population (HSP). This item should be marked IN compliance when there is a system in place for date marking all foods that are required to be date marked and is verified through observation and if all food items are within date marked time limits or food items are discarded within date marked time limits. The PIC should be asked to describe the methods used to identify product shelf-life or "consume-by" dating. The regulatory authority must be aware of food products that are listed as exempt from date marking.

This item should be marked IN compliance when all food items are within date marked time limits or food items are discarded within date marked time limits. This item should be marked OUT of compliance when date marked food items exceeds the time limit or date-marking is not done.

This item may be marked N.A. for establishments serving primarily an HSP, when there is no ready-to-eat, PHF (TCS Food) prepared on-premise and held, or commercial containers of ready-to-eat, PHF (TCS Food) opened and held over 24 hours in the establishment.

This item may be marked N.O. when the establishment does handle foods requiring date marking, but there are no foods requiring date marking in the establishment at the time of inspection.

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**01f. Consumer Advisory (IN/OUT/N.A.)**

This item should be marked IN or OUT of compliance based on a thorough review with the PIC, of the posted, written and special/daily menus to determine if untreated shell eggs, meats, fish, or poultry are used as an ingredient or ordered as a raw, raw-marinated, partially cooked, or undercooked food. The advisory also applies to foods that are intended for raw or undercooked consumption for sale from a retail case, such as shellstock or sashimi grade fish.

This item should be marked IN compliance when the establishment provides an advisory that meets the intent of the Regulation for both the disclosure and reminder components. This item should be marked OUT of compliance when raw or undercooked foods are served or sold and there is no consumer advisory, the food item is not **disclosed**, or there is no **reminder** statement. The consumer advisory does not exempt the requirement for freezing for parasite control, nor should it be used for foods that have gone through only the initial heating and cooling stages of a non-continuous cooking process.

This item may be marked N.A. when a food establishment does not serve a ready-to-eat food that necessitates an advisory and/or an animal food that is raw, undercooked, or not otherwise processed to eliminate pathogens.

**N.O. - Do Not Mark** this item N.O.

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## **Violation Item Number 02 - Personnel**

### **02a. Personnel w/infections restricted and/or excluded (IN/OUT/N.O.)**

This item should be marked IN or OUT of compliance. To be marked IN there must be no ill employees, employees experiencing symptoms requiring reporting, or reason for the PIC to exclude or restrict an employee observed at the time of the inspection. Compliance must be based on first hand observations or information and cannot be based solely on responses from the PIC to questions regarding hypothetical situations or knowledge of the Regulation. This item should be marked OUT of compliance when:

- The inspector observes a working employee with specific reportable symptoms; or
- The inspector becomes aware that an employee has reported information about his or her health and activities as it relates to diseases that are transmissible through food and the PIC has not acted to restrict or exclude an employee; or
- The inspector becomes aware that the PIC has not notified the regulatory authority that an employee is jaundiced or diagnosed with an illness due to a pathogen; or
- There are food employees working in the food establishment that have been diagnosed with norovirus, hepatitis A virus, shigellosis, *E.coli* O157:H7, or other EHEC, or typhoid fever; or with active symptoms of vomiting and/or diarrhea; or working with food, food-contact equipment, utensils, or single-service articles with an open, uncovered infected wound or pustule, or with a sore throat with a fever. Additionally, in food establishments exclusively serving a highly susceptible population, there are to be no food employees with an active sore throat with a fever working in the food establishment; or
- A food employee has persistent coughing, sneezing, runny nose, or watery eyes subjecting food and food-contact surfaces to potential contamination.

**N.A. - Do Not Mark** this item N.A.

This item may be marked N.O. only in the **RARE** case when an establishment is being visited regarding an employee with a reportable disease or outbreak scenario and during inspection the food employees are observed free of illness that would require exclusion/restriction and ill employees are not observed in the establishment.

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### **02b. Wounds properly covered (IN/OUT/N.O.)**

This item should be marked IN or OUT of compliance based on direct observations of food employees. This item should be marked IN compliance when a food employee is infected with a lesion containing pus or wound that is open or draining with the wound properly covered as specified in section 2-201(A)(1)(e) is observed at the time of the inspection. Compliance must be based on first hand observations or information and cannot be based solely on responses from the PIC to questions regarding hypothetical situations or knowledge of the Regulation. This item should be marked OUT of compliance when the inspector becomes aware that an employee is infected with a lesion containing pus or wound that is open or draining that is not properly covered and the PIC has not acted to restrict the employee's duties.

