

# STATE OF CONNECTICUT

## DEPARTMENT OF PUBLIC HEALTH

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### Environmental Health Section

EHS Circular Letter #2017-23

DATE: August 1, 2017

TO: Directors of Health  
Certified Food Inspectors  
Interested Parties

FROM: Tracey Weeks   
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RE: Revised Classification of Food Establishments

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The purpose of this letter is to provide local health departments with guidance to assist with the classification of food establishments in preparation for regulatory oversight utilizing language of the FDA Food Code beginning on July 1, 2018.

#### Background

Food service establishments are currently classified according to Section 19-13-B42(s)(3) of the Regulations of Connecticut State Agencies. Public Act 17-93 includes new definitions for classifying retail food establishments that will now include food stores in addition to food service establishments. The new definitions are:

"Class 1 food establishment" means a food establishment that only offers for retail sale (A) prepackaged food that is not time or temperature controlled for safety, (B) commercially processed food that (i) is time or temperature controlled for safety and heated for hot holding, but (ii) is not permitted to be cooled, or (C) food prepared in the establishment that is not time or temperature controlled for safety;

"Class 2 food establishment" means a retail food establishment that does not serve a population that is highly susceptible to food-borne illnesses and offers a limited menu of food that is prepared, cooked and served immediately, or that prepares and cooks food that is time or temperature controlled for safety and may require hot or cold holding, but that does not involve cooling;

"Class 3 food establishment" means a retail food establishment that (A) does not serve a population that is highly susceptible to food-borne illnesses, and (B) has an extensive menu of foods, many of which are time or temperature controlled for safety and require complex preparation, including, but not limited to, handling of raw ingredients, cooking, cooling and reheating for hot holding;



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"Class 4 food establishment" means a retail food establishment that serves a population that is highly susceptible to food-borne illnesses, including, but not limited to, preschool students, hospital patients and nursing home patients or residents, or that conducts specialized food processes, including, but not limited to, smoking, curing or reduced oxygen packaging for the purposes of extending the shelf life of the food;

#### Impact of New Food Establishment Classification System

An attachment entitled 'Revised Classification of Connecticut Retail Food Establishments' is included with this letter to assist local health departments in revising their food establishment classifications. Examples are provided that should help with assigning establishments to the appropriate class. Since classification will determine inspection frequency, and may impact licensing and fee structures, changes to local ordinances may be warranted. Section 4 of PA 17-93 requires all food establishments to have a license/permit to operate issued by the director of health beginning July 1, 2017. Local health departments that do not currently issue licenses for food establishments will need to implement a licensing system. Additionally, PA 17-19 Section 4(4) requires all Class 2, 3, and 4 establishments to employ a certified food protection manager (formerly known as QFO) which will affect some establishments that were previously exempt from the QFO requirement.

A preliminary review of food establishment lists from selected health departments suggests that the new classification may result in a 30% reduction in the number of routine inspections required. This number is likely to change as establishments seek approval to engage in special processing. (Food establishments that conduct special processing will automatically be classified as Class 4 establishments.) Under current regulations, special processing is not allowed in food service establishments, however, PA 17-93 includes language that allows, as an interim measure, food service establishments to engage in acidification of sushi rice and/or sous vide processing if approved by the Connecticut Department of Public Health (DPH) until July 1, 2018. (To date, no approvals have been issued by DPH for either process.) When the FDA Food Code becomes effective beginning July 1, 2018, local health departments will have the authority to approve sous vide cooking and other reduced oxygen packaging without a variance, provided the criteria specified in 3-502.12 of the code is met. (DPH will retain authority for approving variances for other special processes.) As a result of these changes it is expected that the number of Class 4 food establishments will increase to some extent as establishments receive approval for special processing since under the new definitions.

#### Summary

PA 17-93 includes new language that will impact local health departments and food establishments. Local health departments are advised to begin assessing food establishments (including food stores) in their jurisdictions to determine how they will be classified based upon the new definitions in PA 17-93. Food establishments should be notified of their new classification before July 1, 2018 to allow time for any necessary changes. Similarly local health departments should begin taking the necessary steps to make changes to any local ordinances or local requirements that may be impacted by PA 17-93 and the forthcoming enactment of the FDA Food Code regulatory language.

