



North Carolina Department of Health and Human Services
Division of Public Health

Pat McCrory
Governor

Aldona Z. Wos, M.D.
Ambassador (Ret.)
Secretary DHHS

Daniel Staley
Acting Division Director

November 20, 2013

Mr. Larry Sigler, Director
Food Safety and Training
Waffle House, Inc.
5986 Financial Drive
Norcross, GA 30071

Re: Variance Application
Approved

Dear Mr. Sigler,

On May 7, 2013, Mr. Mark S. Miklos, former VP of Food Safety and Training, Waffle House, Inc., submitted a request for a variance from Sections 2-102.11 through 2-102.20 of the NC Food Code (adopted effective September 1, 2012) that pertains to Demonstration of Knowledge/Certified Food Protection Manager. The variance committee has met and reviewed your request and has determined that this will meet the current NC Food Code requirement. **The Variance Request has been approved.**

This approval is based on the variance application dated May 7, 2013. The proposal was submitted on behalf of the NC Waffle House restaurants requesting that Waffle House operates in compliance with the 2009 FDA version of the Food Code and the 2011 amendments.

The following outlines the provisions of the aforementioned Code that pertain to Demonstration of Knowledge/Certified Food Protection Manager, including relative additions and amendments contained in the *Supplement to the 2009 Food Code* (September 29, 2011).

This **Variance Approval** is based on compliance with the following criteria (and must be applied on January 1, 2014, when this rule becomes effective):

2-102.11 Demonstration.

Based on the RISKS inherent to the FOOD operation, during inspections and upon request the PERSON IN CHARGE shall demonstrate to the REGULATORY AUTHORITY knowledge of foodborne disease prevention, application of the HAZARD Analysis and CRITICAL CONTROL POINT principles, and the requirements of this Code. The PERSON IN CHARGE shall demonstrate this knowledge by:

www.ncdhhs.gov É www.publichealth.nc.gov

Tel 919-707-5000 ÉFax 919-870-4829

Location: 5605 Six Forks Road ÉRaleigh, NC 27609

Mailing Address: 1931 Mail Service Center ÉRaleigh, NC 27699-1931

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- (A) Complying with this Code by having no violations of PRIORITY ITEMS during the current inspection;^{Pf}
- (B) Being a certified FOOD protection manager who has shown proficiency of required information through passing a test that is part of an ACCREDITED PROGRAM;^{Pf} or
- (C) Responding correctly to the inspector's questions as they relate to the specific FOOD operation. The areas of knowledge include:
- (1) Describing the relationship between the prevention of foodborne disease and the personal hygiene of a FOOD EMPLOYEE;^{Pf}
 - (2) Explaining the responsibility of the PERSON IN CHARGE for preventing the transmission of foodborne disease by a FOOD EMPLOYEE who has a disease or medical condition that may cause foodborne disease;^{Pf}
 - (3) Describing the symptoms associated with the diseases that are transmissible through FOOD;^{Pf}
 - (4) Explaining the significance of the relationship between maintaining the time and temperature of POTENTIALLY HAZARDOUS FOOD (TIME/TEMPERATURE CONTROL FOR SAFETY FOOD) and the prevention of foodborne illness;^{Pf}
 - (5) Explaining the HAZARDS involved in the consumption of raw or undercooked MEAT, POULTRY, EGGS, and FISH;^{Pf}
 - (6) Stating the required FOOD temperatures and times for safe cooking of POTENTIALLY HAZARDOUS FOOD (TIME/TEMPERATURE CONTROL FOR SAFETY FOOD) including MEAT, POULTRY, EGGS, and FISH;^{Pf}
 - (7) Stating the required temperatures and times for the safe refrigerated storage, hot holding, cooling, and reheating of POTENTIALLY HAZARDOUS FOOD (TIME/TEMPERATURE CONTROL FOR SAFETY FOOD);^{Pf}
 - (8) Describing the relationship between the prevention of foodborne illness and the management and control of the following:
 - (a) Cross contamination,^{Pf}
 - (b) Hand contact with READY-TO-EAT FOODS,^{Pf}
 - (c) Handwashing,^{Pf} and
 - (d) Maintaining the FOOD ESTABLISHMENT in a clean condition and in good repair;^{Pf}
 - (9) Describing FOODS identified as MAJOR FOOD ALLERGENS and the symptoms that a MAJOR FOOD ALLERGEN could cause in a sensitive individual who has an allergic reaction.^{Pf}
 - (10) Explaining the relationship between FOOD safety and providing EQUIPMENT that is:
 - (a) Sufficient in number and capacity,^{Pf} and
 - (b) Properly designed, constructed, located, installed, operated, maintained, and cleaned;^{Pf}
 - (11) Explaining correct procedures for cleaning and SANITIZING UTENSILS and FOOD-CONTACT SURFACES of EQUIPMENT;^{Pf}