**N.A. - Do Not Mark** this item N.A.

This item may be marked N.O. when food employees are observed free of lesions containing pus or wound that is open or draining that would require the wound to be properly covered.

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**02c. Hands washed as needed (IN/OUT/N.A./N.O.)**

This item should be marked IN or OUT of compliance based on direct observations of food employees. This item is marked IN compliance only when employees are observed using proper handwashing techniques at appropriate times.

This item may be marked N.A. only in the **RARE** case the establishment is selling only prepackaged foods.

This item may be marked N.O. for retail operations only in the **RARE** case when there are no food workers present at the time of inspection. (If there are no food workers present, but the PIC accompanies the inspector on the inspection and touches food, clean equipment, or utensils without washing his/her hands, this item is marked OUT.)

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**02d. Hygienic Practices (IN/OUT/N.O.)**

This item should be marked IN or OUT of compliance based on direct observations of the appropriate hygienic practices of food employees. This item is marked IN compliance when employees are observed applying hygienic practices at appropriate times and places. The observation of food preparation activities and glove-use by food employees are necessary. Gloves may serve as a source of cross-contamination if misused. This item is marked OUT of compliance when employees do not apply proper hygienic practices including but not limited to: employees utilize a sink for the wrong purpose, an employee's fingernails are unclean, single use gloves are used improperly, or employees are observed wiping hands on soiled linens, aprons, or common towels.

**N.A. - Do Not Mark** this item N.A.

This item may be marked N.O. for retail operations only in the **RARE** case when there are no food employees present at the time of inspection or business is at a slow point where food employees are not engaged in activities. (If there are no food workers present, but the PIC accompanies the inspector on the inspection and does not demonstrate proper hygienic practices, this item is marked OUT.)

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**02e. Smoking, eating, drinking (IN/OUT/N.O.)**

This item should be marked IN or OUT of compliance based on direct observations or discussions of the appropriate hygienic practices of food employees. This item should be marked IN compliance when food employees are observed drinking from approved closed beverage containers subsequently stored on a non-food-contact surface, separate from exposed food, clean equipment, and unwrapped single-service and single-use articles and eating and smoking are confined to designated areas. This item should be marked OUT of compliance when food employees are observed improperly tasting food, eating, drinking, or smoking, or there is supporting evidence of these activities taking place in non-designated areas of the establishment.

**N.A. - Do Not Mark** this item N.A.

This item may be marked N.O. for retail operations only in the **RARE** case when there are no food workers present at the time of inspection.

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**02f. Demonstration of knowledge (IN/OUT)**

This item should be marked IN or OUT of compliance. The person in charge (PIC) has three assigned responsibilities - Presence; Demonstration of Knowledge; and Duties. This item is marked OUT of compliance when any **one** of the responsibilities is not met.

1. Person in charge (PIC) is present: This item is marked OUT of compliance if there is no PIC per section 2-101.
2. Demonstration of Knowledge: The PIC has three options for demonstrating knowledge. This item is marked OUT of compliance if the PIC fails to meet at least **one** of the options per section 2-102. The three options for demonstration of knowledge allowed by the Regulation are:
  - i. Certification by an accredited program; or
  - ii. Complying with this Regulation by having no violations of critical items during the current inspection; or
  - iii. Correct responses to the inspector's questions regarding public health practices and principles applicable to the operation. The inspector should assess this item by asking open-ended questions that would evaluate the PIC's knowledge in each of the areas enumerated in sections 2-102 and 2-103. The Inspector should ask a sufficient number of questions to enable the inspector to make an informed decision concerning the PIC's knowledge of the Regulation requirements and public health principles as they apply to the operation. The dialogue should be extensive enough to reveal whether or not that person is enabled by a clear understanding of the Regulation and its public health principles to follow sound food safety practices and to produce foods that are safe, wholesome, unadulterated, and accurately represented.
3. Duties of the PIC: This item should be marked IN or OUT of compliance based on the interaction and observation with the PIC and food employee. The inspector needs to determine the systems or controls the PIC has put into practice regarding oversight and/or routine monitoring of personnel duties. This is accomplished by 1) discussion with the PIC, and 2) verified through observation that the systems or controls are actually being implemented. This concept is commonly referred to as Active Managerial Control. This item should be marked OUT of compliance when there is a pattern of non-compliance and obvious failure by the PIC to ensure employees are complying with their duties and the Regulation. Since marking this item out of compliance requires judgment, it is important that this item not be marked for an isolated incident, but rather for an overall evaluation of the PIC's ability to ensure compliance.

