Regulatory Analysis

Notice of Intended Action to be published: 481—Chapter 31
"Food Establishment and Food Processing Plant Inspections"

Iowa Code section(s) or chapter(s) authorizing rulemaking: 137F.3

State or federal law(s) implemented by the rulemaking: Iowa Code chapter 137F and Executive Order 10

Public Hearing

A public hearing at which persons may present their views orally or in writing will be held as follows:

November 4, 2025 9 a.m.	Ledges Conference Room 6200 Park Avenue Des Moines, Iowa

Information on virtual participation will be available on the Department of Inspections, Appeals, and Licensing's website prior to the hearing.

Public Comment

Any interested person may submit written or oral comments concerning this Regulatory Analysis, which must be received by the Department no later than 4:30 p.m. on the date of the public hearing. Comments should be directed to:

Amy K. Oetken
Department of Inspections, Appeals, and Licensing
6200 Park Avenue
Des Moines, Iowa 50321
Phone: 515.672.4929
Email: amy.oetken@dia.iowa.gov

Purpose and Summary

The proposed rulemaking repromulgates Chapter 31 and implements Iowa Code chapter 137F in accordance with the goals and directives of Executive Order 10. Iowa Code section 137F.2 requires the Department to adopt rules setting minimum standards to protect consumers from foodborne illness. Iowa Code section 137F.3 authorizes the Director of the Department to regulate, license, and inspect food establishments and food processing plants.

The proposed rulemaking implements the aforementioned Iowa Code chapter by describing the inspection standards for food establishments and food processing plants and describes time and temperature controls for licensees.

Analysis of Impact

1. **Persons affected by the proposed rulemaking:**

- **Classes of persons that will bear the costs of the proposed rulemaking:**

Food establishment and food processing plant license holders will bear the costs of the proposed rulemaking.

- **Classes of persons that will benefit from the proposed rulemaking:**

Consumers who purchase and consume food from Iowa food establishments and food processing plants will benefit from this rulemaking. Food establishment and food processing plant license

holders will also benefit from science-based inspection standards that protect their businesses and that are easily communicated, universally understood, suited for Iowa, and efficiently and consistently implemented and enforced.

2. **Impact of the proposed rulemaking, economic or otherwise, including the nature and amount of all the different kinds of costs that would be incurred:**

- **Quantitative description of impact:**

The costs incurred by the public as a direct result of the rulemaking are highly variable and dependent upon the scope of each individual operation. The size of the facility and the number of staff needed to operate the facility are costs that may be influenced but not dictated by the rulemaking. For example, the more space and equipment a facility has, the more labor it will take to maintain sanitation standards.

Most of the requirements established by the rulemaking are focused on food handling behaviors and practices, protection of food from contamination, effective cleaning and sanitizing processes and temperatures that protect public health; for example, how and when to wash hands and ensuring sick employees are not working with food. These process and behavior portions of the rulemaking do not have a direct cost and provide the greatest public health protection.

Aside from processes and behaviors, the rulemaking does have direct costs associated with providing an adequate and safe water supply, appropriate disposal of waste, and basic facilities and equipment requirements. The required equipment is necessary to complete essential food safety activities. Examples include a thermometer to check cooking temperatures, sinks or a commercial dishwasher to effectively wash and sanitize utensils, adequate equipment to hold food at required temperatures, a dedicated sink to wash hands, and food contact and nonfood contact surfaces that are cleanable and maintained in good repair. Although these requirements are established in the rulemaking and have a direct cost, the scope of operation of an individual facility dictates the numbers and capacity necessary for each operation. For example, a small operation may only need one refrigeration unit if the operation can store all of its temperature control for safety foods successfully in that unit, while a larger operation may need several refrigeration units to maintain safe food temperatures.

The rulemaking is also flexible; if an establishment does not engage in an activity, the portions of the rulemaking associated with that activity are not applicable to that establishment's operation. For instance, if an establishment does not hold foods hot but rather heats everything to order, it does not need to provide hot holding equipment.

The rulemaking does have some other direct costs. For most establishments, the rulemaking requires at least one individual at each establishment to complete a training course and in most instances pass an examination to demonstrate basic food safety knowledge. The cost of the course ranges from $75 to $200, and the certification is good for five years. These courses are readily available and can be taken online.

- **Qualitative description of impact:**

The rules establish inspection standards for food establishments and food processing plants that are science-based, effective in protecting public health and preventing illness, easily communicated, universally understood, suited for Iowa, and efficiently and consistently implemented and enforced.

Iowa's standards are uniform national standards for food safety; reflect the most current science available; and evolve to reflect new science, knowledge, and emerging technologies and to remain current with other federal laws. Forty-nine of 50 states in the U.S. have adopted a version of the U.S. Food and Drug Administration (FDA) Model Food Code as the inspection standard for food establishments. California is the exception, and its food code is modeled after the FDA Model Food Code and closely resembles it. In adopting the applicable U.S. Code of Federal Regulations (CFR) sections by reference, Iowa's standards are the same as the federal standards, which means Iowa's food manufacturing industry needs only comply with one standard instead of separate State

and federal standards. The benefits of adopting national standards are significant and include the following:

- Iowa's food processing plants gain access to export markets that require demonstrated compliance with federal standards. In FY 2023, the Food and Consumer Safety Bureau issued certificates of free sale for 165 food products manufactured in Iowa. These certificates confirm that Iowa food processing plants comply with regulations that are consistent with federal food processing regulations and are required by foreign countries prior to acceptance of a product.
- Iowa's standards were created through a coordinated and collaborative process that includes input from all stakeholders, including federal, State and local regulators; industry; academia; and consumers. This is achieved at the Conference for Food Protection and by FDA's rulemaking process.
- Iowa industry, consumers and regulators can take advantage of scientific and personnel resources expended by FDA and have access to extensive supporting documents, research, and training materials. This reduces industry and regulatory training costs by allowing the utilization of resource and training materials, which can be used across the U.S.
- Iowa's food safety inspections and inspectors are standardized.
- Fewer Iowa government resources are needed to research, study and establish independent science-based regulations that protect public health and prevent illness.
- Iowa's standards use a common/standardized food safety language that can improve communication between regulators and industry operators. This common language also helps consumers understand food safety expectations.
- Uniformity of using the same national standards as other states allows comparison of performance across national chains by providing standardized requirements and inspection criteria. Thereby an establishment can target resources according to science and risk to improve the public health performance of restaurants, retail stores and food processing plants.
- State and local agencies use FDA interpretations of Food Code and the CFR, which reduces the workload associated with development of interpretations at the State level.
- A common understanding of risk, risk control/management and food safety between industry and regulators is fostered.
- The adoption of the federal standards has allowed Iowa and FDA to enter into a mutual reliance partnership agreement whereby both FDA and Iowa benefit in a number of ways, including counting inspections completed by the other agency toward each agency's inspection obligation, thereby reducing the inspection workload of each. This also is a benefit for industry members because they will receive one inspection from either Iowa or FDA instead of two inspections, one by the State and one by FDA.
- Adopting by reference also makes the process for updating regulations more efficient while maintaining the flexibility to amend certain provisions to suit Iowa's industry, consumers and government.
- Resources are conserved by allowing regulatory software providers to develop inspection tools that work at all jurisdictions.
- Increases Iowa's food safety program's eligibility for federal training, grants, cooperative agreements and other resources.

3. **Costs to the State:**

- **Implementation and enforcement costs borne by the agency or any other agency:**

481—Chapters 30, 31 and 37 are heavily integrated, and costs to implement and enforce these rules cannot be separated by chapter or individual rule. 481—Chapter 30 establishes definitions and administrative processes for food establishments, food processing plants and hotels. 481—Chapters 31 and 37 establish inspection standards for food establishments and food processing plants. The combined cost to implement and enforce these rules is as follows:

The licenses issued under these rules account for 98.346 percent of the Food and Consumer Safety Bureau's licensed establishment inventory and consume an equivalent percentage of the budget. This

equals an annual cost of $5.52 million to implement and enforce these chapters. The Department assumes similar costs based on specific inventories of food establishments and hotels for local health departments that regulate and enforce these rules under a 28E agreement with the Department.

- **Anticipated effect on State revenues:**

License and penalty fees are set by statute. The anticipated revenue for license and penalty fees associated with the rulemaking is anticipated to be $4.2 million.

4. **Comparison of the costs and benefits of the proposed rulemaking to the costs and benefits of inaction:**

481—Chapters 30, 31 and 37 are heavily integrated, and benefits of these rules cannot be separated by chapter or individual rule. 481—Chapter 30 establishes definitions and administrative processes for food establishments, food processing plants and hotels. 481—Chapters 31 and 37 establish inspection standards for food establishments, food processing plants and hotels. The combined cost/benefit analysis for these rules is as follows:

The costs are justified by the benefits achieved. The benefits of conducting food safety and lodging inspections are prevention of illness and consumer protection. While preventing an illness is difficult to demonstrate, the Department can show the number of interventions the Food and Consumer Safety Bureau has taken to reduce public health risks. During FY 2023, the Food and Consumer Safety Bureau:

- Conducted over 10,800 inspections,
- Identified over 18,000 code violations at 6,605 different facilities,
- Completed nearly 2,500 inspections to follow up on critical or significant violations that were not corrected during the initial inspection,
- Identified and resolved 60 imminent health hazards by issuing four immediate suspension orders and gaining voluntary suspension of operations on 56 occasions where conditions presented an imminent health hazard. Once an imminent health hazard is mitigated, operations are approved to resume,
- Identified foods that posed a risk to public health and gained voluntary removal of the product from the market on 720 occasions,
- Investigated 30 foodborne illness outbreaks in Iowa, and
- Participated in the response to two multistate outbreaks that impacted Iowa and provided critical information to the FDA that identified the likely source of the multistate salmonella outbreak linked to melons during the summer of 2022.

These Food and Consumer Safety Bureau interventions protected public health and likely prevented additional foodborne illnesses cases from occurring. The U.S. Centers for Disease Control and Prevention (CDC) estimates that each year, 48 million Americans get sick from a foodborne illness, 128,000 are hospitalized and 3,000 die. Currently, Iowa has approximately 1 percent of the U.S. population. This translates to an estimated 480,000 Iowans who get sick from a foodborne illness, 1,280 hospitalizations and 30 deaths.

An article titled “State Estimates for the Annual Cost of Foodborne Illness” published in the Journal of Food Protection in June 2015 states that the estimated health cost of a foodborne illness in Iowa was $176 per resident and $1,154 per case in 2013. The article also used an enhanced model that includes the cost of pain and suffering, which nearly doubles these figures to $301 per resident and $1,972 per case.

