



Brenda Fitzgerald, MD, Commissioner

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## **SYNOPSIS OF PROPOSED VARIANCE**

### **RULES OF DEPARTMENT OF HUMAN SERVICES: PUBLIC HEALTH**

#### **CHAPTER 290-5-14.04**

#### **FOOD SERVICE**

### **NOTICE OF PROPOSED VARIANCE**

The Department of Public Health (Department) intends to consider a proposed variance to the current Rules of the Department of Human Services: Public Health 290-5-14.04 Food Services. The Department is authorized to grant a variance or waiver to a rule in the manner prescribed in Chapter 13 of Title 50 of the Official Code of Georgia.

### **STATEMENT OF PURPOSE AND MAIN FEATURES OF PROPOSED VARIANCE**

The Department of Public Health's Environmental Health Program is proposing a variance from Rule 290-5-14.04(4)(a)(2), with conditions, at the request of the Georgia Restaurant Association, to be considered by the Department's Board, so that employees at all food service establishments that utilize ready-to-eat food ingredients in preparation of their menu items that are cooked to at least 165°F for at least 15 seconds will be allowed to use their bare hands in preparation of the food.

Rule 290-5-14.04 (4)(a)(2) provides that except when washing fruits and vegetables, food employees shall not contact exposed, ready-to-eat food with their bare hands and shall use suitable utensils such as deli tissue, spatulas, tongs, single-use gloves, or dispensing equipment. The Georgia Restaurant Association is requesting a waiver so that employees at all food service establishments that utilize ready-to-eat food ingredients in preparation of their menu items that are cooked to at least 165°F for at least 15 seconds, will be allowed to use their bare hands in preparation of the food.

Pursuant to O.C.G.A. § 50-13-9.1, the Department is authorized to grant a variance or waiver to a rule when a person subject to that rule demonstrates that the purpose of the underlying statute upon which the rule is based can be or has been achieved by other specific means. The Department proposes to grant the variance as it believes that the plan being proposed would provide the same protection from contamination from the food employees' hands.

## **SCHEDULE**

Interested parties who desire to do so may submit data, views, or arguments concerning the proposed variance in writing to the Department no later than **4:00 p.m. on February 7, 2012**. Comments should be sent to:

Simone Brathwaite  
Associate General Counsel  
Georgia Department of Public Health  
2 Peachtree Street, 15<sup>th</sup> Floor  
Atlanta, Georgia 30303

The Department shall hear public comment and then consider approval of the variance on **February 14, 2012 at 1:00 p.m.** at 2 Peachtree Street N.W., 5<sup>th</sup> Floor Boardroom, Atlanta, Georgia 30303.

**290-5-14-.04 Food. (3) Specifications for Receiving. (k) Molluscan Shellfish, Original Container. 4. (cont.)**

(iii) *The labeling information and dates specified under 4(ii) of this subsection are maintained for 90 days ; and*

(iv) *The shellfish are protected from contamination.*

**(l) Shellstock, Maintaining Identification.**

1. Except as specified under 2(ii) of this subsection, shellstock tags shall remain attached to the container in which the shellstock are received until the container is empty.

2. The identity of the source of shellstock that are sold or served shall be maintained by retaining shellstock tags or labels for 90 calendar days from the dates of harvest:

(i) Using an approved record keeping system that keeps the tags or labels in chronological order correlated to the date when, or dates during which, the shellstock are sold or served; and

(ii) If shellstock are removed from their tagged or labeled container:

(I) Preserving source identification by using a record keeping system as specified under 2(i) of this subsection, and

(II) Ensuring that shellstock from one tagged or labeled container are not commingled with shellstock from another container with different certification numbers; different harvest dates; or different growing areas as identified on the tag or label before being ordered by the consumer.

**(4) Protection From Contamination After Receiving.**

**(a) Preventing Contamination from Hands.**

1. Food employees shall wash their hands as specified under Rule .03 subsection (5)(b).

2. *Except when washing fruits and vegetables*, food employees shall not contact exposed, ready-to-eat food with their bare hands and shall use suitable utensils such as deli tissue, spatulas, tongs, single-use gloves, or dispensing equipment.

3. Food employees shall minimize bare hand and arm contact with exposed food that is not in a ready- to-eat form.

**(b) Preventing Contamination When Tasting.** A food employee may not use a utensil more than once to taste food that is to be sold or served.