**N.A. - Do Not Mark** this item N.A.

**N.O. - Do Not Mark** this item N.O.

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**02g. Preventing food contamination from bare hands (IN/OUT/N.A./N.O.)**

This item should be marked IN or OUT of compliance based on direct observations of food handlers. This item is marked IN compliance only when employees are observed using suitable utensils or gloves to prevent bare hand and/or arm contact with ready-to-eat foods or are observed properly following a pre-approved alternative procedure to no bare hand contact. This item should be marked OUT of compliance when one person is observed touching ready-to-eat foods with their bare hands in the absence of a prior approval and written procedures for bare hand contact. Bare hand contact by food employees serving a highly susceptible population is prohibited and no pre-approved alternative procedure to bare hand contact is allowed.

This item may be marked N.A. for establishments that provide only packaged or bulk food items that are not ready-to-eat.

This item may be marked N.O. for establishments that prepare ready-to-eat foods only, but no food preparation is performed at the time of inspection.

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### **Violation Item Number 03 - Food Temperature Control**

#### **03a. Rapidly cool foods to 41°F or less (IN/OUT/N.A./N.O.)**

**NOTE:** The requirement for rapidly cooling cooked PHF (TCS Food) is that the food must be cooled from 135°F to 41°F or less in 6 hours provided that the food is cooled from 135°F to 70°F within the first 2 hours. There are two critical limits that must be met with rapid cooling. Because the entire cooling process is difficult to observe during an inspection, at the onset of the inspection a determination of whether foods are currently being cooled should be made. If foods are cooling, at least two temperatures must be taken to determine the rate of cooling. If the rate of cooling is not rapid enough to meet the parameters, the observation should be marked OUT of compliance and correction on site should be achieved by working with the operator to alter the cooling methods or voluntarily condemning the product as a last resort. For example, the rate of cooling for the first 2 hours from 135°F to 70°F should decrease at least 16 degrees Fahrenheit every 30 minutes. Discussions with the person in charge along with observations, including temperature logs, should be used to determine compliance.

The requirement for cooling PHF (TCS Food) that has been prepared from ingredients at ambient temperature, such as reconstituted milk and canned products, shall be cooled to 41°F or below within 4 hours.

This item should be marked IN or OUT of compliance based on actual temperatures of PHF (TCS Food) is in the cooling process. The basis for determining IN or OUT of compliance can also be supported through discussion and/or record review which would provide the inspector reliable data of the "start time" for cooling.

This item should be marked OUT of compliance if the food items checked do not meet the cooling parameters or the rate of cooling as required in section 3-603(A-C). Temperatures OUT of compliance should be recorded in the "Remarks and Methods for Correction" section on the second page of the inspection report.

This item may be marked N.A. when the establishment is a cook-serve establishment, and does not cool foods. This also applies to establishments that do **not** prepare PHF (TCS Food) from ambient temperature ingredients that require cooling.

This item may be marked N.O. when the establishment does cool PHF (TCS Food), but proper cooling per the prescribed temperature and time parameters cannot be determined during the length of the inspection.

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#### **03b. Rapidly reheat to 165°F or greater (IN/OUT/N.A./N.O.)**

**NOTE:** Reheating temperatures of foods must be taken to determine compliance or noncompliance. Do not rely solely upon discussions with managers or cooks to determine compliance or noncompliance. Temperatures OUT of compliance should be recorded in the "Remarks and Methods for Correction" section on the second page of the inspection report.

This item should be marked IN or OUT of compliance based on actual temperature measurements of foods upon completion of the reheating process. This item should be marked OUT of compliance if the items checked are not reheated to the required temperatures or within 2 hours prior to hot holding.

This item may be marked N.A. when foods are **not** held over for a second service and/or reheating for hot holding is not performed in the establishment.

This item may be marked N.O. such as when foods are held over for a second service, but no foods are reheated during the time of inspection.