Based on the CDC estimate and Iowa’s population, the cost of foodborne illness to the State of Iowa is staggering, even using the 2013 figures included in the article. Preventing just 1 percent of the estimated 480,000 foodborne illness cases in Iowa could result in health cost savings for Iowans totaling $5.53 million annually ($1,154 per case x 4,800 cases = $5.53 million).

The cost savings only rise when the cost of an outbreak for the establishment is included. An article published in Science News dated April 16, 2018, cited a study from researchers at the Johns Hopkins Bloomberg School of Public Health. The research findings estimated that the cost of a single

outbreak for a restaurant could be anywhere from $4,000 for a small outbreak in which 5 people get sick to $1.9 million for an outbreak in which 250 people get sick.

5. **Determination whether less costly methods or less intrusive methods exist for achieving the purpose of the proposed rulemaking:**

Adopting and amending uniform national standards that are science-based, easily communicated, universally understood, suited for Iowa, and efficiently and consistently implemented and enforced is the least costly and least intrusive method of achieving the purpose.

6. **Alternative methods considered by the agency:**

- **Description of any alternative methods that were seriously considered by the agency:**

Alternatives were investigated but were not seriously considered. When researching inspection standards for food establishments and food processing plants, the Department reviewed rules in other states and found tremendous consistency in the uniform adoption of the FDA Model Food Code. Forty-nine of 50 states have adopted a version of the FDA Model Food Code. California is the sole exception, and California's Food Code is modeled after the FDA Model Food Code and closely resembles it. The FDA Model Food Code is a science-based document developed with input from all stakeholders, including industry; consumers; academia; and federal, state, local and tribal regulators. Every two years, at the Conference for Food Protection, these stakeholder groups review, discuss, debate and make recommendations to FDA for updates to the model code. There is also consistency in the adoption of applicable CFR sections across the states for inspection standards for food processing plants. Further, it would be a burden for Iowa food processors to meet two separate sets of inspection standards, one federal and one State.

- **Reasons why alternative methods were rejected in favor of the proposed rulemaking:**

The Department does not have the resources necessary to achieve the benefit without adopting the national standards. However, the Department is able to amend certain provisions to suit Iowa's needs when a specific provision is found to be too restrictive. This is a standard practice in other states as well. When determining possible Iowa-specific amendments, the Department has consistently engaged with industry in a collaborative way to identify less restrictive alternatives with equal benefit when a specific provision may be too restrictive. Further, if a provision, as adopted, is too restrictive for a specific operation, the operation can pursue a waiver for that provision.

Small Business Impact

If the rulemaking will have a substantial impact on small business, include a discussion of whether it would be feasible and practicable to do any of the following to reduce the impact of the rulemaking on small business:

- Establish less stringent compliance or reporting requirements in the rulemaking for small business.
- Establish less stringent schedules or deadlines in the rulemaking for compliance or reporting requirements for small business.
- Consolidate or simplify the rulemaking's compliance or reporting requirements for small business.
- Establish performance standards to replace design or operational standards in the rulemaking for small business.
- Exempt small business from any or all requirements of the rulemaking.

If legal and feasible, how does the rulemaking use a method discussed above to reduce the substantial impact on small business?

The adopted national standards are focused more on food handling practices and behaviors that do not have a direct cost. While there are facility and equipment standards that do have direct costs, these costs reflect each individual operation. Provisions of the national standards that have been identified as more restrictive have been amended to be less restrictive. If a specific standard, as adopted, is found

to be too restrictive for an individual operation, the operation may seek a waiver. Small businesses benefit from the adoption of national standards in several ways, including:

- Science-based standards that protect their customers and their businesses.
- Access to standard national guidance, documents, research, training materials and other resources.
- Standardized inspections and inspectors.
- Common/standardized food safety language that enhances communication between regulatory agencies and industry members.
- Access to foreign markets that require confirmation that the businesses meet national standards.
- A more efficient and effective regulatory agency.

Text of Proposed Rulemaking

ITEM 1. Rescind 481—Chapter 31 and adopt the following **new** chapter in lieu thereof:

CHAPTER 31
FOOD ESTABLISHMENT AND FOOD
PROCESSING PLANT INSPECTIONS

481—31.1(137F) Inspection standards for food establishments. The department adopts, with the following exceptions, the 2017 Food Code with Supplement of the Food and Drug Administration as the state's "food code," which is the inspection standard for food establishments.

31.1(1) *Unattended food establishments—assignment of responsibility.* For the purposes of section 2-101.11(C) of the 2017 Food Code with Supplement, unattended food establishments are not required to have a designated person in charge present during all hours of operation provided that the permit holder ensures the following requirements are met.

a. Unattended food establishment location. The unattended food establishment will be located in the interior of a building that is not accessible by the general public. Access to the unattended food establishment will be limited to a defined population (e.g., employees, registered guests or occupants of the building where the establishment is located).

b. Nature and source of food and beverages offered for sale.

(1) Only commercially packaged foods properly labeled for individual retail sale, pursuant to Food Code section 3-201.11(C), will be offered.

(2) No unpackaged food is permitted except as provided by section 3-302.11(B)(1) of the Food Code.

(3) Food preparation by consumers is limited to heating/reheating food in a microwave oven.

(4) No dispensing of bulk food is permitted.

c. Refrigerated display equipment. An unattended food establishment will be equipped with refrigeration or freezer units that have the following features:

(1) Self-closing doors that allow food to be viewed without opening the door to the refrigerated cooler or freezer;

(2) An automatic self-locking mechanism that prevents the consumer from accessing the food upon the occurrence of any condition that results in the failure of the refrigeration unit to maintain the internal product temperature specified under section 3-501.16(A)(2) or of the freezer unit to maintain the product as frozen.

d. Food service equipment limitations.

