

Frequently Asked Questions

Vulnerable persons food safety scheme

Updated December 2009

The audit process

1. What should I expect during a regulatory audit?

During an audit, the auditor will check that:

1. there is a food safety program set out in a written document that complies with Standard 3.2.1 of the *Food Standards Code*
2. all food handling operations have been analysed to identify any potential food safety hazards and procedures have been put in place to control those hazards,
3. there are descriptions of the food types handled by the business,
4. there are work instructions and procedures,
5. there are monitoring forms,
6. there is a good manufacturing process — including hygiene, chemical storage, pest control, training, product recall, internal review and customer complaint handling procedures,
7. the food business is complying with their food safety program and any relevant legislative requirements, and
8. the food business is conducting an annual review of their food safety program to ensure its adequacy.

If an element is not of an acceptable standard, the auditor will allocate a certain number of points to the non-conformance found. If a business exceeds 47 points, it will fail its audit. For further information, refer to the *Audits in the food industry* factsheet available on the Authority's website www.foodauthority.nsw.gov.au

2. What constitutes a critical / major / minor CAR?

Any areas of non-compliance with the food safety program or legislative requirements identified during an audit may result in a critical, major or minor Corrective Action Request (CAR) being issued. Each type of CAR has a point score attached to it. The accumulated total of these points determines the audit rating achieved by the business and thus affects the frequency of subsequent audits. The point score for each type of CAR is listed below.

| Corrective Action Request (CAR) | Point score |
|---------------------------------|-------------|
| Critical | 64 |
| Major | 8 |
| Minor | 2 |

A **critical** non-conformance (or defect) is defined as a serious breach that could affect public health. A **major** non-conformance is defined as a breach of a requirement in a Standard, Code of Practice or legislation that is not critical.

If a critical CAR is identified during an audit, immediate enforcement action may be taken in accordance with the Authority's *Compliance and Enforcement Policy* to ensure the food safety risk is controlled. This policy is available on the Authority's website at www.foodauthority.nsw.gov.au

3. How are the audit ratings determined?

Audit ratings (A-E) are based on the number and type of CARs issued at the audit as outlined below.

| Cumulative CAR point score | Audit result | Audit rating |
|-----------------------------------|---------------------|---------------------|
| 0-15 | Acceptable | A |
| 16-31 | Acceptable | B |
| 32-47 | Marginal | C |
| 48-63 | Unacceptable | D |
| 64 and greater | Unacceptable | E |

4. How often will I be audited?

After a vulnerable persons business has had its initial audit, the frequency of audits is determined by their audit rating, as outlined below.

| Facility audit rating | Vulnerable persons audit frequency |
|------------------------------|---|
| A rated | 12 monthly |
| B rated | 6 monthly |
| C rated | 3 monthly |
| D or E rated (failed audit) | 1 monthly or sooner |

Audits are announced and an appointment is scheduled. Prior to your next audit, the auditor will contact your business to arrange a suitable time to visit the premises to conduct the audit.

Advisory audits are no longer being conducted. These were part of the implementation phase of the Vulnerable Persons Food Safety Scheme.

5. Do I have to have a separate audit if my facility is part of a group/chain?

Yes. Each individual facility needs to be assessed through an audit. The audit outcome is determined by what the auditor finds on the day of the audit. Each facility is assessed on its own merits. Audit ratings achieved at other facilities within a group or chain have no bearing on the audit result of an individual facility.

6. What happens if I fail an audit (obtain an unacceptable D or E rating)?

Where a business is found to have an unacceptable (D or E) audit result, it is removed from the normal audit frequency and is submitted to a follow-up audit after one month, and will remain on additional audits at monthly intervals until areas of non-conformance have been rectified and an acceptable (A or B) audit rating is obtained. These additional audits will be performed at full cost as per the Authority's current audit and inspection fee. In most cases where businesses have failed their audit (received a D or E rating), they will also be issued with an Improvement Notice (IN) for any critical CARs identified during the audit, and will be subjected to additional enforcement action.

Additional enforcement action

1. The business must rectify the problem(s) identified in the audit process before the next audit or by the compliance date on the Improvement Notice
2. If the rating is unacceptable in the follow-up or additional audits, the auditor may issue a Penalty Notice (PN) (which requires payment of a specified monetary penalty).

Facilities that are issued with a Penalty Notice will also be published on the Register of Penalty Notices on the Authority's website

<http://www.foodauthority.nsw.gov.au/penalty-notices/>

3. If the business does not rectify the issues in the Improvement Notice, the Authority may issue a Prohibition Order or the owner might be asked to show cause why their licence should not be cancelled.