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**03c. Hot holding at 135°F or greater (IN/OUT/N.A./N.O.)**

This item should be marked IN or OUT of compliance based on actual food temperature measurements. This item should be marked IN compliance when the regulatory authority determines that, of the PHF (TCS Food) temperature measurements taken during the inspection, no hot holding temperatures are less than prescribed by the regulation. This item is marked OUT of compliance when one PHF (TCS Food) is found out of temperature, unless Time as a Public Health Control (TPHC) is used for that PHF (TCS Food).

For Time as a Public Health Control, this item should be marked IN or OUT of compliance based on direct observations, record review, a discussion with the PIC, and the review of any standard operating procedures to determine if the intent of the regulation for use of TPHC is met. This provision only applies if it is the actual intention or conscious decision by the food manager to store PHF (TCS Food) out of temperature control using TPHC; otherwise, it may be a hot holding issue. This item should be marked IN compliance when there is a written procedure at the food establishment that identifies how TPHC will be implemented, lists the types of food products that it will be used for, and delineates how food items will not exceed the 4-hour limit at any temperature or 6-hour limit at 70°F or less and all other hot holding temperatures are at or above required temperatures. This item should be marked OUT of compliance when the food manager implies use of TPHC but does not have an effective mechanism for indicating the point in time when the food is removed from temperature control to the 4 or 6-hour discard time; or a written procedure or an effective mechanism for using TPHC is not present at the establishment; or a food establishment that serves an HSP is using TPHC

This item may be marked N.A. when the establishment does **not** hot hold food or when the establishment does not use TPHC.

This item may be marked N.O. when the establishment does hot hold food, but no foods are being held hot during the time of inspection, or when the establishment uses time only as the public health control, but is not using this practice at the time of inspection. Inspections should be conducted during a time when hot holding temperatures can be taken.

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**03d. Required cooking temperature (IN/OUT/N.A./N.O.)**

**NOTE:** The cooking temperatures of foods must be measured to determine compliance or noncompliance. Do not rely upon discussions with managers or cooks to make a determination of compliance or noncompliance. The temperature of raw animal foods in each species cooked during the inspection should be taken. For instance, if the establishment fries chicken, scrambles eggs, bakes fish, grills hamburgers, and slow-roasts prime rib during the inspection - the cook temperatures of all of the products should be measured and recorded. The time of inspections should be varied so that cooking can be observed.

This item should be marked IN or OUT of compliance based on actual food temperature measurements. This item should be marked IN compliance when the regulatory authority determines that the PHF (TCS Food) is cooked to the temperatures prescribed by the regulation. If a food is cooked below the required temperature but the establishment has an approved Consumer Advisory or a pre-approved HACCP plan under section 3-606 for that food item, the item should be marked IN compliance. This item should be marked OUT of compliance when the items checked do not meet the temperature requirements for cooking and the employee doing the cooking attempts to serve the product without returning the product to the cooking process.

For certain menu items which use eggs as an ingredient in the preparation of ready-to-eat foods, such as Caesar salad, Hollandaise sauce, etc., this item should be marked IN compliance when pasteurized eggs are used and marked OUT when raw shell eggs/unpasteurized eggs are used without a Consumer Advisory. This is verified by discussion with the PIC and food employees regarding the substitution of pasteurized egg products for raw eggs in uncooked foods.

For non-continuous cooking of raw animal foods, this item should be marked OUT of compliance if items do not meet the time and temperature requirements and if Department approved written procedures are not being followed or are not available for inspection per section 3-503 of the regulations.

This item may be marked N.A. when no raw animal foods are cooked in the establishment.

This item may be marked N.O. such as when you are unable to determine the cooking temperature of any food. The inspection should be arranged at an optimum time for measuring at least one cooked item.

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**03e. Cold hold at 41°F or less (IN/OUT/N.A./N.O.)**

This item should be marked IN or OUT of compliance based on actual food temperature measurements. Discussions should be made with the PIC to determine if a food is in the process of cooling, TPHC is used, or there is an approved method to render a food so that it is not PHF (TCS Food). This item should be marked IN compliance when the regulatory authority determines that, of the PHF (TCS Food) temperature measurements taken during the inspection, no cold holding temperatures are greater than prescribed by the Regulation. This item should be marked OUT of compliance if one PHF (TCS Food) is found out of temperature unless TPHC is used for that PHF (TCS Food).