(12) Identifying the source of water used and measures taken to ensure that it remains protected from contamination such as providing protection from backflow and precluding the creation of cross connections; ^{Pf}

(13) Identifying POISONOUS OR TOXIC MATERIALS in the FOOD ESTABLISHMENT and the procedures necessary to ensure that they are safely stored, dispensed, used, and disposed of according to LAW; ^{Pf}

(14) Identifying CRITICAL CONTROL POINTS in the operation from purchasing through sale or service that when not controlled may contribute to the transmission of foodborne illness and explaining steps taken to ensure that the points are controlled in accordance with the requirements of this Code; ^{Pf}

(15) Explaining the details of how the PERSON IN CHARGE and FOOD EMPLOYEES comply with the HACCP PLAN if a plan is required by the LAW, this Code, or an agreement between the REGULATORY AUTHORITY and the FOOD ESTABLISHMENT; ^{Pf}

(16) Explaining the responsibilities, rights, and authorities assigned by this Code to the:

(a) FOOD EMPLOYEE, ^{Pf}

(b) CONDITIONAL EMPLOYEE, ^{Pf}

(c) PERSON IN CHARGE, ^{Pf}

(d) REGULATORY AUTHORITY; ^{Pf} and

(17) Explaining how the PERSON IN CHARGE, FOOD EMPLOYEES, and CONDITIONAL EMPLOYEES comply with reporting responsibilities and EXCLUSION or RESTRICTION of FOOD EMPLOYEES. ^{Pf}

2-102.12 Certified Food Protection Manager (2011 Supplement)

(A) At least one employee that has supervisory and management responsibility and the authority to direct and control food preparation and service shall be a certified food protection manager who has shown proficiency of required information through passing a test that is part of an accredited program.

(B) This section does not apply to certain types of food establishments deemed by the regulatory authority to pose minimal risk of causing, or contributing to, foodborne illness based on the nature of the operation and extent of food preparation.

2-102.20 Food Protection Manager Certification (2011 Supplement)

(A) A person in charge who demonstrates knowledge by being a food protection manager that is certified by a food protection manager certification program that is evaluated and listed by a Conference for Food Protection-recognized accrediting agency as conforming to the Conference for Food Protection Standards for Accreditation of Food Protection Manager Certification Programs is deemed to comply with ¶2-102.11(B).

(B) A food establishment that has an employee that is certified by a food protection manager certification program that is evaluated and listed by a Conference for Food Protection-recognized accrediting agency as conforming to the Conference for Food Protection Standards for Accreditation of Food Protection Manager Certification Programs is deemed to comply with §2-102.12.

Conditions:

1. This variance approval applies to all corporate, subsidiary, and franchise locations in North Carolina and Waffle House restaurants yet to be built in North Carolina.
2. This variance approval is limited to the current owner/lessee and is not transferable to a new owner/lessee.
3. Please retain a copy of this approval letter at each NC Waffle House location for verification by the Registered Environmental Health Specialist during each inspection.
4. Approved variances are subject to periodic review by the committee to assess compliance. Failure to comply with any of the above may result in revocation of the variance approval.

If you have any questions, please contact the Local Health Department's Environmental Health Section for assistance. You may also contact me via email at laura.gammons@dhhs.nc.gov .

Sincerely yours,

A handwritten signature in black ink, appearing to read 'Laura Gammons', written in a cursive style.

Laura Gammons, REHS
Variance Committee Chair
DHHS Food & Facilities Protection Section

cc: NC Local Health Departments
Variance Committee