7. I've received an Improvement Notice, what happens next?

If you receive an Improvement Notice, it will specify a compliance date. This is the date by which you are required to comply with all the items identified in the notice (ie rectify any defects found). The auditor will contact you to arrange an inspection on a date after the compliance date has passed. This inspection may coincide with a follow-up audit if you received an unacceptable audit outcome.

Should you have difficulty completing all the identified defects within the specified compliance date, you can request an extension to the compliance date. Requests must be in writing and made before the compliance date. The request should outline what you have done so far to comply and state what date you would like the extension to. Requests are to be directed to the Manager – Audit and Compliance Unit.

If you do not comply with an Improvement Notice you will be subject to additional enforcement action as detailed in Question 6 above.

8. How do I raise any concerns I have with the audit process or audit result?

In the first instance, raise concerns with the auditor during the exit meeting. The exit meeting is a time where issues can be clarified and explained.

If you still have concerns after the exit meeting, put these in writing to the Manager – Audit & Compliance. Detail the reasons for requesting the review and provide evidence as to why you believe that a particular corrective action request is not justified. A review of the audit outcome will be arranged and the facility will be advised of the result in writing.

9. How do I appeal a suspended or cancelled licence?

An appeal mechanism is in place if a business' licence is suspended or cancelled (Food Regulation 2004, clause 14).

The Authority will explain in writing why the licence has been cancelled or suspended. Cancellations or suspensions are normally only used as a last resort to deal with major and/or recurring breaches.

If a business' licence is suspended or cancelled, the business may apply to the Administrative Decisions Tribunal for a review of the decision.

10. How does the new Third Party Audit (TPA) system work?

The Authority has recently developed a Regulatory Food Safety Auditor System to approve persons other than Authority employees (eg from independent [non-government] organisations) to conduct regulatory food safety audits of licensed food businesses in NSW. These auditors may also be known as third party auditors or commercially employed auditors.

Businesses must achieve an A or B audit rating (from an audit conducted by the Authority), and obtain written approval from the Authority before they may voluntarily move to a third party audit program.

Approval would be granted by the Authority for a food business to move to a third party audit program provided they have met certain criteria.

Businesses who receive a C, D or E rating whilst on the third party audit program will receive additional audits from the third party auditor. Any compliance or enforcement action that may be required as a result of the audit will be conducted by Authority staff.

Businesses that wish to use the third party audit system are responsible for engaging their own non-Authority-employed auditors. These commercial food safety auditors must meet certain requirements (eg qualifications, experience) before being approved by the Authority as an auditor. A list of approved auditors will be made available on the Authority's website.

Further information on the Regulatory Food Safety Auditor System (third party audits) is available on the Authority's website: <http://www.foodauthority.nsw.gov.au/industry/audits-inspections-compliance/audits-of-licensed-businesses/3rd-party-audits>

Food safety programs

11. Do I need to include cold foods in my hazard assessment?

Yes. It is important to appropriately assess hazards associated with prepared, chilled foods, as these are potentially hazardous. This includes ready-to-eat foods such as fresh cut fruit and vegetables that will be consumed raw, salads, sandwiches, smallgoods such as hams and devon, and desserts containing raw egg or cream, which can support the growth of microorganisms if not prepared or stored correctly before consumption.

As well as identifying all potential hazards you must identify and implement control measures to reduce the risks, monitor and record (see Q13 for more detail) these controls and provide for corrective action to be taken.

12. Why do I need to validate my control methods?

Validation is an essential part of a food safety program. It provides assurance that the methods used to control any identified hazard will achieve safe food.

A business can validate a method by providing objective documented evidence that it is effective in achieving safe food, eg monitor cold food temperatures during preparation to prove the time out of refrigeration is appropriate to maintain safe temperatures; microbiological testing of products to prove a method results in an appropriate reduction in bacteria; documented validation from your chemical supplier to prove your vegetables are properly sanitised.

The Regulation for vulnerable persons is outcome based, so you will need to show evidence that you have identified and controlled all potential hazards within your operation. All critical control points should have appropriate documented validation evidence which can be shown during the audit.

13. Do I have to keep temperature monitoring records for cold foods too?

Most facilities know that monitoring the temperature of food is an important verification of temperature control. Nearly all facilities monitor the temperature of their fridges and cool room, but many facilities don't realise that they need to check and record the temperature of cold foods such as salads, sandwiches and cold desserts etc at the time of serving, just the same as you would check a hot plated meal. These cold foods often pose a higher risk to patients and residents as they have not been heat treated. Temperature control for these foods is critical in ensuring the foods' safety.