For Time as a Public Health Control, this item should be marked IN or OUT of compliance based on direct observations, record review, a discussion with the PIC, and the review of any standard operating procedures to determine if the intent of the Regulation for use of TPHC is met. This provision only applies if it is the actual intention or conscious decision by the food manager to store PHF (TCS Food) out of temperature control using TPHC; otherwise, it may be a cold holding issue. This item should be marked IN compliance when there is a written procedure at the food establishment that identifies the types of food products that will be held using time only, describes the procedure for how TPHC will be implemented, and if applicable, delineates how food items previously cooked and cooled before time is used are properly cooled; and food items (marked or identified) do not exceed the 4-hour limit at any temperature or 6-hour limit at 70°F or less. This item should be marked OUT of compliance when the food manager implies use of TPHC but does not have an effective mechanism for indicating the point in time when the food is removed from temperature control to the 4 or 6-hour discard time; or a written procedure or an effective mechanism for using TPHC is not present at the establishment; or a food establishment that serves an HSP is using TPHC.

This item may be marked N.A. when the establishment does **not** cold hold food or when the establishment does not use TPHC.

This item may be marked N.O. when the establishment does cold hold food, but no foods are being held cold during the time of inspection, or when the establishment uses time only as the public health control, but is not using this practice at the time of inspection. Inspections should be conducted during a time when cold holding temperatures can be taken.

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**03f. Food thermometers (probe type) (IN/OUT/N.A.)**

Thermometers provide a means for assessing active managerial control of PHF (TCS Food) temperatures. Determine compliance by observing the location and verifying the scaling of the temperature measuring devices in the range of use to measure food. Food thermometers must be calibrated at a frequency to ensure accuracy. Food thermometers should be accessible for use by employees and have a probe size appropriate to the food item.

This item should be marked IN or OUT of compliance based on observations in determining that food thermometers are provided, accurate and conveniently located for food employee use. This item should be marked OUT of compliance when the food thermometer is not located to be available to food employees who are working in food preparation.

This item may be marked N.A. only in the **RARE** case the establishment is selling only prepackaged non-potentially hazardous foods.

**N.O. - Do Not Mark** this item N.O.

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**03g. Adequate equipment to maintain food temperatures (IN/OUT/N.A./N.O.)**

**NOTE:** The temperatures of foods must be taken to determine compliance or noncompliance. Do not rely solely upon discussions with managers or cooks to determine compliance or noncompliance. There should be enough equipment with sufficient capacity used for the cooling, heating and hot/cold holding of foods requiring temperature control as specified in Chapter 3 of the regulations to meet the demands of the operation. Observations must support the determination of compliance status.

This item should be marked IN or OUT of compliance based on observations and record review in determining that equipment is sufficient for operation, capacity and is adequate to maintain food temperatures. This item should be marked OUT of compliance when food temperatures in equipment are not adequate and there is either an insufficient number of alternative units or their location affects operational compliance (i.e. in a deli, the table-top sandwich preparation cooler is not operating properly and the nearest operational unit is a walk-in refrigerator in the back preparation room). Temperatures OUT of compliance for the foods and the piece of equipment referenced should be recorded in the "Remarks and Methods for Correction" section on the second page of the inspection report.

This item should be marked OUT of compliance when a mobile unit, pushcart, or temporary event is operating outside of the Regulations as they pertain to equipment.

This item may be marked N.A. only in the **RARE** case the establishment is selling only prepackaged non-potentially hazardous foods.

This item may be marked N.O. only in the **RARE** case the establishment is holding any potentially hazardous foods at the time of inspection.

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## **Violation Item Number 04 - Sanitization**

### **04a. Manual (IN/OUT/N.A./N.O.)**

This item should be marked IN or OUT of compliance based on direct observations of food-contact surfaces of equipment and utensils; actual measurements/readings of chemical sanitizer concentration, hot water sanitizing temperature, etc. using test strips, approved heat-sensitive tapes, etc.; observations of cleaning and sanitizing procedures; and discussion of cleaning and sanitizing procedures and frequency with the PIC or other food employees. This item should be marked IN compliance when manual methods of cleaning and sanitizing are effective and performed at the prescribed frequency. There should be an overall assessment of the food-contact surfaces of equipment and utensils in clean storage and in use to determine compliance. For example, this item is not marked OUT of compliance based on one visibly soiled utensil, such as a plate or knife. This item should be marked OUT of compliance when manual methods of cleaning and sanitizing food-contact surfaces of equipment and utensils are ineffective, or if one multiuse piece of equipment such as a slicer or can opener is visibly soiled, has not been cleaned and sanitized within required time parameters, and being used at the time of the inspection.