(1) Beverages are dispensed by individual serving only. Beverage dispensers connected to the building water supply will be properly equipped with backflow prevention pursuant to section 5-203.14 of the Food Code.

(2) Food-contact surfaces.

1. Multiuse food-contact surfaces will be cleaned on a frequency consistent with the service pursuant to section 4-202.11 of the Food Code or are easily removed and replaced with cleaned surfaces.

2. No multiuse food-contact surfaces intended for use with time/temperature control for safety foods are permitted.

e. Security.

(1) An unattended food establishment will provide continuous video surveillance of areas where consumers view, select, handle and purchase products that will provide sufficient resolution to identify situations that may compromise food safety or food defense.

1. Video surveillance recordings will be maintained and made available for inspection by a representative of a regulatory agency within 24 hours of request.

2. Video surveillance recordings will be held by the establishment for a minimum of 14 days after the date of the surveillance.

(2) The permit holder will take reasonable steps necessary to discourage individuals from returning food, beverages, or both that have not been selected for purchase.

f. Routine maintenance at an unattended food establishment.

(1) The permit holder will service the unattended food establishment at least weekly, which may include:

1. Checking food supplies and equipment for signs of product damage, tampering, or both.

2. Verifying that refrigeration equipment is operating properly, including the temperature display and self-locking mechanism.

3. Rotating foods to better ensure first in/first out of food items.

4. Cleaning food service equipment and food display areas.

5. Stocking food and disposable single-use and single-service supplies.

6. Checking inventory for recalled foods.

(2) The permit holder will ensure that:

1. Food is from an approved source.

2. Packaged food is provided in tamper-evident packaging.

3. Food is protected from potential sources of cross contamination.

4. Food is maintained at safe temperatures during transport and display.

g. Unattended food establishment oversight. Each unattended food establishment will have a sign readily visible at the automated payment station stating the name, mailing address, telephone number, email address and web information, if any, of the business entity responsible for the establishment and to whom complaints and comments should be addressed.

h. Designation of responsibilities. The permit holder bears all responsibilities for the operation of the food establishment. When the permit holder is not the owner or operator of the building where the food establishment is located, a mutual agreement that outlines the responsibilities for cleaning and maintenance of all surfaces and equipment and for provision of supportive facilities/services, such as janitorial services and restroom facilities, pest control and removal of solid waste, may be approved by the regulatory agency. This agreement should outline actions that must be taken by both parties to maintain the establishment in compliance with all requirements including responding to imminent health hazards.

i. Inspections—on-site person in charge. When requested by the regulatory authority for the purposes of conducting an inspection, the permit holder will provide an on-site person in charge within a reasonable time frame not to exceed four hours.

31.1(2) *Certified food protection manager requirements, exceptions, and time frames for compliance.*

a. For the purposes of section 2-102.12(A) of the 2017 Food Code with Supplement, the food establishment may employ a single certified food protection manager who is not present at the food establishment during all hours of operation, as long as the following requirements are met:

(1) The individual who is a certified food protection manager has supervisory and management responsibility and the authority to direct and control food preparation and service at the food establishment;

(2) The person in charge demonstrates knowledge as prescribed in section 2-102.11 of the 2017 Food Code with Supplement;

(3) The person in charge demonstrates active managerial control of food safety by complying with section 2-103.11 of the 2017 Food Code with Supplement.

b. A food establishment that, upon inspection, is found to be in violation of section 2-102.11 or 2-103.11 of the 2017 Food Code with Supplement will have six months to ensure that any individual designated as the person in charge is a certified food protection manager.

c. For the purposes of section 2-102.12(B), the following food establishments are not required to employ a certified food protection manager:

(1) Temporary or farmers market food establishments.

(2) Food establishments at which food is not prepared, where customers may purchase beverages and where the service of food is limited to the service of ice, beverages, prepackaged snack foods, popcorn or peanuts and to the reheating of commercially prepared foods for immediate service that do not require assembly, such as frozen pizza or prepackaged sandwiches.

(3) Food establishments at which food is not prepared, where customers may purchase only commercially prepared non-time/temperature control for safety foods that are dispensed either unpackaged or packaged and that are intended for off-premises consumption.

d. Time frames for compliance with section 2-102.12 of the 2017 Food Code with Supplement, as amended by paragraphs 31.1(2)*"a"* and *"b,"* are as follows:

(1) Newly licensed facilities will comply with section 2-102.12 of the 2017 Food Code with Supplement, as amended by paragraphs 31.1(2)*"a"* and *"b,"* within six months of licensure.

(2) If an individual meeting the requirement of paragraph 31.1(2)*"a"* leaves employment, the establishment will comply with section 2-102.12 of the 2017 Food Code with Supplement, as amended by paragraphs 31.1(2)*"a"* and *"b,"* within six months of the individual's departure.

31.1(3) *Honey prepared in a residence.* Section 3-201.11 is amended to allow honey that is stored; prepared, including by placement in a container; or labeled at or distributed from the premises of a residence to be sold in a food establishment.

31.1(4) *Homemade food items prepared in a licensed home food processing establishment.* Section 3-201.11 is amended to allow homemade food items that are eligible for resale and are prepared, packaged, and labeled pursuant to 481—Chapter 34 to be offered for human consumption in a food establishment.