Another temperature monitoring record that needs to be kept is when cooling down cooked foods eg roast beef that is going to be cooled and used on sandwiches the next day. The *Food Standards Code* has specific requirements for cooling of cooked foods — see Q16 for more detail.

14. Can I serve high risk foods?

Certain foods are high risk to vulnerable persons due to increased potential for these foods to cause foodborne illness.

Listeria monocytogenes is an organism of particular concern which can grow at chilled food storage temperatures and can be fatal to a vulnerable person. Examples of foods at higher risk

of *Listeria* contamination include: cold meats; cold cooked chicken; pate; pre-prepared and pre-packaged salads; chilled seafood; soft, semi-soft and surface ripened cheeses; soft serve ice-cream; unpasteurised dairy products; and fresh cut fruit and vegetables.

In addition, foods that are at high risk of contamination by *E. coli* and *Salmonella* are of concern and include foods such as: food containing raw eggs that are to be consumed uncooked; runny or lightly cooked egg products (eg poached eggs, mousse); and seed sprouts.

A food business wishing to serve the foods listed above must assess the hazards present through the hazard analysis they conduct on their operation. Businesses who serve a high risk food that has not been identified through a hazard analysis will receive a critical CAR and fail their audit.

Additionally, businesses must be able to demonstrate to the auditor that they have adequate control measures in place to control the pathogens listed above, eg opened ham and devon kept for no more than 24 hours and stored at 3 °C or less to minimise the potential for *Listeria* growth. In all instances, businesses must have documentation and evidence for the validation of their control measures available for inspection during the audit.

In many instances high risk foods can be replaced with a more suitable (safer) alternative.

Process controls

15. Do I have to follow exactly what is in the Vulnerable Persons Manual?

As a condition of licence, all licensees must comply with the *Vulnerable Persons Food Safety Scheme Manual*. This includes adopting the process control measures. If a business wishes to do something different from what is specified in the manual, it will need to submit an application and provide risk based validation that the alternative method will achieve the same outcome (see Q19 for more detail). If a business is not taking appropriate process control measures, it may be given a critical CAR and may fail its audit.

16. What are the mandatory requirements for cooling and storing potentially hazardous foods?

You need to assess the risks associated with potentially hazardous foods used in your business and implement appropriate, effective strategies to minimise those risks. These controls need to be demonstrated with appropriate documentation and evidence.

Following cooking, cooked foods can become contaminated with pathogenic bacteria if they are not handled correctly. Clause 7(3) of Standard 3.2.2 of the *Food Standards Code* states that:

"A food business must, when cooling cooked potentially hazardous food, cool the food:

- a) within two hours — from 60 °C to 21 °C; and
- b) within a further four hours — from 21 °C to 5 °C,

unless the food business demonstrates that the cooling process used will not adversely affect the microbiological safety of the food."

That means the total cooling time from 60 °C to 5 °C is 6 hours. The cooling time must include the time allowed for post cook processing eg puree step.

Businesses should use a probe thermometer or data logger to measure the core temperature and monitor and record how quickly food is being cooled.

For storing potentially hazardous foods, you must follow Clause 5 of Standard 3.2.2 which states that the maximum storage temperature for refrigerated products is 5 °C and for frozen products is minus 10 °C.

17. How do I make sure cook chill food is safe?

Cook chill foods require special processing to ensure they are safe. Time and temperature control during storage and handling are critical to the cook chill system because bacteria can grow in the extended time between food production and consumption.

There are three different cook chill processes:

- Cook chill food intended to be served cold — is cooked, chilled and then served cold (eg cooked desserts, cooked meats intended for salads or sandwiches)
- Cook chill food with short life — only receives a minimum heat treatment (70 °C for 2 minutes or equivalent), is rapidly chilled, stored in gastronome trays in low temperature conditions and is thoroughly reheated to 75 °C minimum before consumption (eg lasagne)
- Cook chill food with extended life — typically receives a more severe heat treatment and is packaged aseptically (eg soups, sauces).

It is strongly recommended that you seek expert advice to help determine the appropriate cooking process, storage temperatures and shelf life, especially if you are making cook chill food with extended life.

Cooling

As a minimum, businesses must follow the mandatory requirements in Standard 3.2.2 (further detailed in Q16 above) which requires that foods are cooled in line with the '2 hour/4 hour' rule:

- From 60 °C to a maximum core temperature of 21 °C within 2 hours
- Then from 21 °C to 5 °C within a further 4 hours.