This item may be marked N.A. only when there is no requirement to clean equipment and utensils such as when only prepackaged foods are sold.

This item may be marked N.O. only when there is not a need for warewashing during the inspection.

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### **04b. Mechanical (IN/OUT/N.A./N.O.)**

This item should be marked IN or OUT of compliance based on direct observations of food-contact surfaces of equipment and utensils; actual measurements/readings of chemical sanitizer concentration, hot water sanitizing temperature, etc. using test strips, approved heat-sensitive tapes, etc.; observations of cleaning and sanitizing procedures; and discussion of cleaning and sanitizing procedures and frequency with the PIC or other food employees. This item should be marked IN compliance when mechanical methods of cleaning and sanitizing are effective, and performed at the prescribed frequency. There should be an overall assessment of the food-contact surfaces of equipment and utensils in clean storage and in use to determine compliance. For example, this item is not marked OUT of compliance based on one visibly soiled utensil, such as a plate or knife. This item should be marked OUT of compliance when mechanical methods of cleaning and sanitizing food-contact surfaces of equipment and utensils are ineffective, or if one multiuse piece of equipment such as a slicer or can opener is visibly soiled, has not been cleaned and sanitized within time parameters, and being used at the time of the inspection.

This item may be marked N.A. only when there is no requirement to clean equipment and utensils such as when only prepackaged foods are sold.

This item may be marked N.O. only when there is not a need for warewashing during the inspection.

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### **04c. In-Place (IN/OUT/N.A./N.O.)**

This item should be marked IN or OUT of compliance based on direct observations of food-contact surfaces of equipment and utensils; actual measurements/readings of chemical sanitizer concentration, hot water sanitizing temperature, etc. using test strips, approved heat-sensitive tapes, etc.; observations of cleaning and sanitizing procedures; and discussion of cleaning and sanitizing procedures and frequency with the PIC or other food employees. This item should be marked IN compliance when in-place methods of cleaning and sanitizing are effective, and performed at the prescribed frequency. There should be an overall assessment of the food-contact

surfaces of equipment throughout the establishment and in use to determine compliance. Equipment that is too large to clean and sanitize in a warewashing sink or a mechanical warewashing machine such as deli slicers, band saws, floor mixers, cutting boards, etc., must be washed, rinsed and sanitized “In-Place”.

Clean In-Place (CIP) equipment, such as a frozen dessert machine as defined in the Regulations is a fully automated system that cleans and sanitizes the interior of equipment that cannot be fully disassembled.

This item should be marked OUT of compliance when In-Place and CIP methods of cleaning and sanitizing food-contact surfaces of equipment are ineffective, or if one multi-use piece of equipment such as a deli slicer or meat grinder is visibly soiled, has not been cleaned and sanitized within time parameters, and being used at the time of the inspection.

This item may be marked N.A. only when there is no requirement to clean equipment such as when only prepackaged foods are sold.

This item may be marked N.O. only when there is not a need for in-place sanitization during the inspection.

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## **Violation Item Number 05 - Water, Sewage, Plumbing Systems**

### **05a. Safe water source (IN/OUT/N.A.)**

Adequate, uncontaminated, safe drinking water for the needs of the retail food establishment must be provided from a source constructed, maintained, and operated in accordance with the *Colorado Primary Drinking Water Regulations*. If the water source for the retail food establishment is not a public water system, and the retail food establishment itself does not meet the definition of a public water system pursuant to the *Colorado Primary Drinking Water Regulations*, the retail food establishment must provide:

- a. Adequate treatment on a continuous basis; and
- b. Bacteriological samples at a minimum of once per quarter or at a frequency determined by the department; and
- c. A DPD colorimetric drinking water test kit capable of testing free chlorine at an accuracy of 0.1 mg/liter; and
- d. Free chlorine shall range from a trace amount to 4 mg/liter (0.2 to 1.2 mg/liter recommended) at any fixture; and
- e. Most recent required water sample reports shall be retained on file at the retail food establishment and shall be available for review by the department when requested; and
- f. Retail food establishments with water supplies determined to be surface water or determined to be under the direct influence of surface water shall be required to filter their water to 1µm (micron) absolute using National Sanitation Foundation approved equipment and maintain a residual disinfectant concentration to ensure inactivation and/or removal of giardia and other parasitic cysts and viruses.