31.1(5) *Wild-harvested mushrooms.* Section 3-201.16, paragraph (A), is amended by adding the following:

"A food establishment or farmers market time/temperature control for safety food licensee may sell or serve wild-harvested mushrooms provided:

"a. All wild-harvested mushrooms sold or served are varieties classified as one of the following:

Common name	Scientific name
Morel	*Morchella* spp. (*M. americana, M. angusticeps, M. punctipes*)
Oyster	*Pleurotus citrinopileatus, Pleurotus ostreatus, Pleurotus populinus,* or *Pleurotus pulmonarious*
Chicken of the woods	*Laetiporus (L. cincinnatus, L. sulphureus*)
Hen of the woods	*Grifola frondosa*
Chanterelle	*Cantharellus cibarius* group
Bear's head tooth, Lion's mane	*Hericium* spp. *(H. erinaceus, H. americanum)*
Pheasant back	*Polyporus squamosus*

Black trumpet	*Craterellus cornucopoides*

"b. All wild-harvested mushrooms sold or served in a food establishment must be obtained from sources where each mushroom is individually inspected and found to be safe by a certified wild-harvested mushroom identification expert.

"c. All wild-harvested mushroom species sold or served in a food establishment must have a written buyer specification. The buyer shall retain the written buyer specification for 90 days from the date of sale or service that must include:

"1. Identification of each mushroom species by the scientific and common name;

"2. Date of purchase;

"3. Quantity by weight of each species received;

"4. A statement indicating that each mushroom was identified in its fresh state and was not mixed or in contact with other mushroom species;

"5. The name, address, and telephone number of the certified wild-harvested mushroom identification expert;

"6. A copy of the certified wild-harvested mushroom identification expert's certificate of successful completion of the program, including the date of completion.

"d. A consumer advisory shall inform consumers by brochures, deli case, menu advisories, label statements, table tents, placards, or other effective written means that 'wild-harvested mushrooms should be thoroughly cooked and may cause allergic reactions or other effects.'

"e. This section does not apply to cultivated mushrooms or mushrooms that have been packaged in an approved food processing plant."

31.1(6) *Field-dressed wild game prohibition.* Subparagraph 3-201.17(A)(4) is amended to state that field-dressed wild game shall not be permitted in food establishments unless:

a. The food establishment is also licensed and inspected by the Iowa department of agriculture and land stewardship (IDALS) meat and poultry inspection bureau pursuant to Iowa Code chapter 189A;

b. All field-dressed wild game is adequately separated from food, equipment, utensils, clean linens, and single-service and single-use articles;

c. Any equipment used in the processing of field-dressed wild game is adequately cleaned and sanitized before use with other foods.

31.1(7) *Reduced oxygen packaging in meat and poultry processing plants.* Meat and poultry processing plants that are licensed and inspected by the IDALS meat and poultry inspection bureau pursuant to Iowa Code chapter 189A and that are also licensed as a food establishment are exempt from section 3-502.11, paragraphs (A), (B), (D) and (F), and section 3-502.12 if these criteria are met:

a. Each food product formulation has been approved by the IDALS meat and poultry inspection bureau;

b. A copy of the approved formulation (T40/45) is maintained on file at the establishment and made available to the regulatory authority upon request;

c. Cooked products that do not include a curing agent or an antimicrobial agent that will control *Clostridium botulinum* and *Listeria monocytogenes* that are in a reduced oxygen package are stored and sold frozen and are labeled "Keep Frozen";

d. The food products are properly labeled.

31.1(8) *Warewashing sinks in establishments serving alcoholic beverages.* Section 4-301.12 is amended by adding the following: "When alcoholic beverages are served in a food service establishment, a sink with at least three compartments shall be used in the bar area for manual washing, rinsing and sanitizing of bar utensils and glasses. When food is served in a bar, a separate three-compartment sink for washing, rinsing and sanitizing food-related dishes shall be used in the kitchen area, unless a dishwasher is used to wash utensils."

31.1(9) *Prohibiting animals.* Section 6-501.115, paragraph (B), is amended by adding the following:

"(6) Pet dogs may be allowed on exterior premises of a food establishment, including outdoor patio and outdoor dining areas, provided the food establishment meets these requirements:

"a. A separate entrance is present so that pet dogs do not enter the food establishment to access the outdoor area;

"b. No food preparation is allowed in the outdoor area, including mixing or dispensing drinks and ice;

"c. Customer multiservice or reusable utensils such as plates, silverware, glasses, and bowls are not stored, displayed, or preset in the outdoor area;

"d. Food or water provided to pet dogs shall be in single-use disposable containers provided by the food establishment or a container provided by the pet owner that is filled without any contact between the container and any dispensing item of the food establishment;

"e. Employees are prohibited from direct contact with pet dogs while on duty;

"f. The outdoor area is maintained clean;

"g. In cases where excrement or bodily fluids (urine, saliva, vomit, or the like) are deposited, an employee shall immediately ensure the area is cleaned and sanitized;

"h. The outdoor area shall not be fully enclosed (an enclosed area is considered part of the interior of the facility);

"i. Disruptive pet dogs must be controlled or removed from the premises;

"j. Rules governing pet dogs shall be posted at each entrance of the food establishment and shall contain the following:

"i. Pet dogs shall be leashed at all times;

"ii. Pet dogs shall not enter any interior area of the food establishment at any time;

"iii. Pet dogs must be controlled at all times by the dog's owner or designee;

"iv. Pet dogs are not permitted on chairs, tables, benches or seats;

"v. Pet dog owners must immediately notify the food establishment's staff in the event that excrement or bodily fluids (urine, saliva, vomit, or the like) are deposited.