## REVISED CLASSIFICATION OF CONNECTICUT FOOD ESTABLISHMENTS

### CURRENT CLASSIFICATIONS UNDER 19-13-B42

#### CLASS 1:

- Commercially prepackaged food
- Hot and cold beverages
- Hot holding of commercially pre-cooked PHFs that are heated and served in the original package within 4 hours
- No preparation or cooking

#### CLASS 2:

- Preparation of cold or RTE commercially processed food that does not require heat treatment
- Hot and cold beverages
- Hot holding of commercially pre-cooked PHFs that are heated and served in the original package within 4 hours
- Reheat and hot holding of commercially precooked hot dogs, kielbasa, and soup taken directly from the package and served within 4 hours

#### CLASS 3:

- Preparation, cooking, hot/cold holding of PHF that are consumed within 4 hours of preparation

#### CLASS 4:

- Preparation, cooking, hot holding greater than 4 hours after preparation and prior to consumption, and cooling of PHF

### NEW CLASSIFICATIONS UNDER PA 17-93

#### CLASS 1:

- Prepackaged food that is not TCS
- Commercially prepackaged, processed (fully cooked) food that is TCS and either cold-held or heated for hot holding, but not cooled
- Preparation of non-TCS foods

#### CLASS 2:

- Preparation of limited menu TCS food that is served immediately, cold-held or hot-held for an unspecified length of time
- No cooling of TCS foods allowed
- Does not include facilities that provide foodservice specifically to a highly-susceptible population

#### CLASS 3:

- Preparation of an extensive menu of TCS food involving complex processes including cooking, cooling, reheating for hot-holding, and handling of raw ingredients
- Does not include facilities that provide foodservice specifically to a highly-susceptible population

#### CLASS 4:

- On-site preparations of foods by special processes, such as sous vide, acidification, ROP, etc.
- Preparation of an extensive menu of TCS food involving complex processes including cooking, cooling, reheating for hot-holding, and handling of raw ingredients that is served in an establishment which serves a highly-susceptible population

## **EXAMPLES OF ESTABLISHMENTS UTILIZING NEW CLASSIFICATION SYSTEM**

The following list is intended to provide some common examples of how food establishments would be classified under the new definitions. It is not meant to be all inclusive or absolute as menus and processes are subject to change even within major chain restaurants.

### **CLASS 1:**

- Coffee shops that do not prepare any TCS foods. May prepare non-TCS baked goods
- Ice cream shops (may also prepare and bake non-TCS foods for use)
- Gas stations such as 7-Eleven, Cumberland Farms, etc. that only heat commercially prepackaged TCS foods for hot holding or cold-hold TCS foods, such as commercially prepackaged fully cooked breakfast sandwiches or burgers
- Establishment that prepares non-TCS foods such as peanut butter and jelly sandwiches, Fluffernutter sandwiches, chocolates, cookies, cakes, or other non-TCS confections

### **CLASS 2:**

- McDonald's
- Dunkin Donuts
- Taco Bell
- Burger King
- Five Guys
- Wendy's (if they do not cool burgers for chili)
- Subway restaurants (if they do not cool and reheat TCS foods, e.g. soup and meatballs)
- Gas stations such as 7-Eleven, Cumberland Farms, etc. that heat bulk TCS foods for hot holding (such as hot dog rollers, nachos with cheese, etc.)
- Deli preparing hot or cold sandwiches and does not cool food at the end of the day
- Schools (not including preschool facilities) if they do not cool foods

### **CLASS 3:**

- Wendy's (if they cool burgers for chili)
- Subway (if they cool and reheat TCS foods, e.g. soup and meatballs)
- KFC (if they cool chicken for pot pies)
- Full-service restaurants, caterers, itinerant vendors, grocery stores that use complex processes (cool foods for later service, including same day service and reheating processes)
- Schools (not including preschool facilities) that cool and reheat foods

### **CLASS 4:**

- Hospitals
- Long-term care facilities
- Preschools that provide foodservice
- Daycare centers for elderly or preschool age children that provide foodservice
- Any food establishment that engages in special processes such as acidification, smoking, curing, reduced oxygen packaging (including sous vide), sprouting seeds, etc.