

## Consumer Advisory

Cooking raw food of animal origin to the required minimum cooking temperature (12 VAC 5-421-700) destroys pathogens (bacteria or viruses) that may be in or on the food before the customer eats it. When raw foods of animal origin are in ready-to-eat foods or when you allow your customer to order a food of animal origin undercooked or raw, you, the food establishment owner, have an obligation to disclose that the food of animal origin is raw or undercooked and warn the customer of the inherent risk of consuming raw or undercooked food of animal origin. You do not have to offer customers the option of ordering undercooked food of animal origin but, if you do, you must follow the requirements in the VA Food Regulations.

*From the Virginia Food Regulations*

### **12 VAC 5-421-930. Consumption of Animal products that are raw, undercooked, or not otherwise processed to eliminate pathogens.**

A. Except as specified in 12 VAC 5-421-700 C and D and under 12 VAC 5-421-950 C, if an animal food such as beef, eggs, fish, lamb, pork, poultry, or shellfish is served or sold raw, undercooked, or without otherwise being processed to eliminate pathogens, either in ready-to-eat form or as an ingredient in another ready-to-eat food, the permit holder shall inform consumers of the significantly increased risk of consuming such foods by way of a *disclosure* and *reminder*, as specified in subsections B and C of this section, using brochures, deli case or menu advisories, label statements, table tents, placards, or other effective written means.

B. *Disclosure* shall include:

1. A description of the animal-derived foods, such as "oysters on the half shell (raw oysters)," "raw-egg Caesar salad," and "hamburgers (can be cooked to order)," or
2. Identification of the animal-derived foods by asterisking them to a footnote that states that the items are served raw or undercooked, or contain (or may contain) raw or undercooked ingredients.

C. *Reminder* shall include asterisking the animal-derived foods requiring disclosure to a footnote that states:

1. "Regarding the safety of these items, written information is available upon request";
2. "Consuming raw or undercooked meats, poultry, seafood, shellfish, or eggs may increase your risk of foodborne illness"; or
3. "Consuming raw or undercooked meats, poultry, seafood, shellfish, or eggs may increase your risk of foodborne illness, especially if you have certain medical conditions."

*From the FDA 2009 Food Code: Public Health Reasons*

### **Purpose:**

Provide notice to consumers that animal-derived foods that are not subjected to adequate heat treatment pose a risk because they may contain biological agents that cause foodborne disease. Message must communicate fairly to all consumers and, where epidemiologically supported, place risk in perspective to the consumer's health status and the food being consumed.

**Satisfactory compliance with the Code's consumer advisory provision is fulfilled when both a disclosure and reminder are provided**, as described in § 3-603.11 (FDA Food Code section that VA adopted as 12 VAC 5-421-930, stated above) of the Code. **Disclosure is** achieved when there is clear identification of animal-derived foods that are sold or served raw or undercooked, and of items that either contain or may contain (to allow for ingredient substitution) such raw or undercooked ingredients. The **reminder is** a notice about the relationship between thorough cooking and food safety.

### **Locating the Advisory:**

Disclosure of raw or undercooked animal-derived foods or ingredients and reminders about the risk of consuming such foods belong at the point where the food is selected by the consumer. Both the disclosure and the reminder need to accompany the information from which the consumer makes a selection. That information could appear in many forms such as a menu, a placarded listing of available choices, or a table tent.

### **Labeling for Whole-muscle, Intact Beef Steaks**

In order for a food establishment operator to know that a steak is a whole-muscle, intact cut of beef that can therefore be undercooked and served without a consumer advisory, the incoming product must be labeled. Processors can accommodate this need at the retail level by developing proposed labels, obtaining the necessary USDA Food Safety Inspection Service review and approval, and appropriately affixing the labels to their products. (NOTE: We accept a letter/invoice from your beef supplier as proper documentation - the USDA has not implemented the labeling requirement yet.)

### **Seared Steak**

The provision for allowing seared steaks was reviewed by the National Advisory Committee for Microbiological Criteria on Foods (NACMCF) and USDA.

USDA comments included, "For the purposes of this discussion, steak is a whole beef muscle. It does not include whole beef muscle that has been pinned, injected, or chopped and formed. It may be cut cross grain, such as sirloin, chuck, or porterhouse; or it may be cut with the grain, such as flank, skirt, or Chateaubriand. Other species, such as poultry, pork, and lamb are not included."

NACMCF comments included, "Due to the low probability of pathogenic organisms being present in or migrating from the external surface to the interior of beef muscle, cuts of intact muscle (steaks) should be safe if the external surfaces are exposed to temperatures sufficient to effect a cooked color change. In addition, the cut (exposed) surfaces must receive additional heat to effect a complete sear across the cut surfaces. Grill or char marks may be applied to the complete surface searing. The meat should be seared on both top and bottom surfaces utilizing a heating environment (e.g., grill or broiling oven) that imparts a temperature at the surface of the intact steak of at least 145°F to achieve a cooked color change on all external surfaces. The searing of all surfaces should be continuous until the desired degree of doneness and appearance are attained. This is considered a ready-to-eat food."