"(7) Pet dogs may be allowed on the interior premises of a food establishment that only stores, sells, distributes, or otherwise handles packaged food under these conditions:

"a. The food establishment is maintained clean;

"b. In cases where excrement or bodily fluids (urine, saliva, vomit, or the like) are deposited, an employee shall immediately ensure the area is cleaned and sanitized;

"c. Disruptive pet dogs must be controlled or removed from the premises;

"d. Rules governing pet dogs shall be displayed at or near the entrances of the food establishment and shall, at a minimum, contain the following:

"i. Pet dogs shall be leashed at all times;

"ii. Pet dogs must be controlled at all times by the dog's owner or designee;

"iii. Pet dogs are not permitted on chairs, tables, benches, seats or in shopping carts;

"iv. Pet dog owners must immediately notify the food establishment's staff in the event that excrement or bodily fluids (urine, saliva, vomit, or the like) are deposited."

31.1(10) *Inspection standards for elder group homes.* Elder group homes as defined by Iowa Code section 231B.1 will be inspected by the department, but chapters 4 and 6 of the Food Code will not apply. Elder group homes will pay the lowest license fee set forth in 481—subrule 30.4(2).

31.1(11) *Nonprofit exception for temporary events.* Nonprofit organizations that are licensed as temporary food establishments may serve non-time/temperature control for safety food from an unapproved source for the duration of the event but cannot serve home-canned pickles, vegetables, or fruits produced in accordance with Iowa Code chapter 137F.

31.1(12) *Variance approval by department and submission of hazard analysis and critical control point (HACCP) plans.* Any variances or HACCP plans that require approval by the "regulatory authority" must be approved by the department. HACCP plans pursuant to paragraphs 3-502.12(B) and 8-201.13(B) shall be filed with the department prior to implementation, regardless of whether or not the plan requires approval.

481—31.2(137F) Inspection standards for food processing plants. The following are the inspection standards for food processing plants including food storage facilities.

31.2(1) *Definitions.* For the purposes of this rule, the definitions of "food," "label," "labeling," and "dietary supplement" are as defined in 21 U.S.C. Section 321.

31.2(2) *Prohibited acts.* The prohibited acts identified in 21 U.S.C. Section 331(a) to (f), (k), and (v) are prohibited acts in Iowa.

31.2(3) *Stop sale.* Any article of food that is adulterated or misbranded when introduced into commerce may be embargoed until such a time as the adulteration or misbranding is remedied or the product is destroyed. The action is immediate, but the licensee may appeal the decision following the process outlined in rule 481—30.11(10A,137C,137F).

31.2(4) *Standards for food.* If a standard that has been adopted for a food is adopted pursuant to 21 U.S.C. Section 341, the standard shall be met.

31.2(5) *Misbranded food.* A food is misbranded if it is found in violation of 21 U.S.C. Section 343.

31.2(6) *New dietary ingredients.* New dietary ingredients shall comply with the process in 21 U.S.C. Section 350(b) or will be deemed adulterated.

31.2(7) *Records.* Records shall be made available as required under 21 U.S.C. Section 373 for all interstate and intrastate food.

31.2(8) *Adoption of Code of Federal Regulations.* The following parts of the Code of Federal Regulations are adopted:

a. 21 CFR Part 1, Sections 1.20 to 1.24 and Subpart O, Sections 1.900 to 1.934 (labeling).

b. 21 CFR Part 7, Sections 7.1 to 7.13 and 7.40 to 7.59 (guaranty and recalls).

c. 21 CFR Part 70, Sections 70.20 to 70.25 (labeling requirements for colors).

d. 21 CFR Part 73, Sections 73.1 to 73.615 (color additives exempt from certification).

e. 21 CFR Part 74.101 to 74.706 (listing of color additives subject to certification).

f. 21 CFR Part 81, general specifications and general restrictions for provisional color additives for use in foods, drugs, and cosmetics.

g. 21 CFR Part 82, Sections 82.3 to 82.706 (certified provisionally listed colors and specifications).

h. 21 CFR Part 100, Section 100.155 (specific provisions for salt and iodized salt).

i. 21 CFR Part 101, except Sections 101.69 and 101.108 (food labeling).

j. 21 CFR Part 102, except Section 102.19 (common or usual name for nonstandard food).

k. 21 CFR Part 104, nutritional quality guidelines for foods.

l. 21 CFR Part 105, food for special dietary use.

m. 21 CFR Part 106, except Section 106.120 (infant formula quality control procedures).

n. 21 CFR Part 107, except Sections 107.200 to 107.280 (infant formula labeling).

o. 21 CFR Part 108, Sections 108.25 to 108.35 (exceptions for when a permit is not required, acidified and thermal processing of low-acid foods packaged in hermetically sealed containers).

p. 21 CFR Part 109, unavoidable contaminants in food for human consumption and food-packaging material.

q. 21 CFR Part 110, current good manufacturing practice in manufacturing, packing or holding human food.

r. 21 CFR Part 111, current good manufacturing practice in manufacturing, packaging, labeling, or holding operations for dietary supplements.

s. 21 CFR Part 113, thermally processed low-acid food packaged in hermetically sealed containers.

t. 21 CFR Part 114, acidified foods.

u. 21 CFR Part 115, shell eggs.