Consideration should be given to the supply containers, piping, hoses, etc., connected to the approved source when water is made available for mobile unit, pushcart and/or temporary food establishment without a permanent supply.

This item should be marked IN or OUT of compliance based on observations in determining that drinking water supplies are from an approved source. This item should be marked OUT of compliance when the establishment is provided with well water that is not treated or in compliance with sampling parameters, there is a disruption in water service and alternate unapproved water is used, or when the facility is operating without a water supply.

This item may be marked N.A. only in the **RARE** case the mobile unit, pushcart or temporary establishment is selling only prepackaged foods.

**N.O. - Do Not Mark** this item N.O.

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### **05b. Hot and cold water under pressure (IN/OUT/N.A.)**

Regardless of the supply system, the distribution of water to the establishment must be protected and operated according to law. Adequate pressure is to be maintained at all fixtures during peak demand including the capacity to provide hot water at peak hot water demand.

This item should be marked IN or OUT of compliance based on observations in determining that hot and cold water under pressure is provided throughout the establishment. This item should be marked OUT of compliance when the establishment is found operating without water service, the handsinks are not provided with hot and cold water, or the mobile unit or pushcart do not have adequate hot and cold water.

This item may be marked N.A. only in the **RARE** case the mobile unit, pushcart or temporary establishment is selling only prepackaged foods.

**N.O. - Do Not Mark** this item N.O.

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**05c. Backflow, backsiphonage (IN/OUT/N.A.)**

The observation of an approved plumbing system, installed and maintained, including the equipment and devices connected to the potable water supply, is necessary to determine whether a violation exists. An assessment of the layout of the establishment and the water distribution system is made to determine if there are any points at which the potable water supply is subject to contamination or is in disrepair.

This item should be marked IN or OUT of compliance based on observations of backflow prevention devices and plumbing systems during inspection. This item should be marked OUT of compliance when food preparation or warewashing sinks are found directly plumbed, a backflow device is not provided where needed, or an inappropriate backflow device is provided.

This item may be marked N.A. only in the **RARE** case the mobile unit, pushcart or temporary establishment is selling only prepackaged foods.

**N.O. - Do Not Mark** this item N.O.

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**05d. Sewage Disposal (IN/OUT/N.A.)**

There are two types of systems: public sewage treatment plant and an onsite wastewater treatment system. Observations of the facilities overall sewage and wastewater system is necessary to determine if a violation exists. Indications that a system is not functioning properly may include the presence of sewage back-up into the establishment or outdoors on the ground. Condensate and other non-sewage wastes must be drained to a system in accordance to law, mobile unit wastewater holding tanks must also be assessed for capacity and maintenance.

This item should be marked IN or OUT of compliance based on observations in determining that sewage systems are adequate and waste is disposed of sanitarily. This item should be marked OUT of compliance when the facility lacks required restrooms, the establishment is open/working with foods with a sewage backup in the kitchen or food preparation area, mop water is improperly disposed of outside, or the mobile unit, pushcart or temporary establishment does not have proper sewage disposal.

This item may be marked N.A. only in the **RARE** case the mobile unit, pushcart or temporary establishment is selling only prepackaged foods.

**N.O. - Do Not Mark** this item N.O.

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## **Violation Item Number 06 - Handwashing and Toilet Facilities**

### **06a. Adequate number, location (IN/OUT/N.A.)**

This item should be marked IN or OUT of compliance based on observations in determining that handwashing sinks are conveniently located for food employee use and in restrooms. This item should be marked OUT of compliance when the handwashing sink is not located to be available to food employees who are working in food preparation, food dispensing and warewashing areas, or when restrooms lack the required number of handwashing sinks.

This item may be marked N.A. only in the **RARE** case the mobile unit, pushcart or temporary establishment is selling only prepackaged foods.

**N.O. - Do Not Mark** this item N.O.

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### **06b. Accessible (IN/OUT/N.A.)**

This item should be marked IN or OUT of compliance based on observations in determining that handwashing sinks are available and conveniently located for food employee use. This item should be marked OUT of compliance when the handwashing sink is blocked by portable equipment or stacked full of soiled utensils or other items.

This item may be marked N.A. only in the **RARE** case the mobile unit, pushcart or temporary establishment is selling only prepackaged foods.