As reflected in the definition of "whole-muscle, intact beef steak," marination is a food safety concern when the fascia (exterior surface) of the steak is broken by scoring or other means which allows the marinade to penetrate, and potentially contaminate, the interior of the steak. In such cases, the Code allowance for undercooking without a consumer advisory is negated.

## Special Considerations for undercooked or raw Fish

*From the Virginia Food Regulations*

12 VAC 5-421-730. Parasite destruction.\*

- A. Except as specified in subsection B of this section, before service or sale in ready-to-eat form, raw, raw-marinated, partially cooked or marinated-partially cooked fish shall be:
  - 1. Frozen and stored at a temperature of -4°F (-20°C) or below for a minimum of 168 hours (seven days) in a freezer;
  - 2. Frozen at -31°F (-35°C) or below until solid and stored at -31°F (-35°C) or below for a minimum of 15 hours; or
  - 3. Frozen at -31°F (-35°C) or below until solid and stored at -4°F (-20°C) or below for a minimum of 24 hours.
- B. Subsection A of this section does not apply to:
  - 1. Molluscan shellfish;
  - 2. Tuna of the species *Thunnus alalunga*, *Thunnus albacares* (Yellowfin tuna), *Thunnus atlanticus*, *Thunnus maccoyii* (Bluefin tuna, Southern), *Thunnus obesus* (Bigeye tuna), or *Thunnus thynnus* (Bluefin, Northern); or
  - 3. Aquacultured fish, such as salmon, that:
    - a. If raised in open water, are raised in net-pens; or
    - b. Are raised in land-based operations such as ponds or tanks; and
    - c. Are fed formulated feed, such as pellets, that contains no live parasites infective to the aquacultured fish.

*From the FDA 2009 Food Code: Public Health Reasons*

Lightly cooked, raw, raw-marinated, and cold-smoked fish may be desired by consumers for taste or perceived nutritional reasons. In order to ensure destruction of parasites, fish may be frozen before service as an alternative public health control to that which is provided by adequate cooking. Candling or other visual inspection techniques are not adequate to avoid the risk of parasites from fish which have not been frozen.

Certain species of tuna are not susceptible to parasites that infect humans and therefore are exempt from the freezing requirements that apply to other fish species that are consumed raw or undercooked.

The Fish and Fisheries Products Hazards and Controls Guidance states that species that normally have parasites as a result of consuming infected prey, apparently do not have the same parasite hazard when raised on pelleted food in an aquaculture operation. On the other hand, aquacultured fish that are fed processing waste and by-catch fish may have a parasite hazard, even when wild caught fish of that species do not normally have a parasite hazard. Feed must not contain any live parasites. For example, the use of fresh fish meat in feed could transmit such parasites. Only heat treated feed or feed otherwise produced in a manner that would kill parasite intermediate stages infective to the aquacultured fish, such as most pelleted feeds, should be used.

(NOTE: Documentation from supplier must state BOTH "Farm Raised/Aquacultured" AND "Pellet Fed" or Fed Feed free of pathogenic parasites" to be an acceptable form of parasite destruction documentation.)

## Menu Examples

Menu A      **Best Breakfast Platter Ever**  
*2 Eggs\* (cooked to order), 2 pieces of bacon or sausage, 2 pancakes*

**Home Run Burger Basket**  
*1/3 pound hamburger\* (cooked to order), lettuce, tomato, onion,  
homemade Aoli\* (contains raw egg)*

**Bagel and Lox\***  
*Freshly toasted bagel with cream cheese and smoked salmon\* (undercooked)*

\*Consuming raw or undercooked eggs, meat or fish may increase your risk of foodborne illness.  
(this is usually a footnote on menu but may be located somewhere else, if appropriate)

Menu B      **Protein Smoothie**  
*Yogurt, Banana, Peanut Butter, Cocoa Powder, Egg\**

**Caesar Salad\***

\*Contain Raw Egg. Consuming raw or undercooked eggs, meat or fish may increase your risk of foodborne illness.  
(this is usually a footnote on menu but may be located somewhere else, if appropriate)

## Summary

The food item that is “ \* “ed tells the customer which food of animal origin is undercooked or raw. Note that you need to state the ingredient if it isn’t evident in the food name as in: Aoli (contains raw egg) or state that the item is “cooked to order” if the customer is making the decision on how well done the item is cooked. This is the *disclosure* part of the advisory.

The *reminder* is the warning statement (\*footnote) that tells the customer of the risk associated with eating raw or undercooked food of animal origin.

Whole Muscle Beef may be served undercooked without a consumer advisory. You must provide documentation that the Beef is “whole muscle”.

The Consumer Advisory is not intended to be a “better safe than sorry” cover for foods that might accidentally be served undercooked.

The Consumer Advisory does not cover the risk of parasites that may be in raw fish. You cannot serve fish that has not be raised or treated in manner that removes the parasite risk unless the fish is identified as a species that does not present a risk from pathogenic parasites.