However, international recommended codes of practice for cook chill foods (from UK *Chilled and Frozen Guidelines on Cook Chill and Cook Freeze Systems*, Anon (1989)) promote the following:

- Cook chill foods with short life: maximum core temperature of 3 °C within 150 minutes from the end of the cooking cycle
- Cook chill foods with extended life: maximum core temperature of 3 °C within 90 minutes from the end of the cooking cycle

This should be demonstrated by keeping records of cooling times and temperatures.

Storing

Recommended codes of practice for storing cook chill foods include: *Code of Hygienic Practice for Heat-treated Refrigerated Foods Packaged for Extended Shelf Life*, AQIS (1992); and *Information Paper: Advice and Industry Code of Practice on Vacuum and Modified Atmosphere Packaged Products*, UK Advisory Committee on the Microbiological Safety of Food (ACMSF) (1992).

The following recommended control measures should be demonstrated by keeping records of storage times and temperatures.

- If food is cooked, chilled and is then served cold without any reheating, storage should be at 3 °C for no more than 24 hours.
- Cook chill food with short shelf life can be stored at 3 °C for up to 5 days (including day of preparation). The shelf life is required to be validated.
- Cook chill food with extended shelf life can be stored at 3 °C for longer than 5 days, depending on individual product characteristics. The shelf life is required to be validated.

18. How do I sanitise fruit and vegetables correctly?

Raw fruits and vegetables may be contaminated with microorganisms, including pathogenic *E.coli*, *Salmonella* and *Listeria monocytogenes*. Washing raw produce with chlorine has been shown to reduce the number of microorganisms.

The sanitation of fresh produce should occur just prior to processing and serving.

All fruits and vegetables are required to be pre-cooled, then pre-washed in clean water (5 to 10 °C warmer than the produce), then sanitised by soaking in 100ppm (free) chlorine for 5 minutes **or** in an appropriate validated equivalent commercial chemical preparation (see Q19 for more detail).

Sodium hypochlorite (commonly known as bleach) is a chlorine based chemical that is a permitted washing agent for food manufacture.

When making up the sanitiser solution it is essential that quantities be measured out accurately. In addition, appropriate chemical training for operators preparing the sanitising wash is important and must be demonstrated.

For more detailed information on cleaning and sanitising fresh produce, refer to *Vulnerable Persons Food Safety Scheme Manual* Section 5: Technical Information.

Other issues

19. What is an equivalent validated process or an alternative method of compliance? And can I use it?

Food legislation, such as the *Food Standards Code*, contains specific requirements that food businesses must comply with. For some standards, another way of meeting the requirements (an alternative method of compliance) may be appropriate and permitted, so long as the alternative method is equivalent in its performance and is validated.

For certain processes, the Authority has detailed appropriate limits and methods (eg sanitise fresh produce in 100ppm free chlorine with a 5-minute soak). A food business may use a different method to the one specified in the *Vulnerable Persons Food Safety Scheme Manual* (eg an alternative method of compliance for sanitising fresh produce), so long as the business is able to demonstrate that the alternative method will still achieve the same (equivalent) outcome and not adversely affect the safety and suitability of the food. For any alternative method, validation evidence will be required which will be reviewed at audit.

For a process to be considered as a validated process, it should have undergone extensive independent assessment (eg microbiological testing) or be accompanied by documented sound scientific evidence, to demonstrate that it achieves the same outcome (eg a log reduction in the number of food poisoning bacteria) and does not adversely affect the safety of the food.

The Authority has prepared a *Protocol for determining alternative methods of compliance and equivalent food safety outcomes*, to explain what food businesses must do to demonstrate that any alternative method used still achieves an equivalent food safety outcome. This protocol, including the application form, is available on the Authority's website: www.foodauthority.nsw.gov.au.

20. What do I need to do to prepare for an audit?

Facilities can minimise their audit time (and audit cost) by making sure that their food safety program meets all the legislated requirements, that all personnel are available on the day of the audit, and that all documentation and records are on hand.

If a licensed facility has questions or needs advice, it is advisable to contact the Authority before the audit, rather than asking the auditor during the audit.

Facilities should access the Authority's *Vulnerable Persons Food Safety Scheme Manual* from the website www.foodauthority.nsw.gov.au

21. Do all approved suppliers need HACCP certification?

It is not mandatory for suppliers to be HACCP (Hazard Analysis Critical Control Point) accredited or certified. HACCP was designed for controlling hazards in food production environments, so is not necessary for chemical suppliers or pest control suppliers.

More questions?

Contact the NSW Food Authority on:

Website: www.foodauthority.nsw.gov.au

Email: contact@foodauthority.nsw.gov.au

Phone: 1300 552 406