**N.O. - Do Not Mark** this item N.O.

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### **06c. Soap and drying devices (IN/OUT/N.A.)**

This item should be marked IN or OUT of compliance based on observations in determining that handwashing sinks are properly equipped for food employee use. This item should be marked OUT of compliance when the establishment is not stocked with soap or hand drying provisions.

This item may be marked N.A. only in the **RARE** case the mobile unit, pushcart or temporary establishment is selling only prepackaged foods.

**N.O. - Do Not Mark** this item N.O.

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## **Violation Item Number 07 - Pest Control**

### **07a. Evidence of insects or rodents (IN/OUT)**

This item should be marked IN or OUT of compliance based on direct observations during inspection. An assessment is made through observation and discussion with the PIC for measures taken to control the presence of pests in the food establishment. An integrated pest management system will include regular monitoring for the presence of pests. This item should be marked OUT of compliance when evidence of pests is present in the establishment (i.e. live/dead pests, rodent feces/urine from pests, foods and food packaging contaminated from pests, etc.).

**N.A. - Do Not Mark** this item N.A.

**N.O. - Do Not Mark** this item N.O.

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### **07b. Pesticide application (IN/OUT/N.O.)**

This item should be marked IN or OUT of compliance based on direct observations of storage and application of pesticides. An assessment is made through observation and discussion with the PIC for measures taken to control the presence of pests in the food establishment, including elimination of entry points and harborage areas, and removal of pests and its evidence. This item should be marked IN when restaurant approved pesticides are used and stored properly, and evidence of pests has been addressed. This item should be marked OUT when insect trapping devices and other pesticides are located over food or food preparation areas, used on food contact surfaces or are applied in a manner that would allow pests to track pesticide residue through the establishment.

**N.A. - Do Not Mark** this item N.A.

This item may be marked N.O. only when there is not a need for pesticide storage or application during the inspection.

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### **07c. Animals prohibited (IN/OUT/N.O.)**

This item should be marked IN or OUT of compliance based on direct observations of the presence and handling of prohibited animals. An assessment is made through observation and discussion with the PIC regarding policies and procedures for addressing the prohibited activities and complying with the regulation as it applies to service animals. This item should be marked IN when animals are present in the establishment and the establishment is found in compliance with the prohibited animals section of the regulation. This item should be marked OUT when animals are present in the establishment and are in food preparations areas, being handled by food employees, do not meet the requirements under service animals.

**N.A. - Do Not Mark** this item N.A.

This item may be marked N.O. when prohibited animals are not present during the inspection.

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## **Violation Item Number 08 - Poisonous or Toxic Items**

### **08a. Properly stored (IN/OUT/N.A.)**

This item should be marked IN or OUT of compliance based on direct observations of storage and application of poisonous or toxic materials such as cleaning agents and sanitizers, medicines, pesticides, and potential toxic and poisonous substances. This item should be marked IN compliance when poisonous or toxic materials are stored separate from and not above food, equipment, utensils, linens, and single-service and single-use articles. This item should be marked OUT of compliance when poisonous or toxic improperly stored.

This item may be marked N.A. if the establishment does not hold poisonous or toxic materials for use or retail sale.

**N.O. - Do Not Mark** this item N.O.

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### **08b. Properly labeled (IN/OUT/N.A.)**

This item should be marked IN or OUT of compliance based on direct observations of poisonous or toxic materials. This item should be marked IN compliance when poisonous or toxic materials are labeled. This item should be marked OUT of compliance when poisonous or toxic materials are not labeled or improperly labeled.

This item may be marked N.A. if the establishment does not hold poisonous or toxic materials for use or retail sale.

**N.O. - Do Not Mark** this item N.O.

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### **08c. Properly used (IN/OUT/N.A.)**

This item should be marked IN or OUT of compliance based on direct observations of application of poisonous or toxic materials. This item should be marked IN compliance when poisonous or toxic materials are used as directed; sanitizing solutions are not exceeding the maximum concentrations; chemicals are approved for use in a retail food establishment; and restricted use pesticides are applied only by or under the supervision of a certified applicator. This item should be marked OUT of compliance if a poisonous or toxic not properly used according to manufacturer specifications; if a sanitizing solution has a higher concentration than prescribed and chemicals not approved for use in a retail food establishment are observed being used.

This item may be marked N.A. if the establishment does not hold poisonous or toxic materials for use or retail sale.

**N.O. - Do Not Mark** this item N.O.

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