v. 21 CFR Part 117, current good manufacturing practice and hazard analysis and risk-based preventive controls for human food shall apply, with the exception that warehousing operations

located on the premises of residences that store unexposed, packaged frozen food for sale directly to a consumer customer or at a farmers market shall comply with subpart B of 21 CFR 117.

w. 21 CFR Part 118, production, storage and transportation of shell eggs.

x. 21 CFR Part 120, hazard analysis and critical control point (HACCP) systems (juice).

y. 21 CFR Part 123, fish and fisheries products (seafood).

z. 21 CFR Part 129, processing and bottling of bottled drinking water.

aa. 21 CFR Part 130, except Sections 130.5, 130.6 and 130.17, food standards: general.

ab. 21 CFR Part 131, milk and cream.

ac. 21 CFR Part 133, cheeses and related cheese products.

ad. 21 CFR Part 135, frozen desserts.

ae. 21 CFR Part 136, bakery products.

af. 21 CFR Part 137, cereal flours and related products.

ag. 21 CFR Part 139, macaroni and noodle products.

ah. 21 CFR Part 145, canned fruits.

ai. 21 CFR Part 146, canned fruit juices.

aj. 21 CFR Part 150, fruit butters, jellies, preserves, and related products.

ak. 21 CFR Part 152, fruit pies.

al. 21 CFR Part 155, canned vegetables.

am. 21 CFR Part 156, vegetable juices.

an. 21 CFR Part 158, frozen vegetables.

ao. 21 CFR Part 160, egg and egg products.

ap. 21 CFR Part 161, fish and shellfish.

aq. 21 CFR Part 163, cacao products.

ar. 21 CFR Part 164, tree nut and peanut products.

as. 21 CFR Part 165, beverages.

at. 21 CFR Part 166, margarine.

au. 21 CFR Part 168, sweeteners and table syrups.

av. 21 CFR Part 169, food dressings and flavorings.

aw. 21 CFR Part 170, except Sections 170.6, 170.15, and 170.17, food additives.

ax. 21 CFR Part 172, food additives permitted for direct addition to food for human consumption.

ay. 21 CFR Part 173, secondary direct food additives permitted in food for human consumption.

az. 21 CFR Part 174, indirect food additives: general.

ba. 21 CFR Part 175, indirect food additives: adhesives and components of coatings.

bb. 21 CFR Part 176, indirect food additives: paper and paperboard components.

bc. 21 CFR Part 177, indirect food additives: polymers.

bd. 21 CFR Part 178, indirect food additives: adjuvants, production aids, and sanitizers.

be. 21 CFR Part 180, food additives permitted in food or in contact with food on an interim basis pending additional study.

bf. 21 CFR Part 181, prior-sanctioned food ingredients.

bg. 21 CFR Part 182, substances generally recognized as safe.

bh. 21 CFR Part 184, direct food substances affirmed as generally recognized as safe.

bi. 21 CFR Part 186, indirect food substances affirmed as generally recognized as safe.

bj. 21 CFR Part 189, substances prohibited from use in human food.

bk. 21 CFR Part 190, dietary supplements.

31.2(9) *Egg products processing plants.* The department will use the good manufacturing practices adopted in paragraph 31.2(8)*"b,"* unless such practices are inconsistent with standards set by the United States Department of Agriculture, Food Safety and Inspection Service, in 9 CFR Parts 590-592. If the standards are inconsistent, the standards adopted in 9 CFR Parts 590-592 apply.

31.2(10) *References.* All references to federal statutes and regulations in this rule are to those versions in effect on [effective date of the rulemaking].

481—31.3(137F) Adulterated food and disposal. No one may produce, distribute, offer for sale or sell adulterated food. "Adulterated" is defined in the federal Food, Drug, and Cosmetic Act, Section 402, as amended to [effective date of the rulemaking]. Adulterated food shall be disposed of in a reasonable manner as determined by the department. The destruction of adulterated food may be watched by a person approved by the department.

481—31.4(137F) False label or defacement. Labels required by Iowa Code chapter 137F and this chapter shall be legibly printed and not be deceptive as to the true nature of the article or place of production.

481—31.5(137F) Temporary food establishments and farmers market time/temperature control for safety food licensees. While the retail food code adopted in rule 481—31.1(137F) applies to temporary food establishments, the following subrules provide a simplified version of requirements for temporary food establishments. If the two rules are inconsistent, the standards in this rule apply.

31.5(1) *Personnel.* For the purposes of this rule, employees include volunteers.

a. Employees will keep their hands and exposed portions of their arms clean.

b. Employees will have clean garments and aprons and effective hair restraints. Smoking, eating or drinking in food booths is not allowed. All nonworking, unauthorized persons are to be kept out of the food booth.

c. All employees will be under the direction of the person in charge, who will ensure that the workers are effectively cleaning their hands; that time/temperature control for safety food is adequately cooked, held or cooled; and that all multiuse equipment or utensils are adequately washed, rinsed and sanitized.

d. Employees will not work at a temporary food establishment or farmers market time/temperature control for safety food establishment if they have open cuts, sores or communicable diseases. The person in charge will take appropriate action to ensure that employees and volunteers who have a disease or medical condition transmissible by food are excluded from the food operation.

e. Every employee will sign a logbook with the employee's name, address, and telephone number or email address and the date and hours worked. The logbook will be maintained for 30 days by the person in charge and made available to the department upon request.

31.5(2) *Food handling and service.*

a. Dry storage. All food, equipment, utensils and single-service items will be stored off the ground and above the floor on pallets, tables or shelving.

b. Cold storage. Refrigeration units will be provided to keep time/temperature control for safety foods at 41°F or below. The inspector may approve an effectively insulated, hard-sided container with sufficient coolant for storage of time/temperature control for safety food at events of short duration if the container maintains food temperatures at 41°F or below.

c. Hot storage. Hot food storage units will be used to keep time/temperature control for safety food at 135°F or above. Electrical equipment is required for hot holding, unless the use of propane stoves and grills capable of holding the temperature at 135°F or above is approved by the department. Sterno cans are allowed for hot holding if adequate temperatures can be maintained. Steam tables or other hot holding devices are not allowed to heat foods and are to be used only for hot holding after foods have been adequately cooked or heated.

d. Cooking temperatures. As specified in the following chart, the minimum cooking temperatures for food products are:

165°F	● Poultry and game animals that are not commercially raised ● Products stuffed or in a stuffing that contains fish, meat, pasta, poultry or ratite ● All products cooked in a microwave oven
155°F	● Rabbits, ratite and game meats that are commercially raised ● Ground or comminuted (such as hamburgers) meat/fish products

	• Raw shell eggs not prepared for immediate consumption
145°F	• Pork and raw shell eggs prepared for immediate consumption • Fish and other meat products not requiring a 155°F or 165°F cooking temperature as listed above

e. Consumer advisory requirement. If raw or undercooked animal food such as beef, eggs, fish, lamb, poultry or shellfish is offered in ready-to-eat form, the license holder (person in charge) will post the consumer advisory as required by the food code.

f. Thermometers. Each refrigeration unit will have a numerically scaled thermometer to measure the air temperature of the unit accurately. An appropriate thermometer will be provided where necessary to check the internal temperature of both hot and cold food. Thermometers must be accurate and have a range from 0°F to 220°F.

g. Food display. Foods on display will be covered. The public is not allowed to serve itself from opened containers of food or uncovered food items. Condiments such as ketchup, mustard, coffee creamer and sugar will be served in individual packets or from squeeze containers or pump bottles. Milk will be dispensed from the original container or from an approved dispenser. All fruits and vegetables will be washed before being used or sold. Food will be stored at least six inches off the ground. All cooking and serving areas will be adequately protected from contamination. Barbeque areas will be roped off or otherwise protected from the public. All food will be protected from customer handling, coughing or sneezing by wrapping, sneeze guards or other effective means.

h. Food preparation. Unless otherwise approved by a variance from the department, no bare-hand contact of ready-to-eat food will occur.

i. Approved food source. All food supplies will come from a commercial manufacturer or an approved source. The use of food in hermetically sealed containers that is not prepared in an approved food processing plant or home food processing establishment is prohibited. Transport vehicles used to supply food products are subject to inspection and will protect food from physical, chemical and microbial contamination. Cottage foods may be offered for sale in a temporary food establishment if the temporary food establishment is operated by the cottage food producer and the cottage food is offered for sale in a packaged form and labeled pursuant to rule 481—30.13(10A,137F).

j. Leftovers. Hot-held foods that are not used by the end of the day will be discarded.

31.5(3) *Utensil storage and warewashing.*

a. Single-service utensils. The use of single-service plates, cups and tableware is required.

b. Dishwashing. An adequate means to heat the water and a minimum of three basins large enough for complete immersion of the utensils are required to wash, rinse and sanitize utensils or food-contact equipment. Alternative dishwashing methods may be used if approved in advance by the regulatory authority.

c. Sanitizers. Chlorine bleach or another approved sanitizer will be provided for warewashing sanitization and wiping cloths. An appropriate test kit will be provided to check the concentration of the sanitizer used. The person in charge will demonstrate knowledge in the determination of the correct concentration of sanitizer to be used.

d. Wiping cloths. Wiping cloths will be stored in a clean, 100 ppm chlorine sanitizing solution or equivalent. Sanitizing solution will be changed as needed to maintain the solution in a clean condition.

31.5(4) *Water.*

a. Water supply. An adequate supply of clean water will be provided from an approved source. Water storage units and hoses will be food grade and approved for use in storage of water. If not permanently attached, hoses used to convey drinking water will be clearly and indelibly identified as to their use. Water supply systems will be protected against backflow or contamination of the water supply. Backflow prevention devices, if required, will be maintained and adequate for their intended purpose.

b. Wastewater disposal. Wastewater will be disposed of in an approved wastewater disposal system sized, constructed, maintained and operated according to law.

31.5(5) *Premises.*

a. Hand-washing container. An insulated container with at least a two-gallon capacity filled with hot water and with a spigot, basin, soap and dispensed paper towels will be provided for hand washing.

b. Floors, walls and ceilings. If required, walls and ceilings will be of tight design and weather-resistant materials to protect against the elements and flying insects. If required, floors will be constructed of tight wood, asphalt, rubber or plastic matting or other cleanable material to control dust or mud.

c. Lighting. Adequate lighting shall be provided. Lights above exposed food preparation areas shall be shatter-resistant or shielded.

d. Food preparation surfaces. All food preparation or food contact surfaces shall be of a safe design, smooth, easily cleanable and durable.

e. Garbage containers. An adequate number of cleanable containers with tight-fitting covers shall be provided both inside and outside the establishment.

f. Toilet rooms. An adequate number of approved toilet and hand-washing facilities shall be provided at each event.

g. Clothing. Personal clothing and belongings shall be stored at a designated place in the establishment, adequately separated from food preparation, food service and dishwashing areas.

These rules are intended to implement Iowa Code chapter 137F.