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GOVERNOR

STATE OF MICHIGAN  
DEPARTMENT OF AGRICULTURE  
AND RURAL DEVELOPMENT

KEITH CREAUGH  
DIRECTOR

**DATE:** March 21, 2011

**TO:** All Local Health Departments  
Attn: Medical Director / Health Officer / Director of Environmental Health  
Michigan Department of Agriculture and Rural Development (MDARD)  
Attn: Food and Dairy Division Managers

**FROM:** Sandra Walker, Regional Food Supervisor and Food Service Supervisor  
Food and Dairy Division, Michigan Department of Agriculture  
and Rural Development

**SUBJECT:** Wendy's Pasteurized Process Cheese Tempering Procedure

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***Pasteurized Process Cheese Background Information***

In 1998, the Michigan Department of Agriculture issued a memo that defined pasteurized process cheese as nonpotentially hazardous food, based on scientific data and the Code of Federal Regulations, which regulates the standard of identity for such products. This memo was retained for good practice, but with the current concerns of the Wendy's Tempered Cheese Standard Operating Procedure and the accompanying FDA approval letter, this subject needs to be revisited. Since 1998, Michigan has adopted the 2005 Federal Food Code, which states:

(3) "Potentially hazardous food (time/temperature control) for safety food (phf/tcs)" does not include:

(d) A FOOD that is designated as Product Assessment Required (PA) in Table A or B of this definition and has undergone a Product Assessment showing that the growth or toxin formation of pathogenic microorganisms that are reasonably likely to occur in that FOOD is precluded due to:

- (i) Intrinsic factors including added or natural characteristics of the FOOD such as preservatives, antimicrobials, humectants, acidulants, or nutrients,
- (ii) Extrinsic factors including environmental or operational factors that affect the FOOD such as packaging, modified atmosphere such as REDUCED OXYGEN PACKAGING, shelf life and use, or temperature range of storage and use, or
- (iii) A combination of intrinsic and extrinsic factors; or

(e) A FOOD that does not support the growth or toxin formation of pathogenic microorganisms in accordance with one of the Subparagraphs (3)(a) - (3)(d) of this definition even though the FOOD may contain a pathogenic microorganism or chemical or physical contaminant at a level sufficient to cause illness or injury.

Additionally, the Michigan Food Law of 2000, P.A. 92, as amended, under §289.7111, adopts the current Code of Federal Regulations, including Part 133 (21 CFR, Part 133, §133.169), which defines a pasteurized process cheese as:

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“(a)(1) Pasteurized process cheese is the food prepared by comminuting and mixing, with the aid of heat, one or more cheeses of the same or two or more varieties, except cream cheese, neufchatel cheese, cottage cheese, lowfat cottage cheese, cottage cheese dry curd, cook cheese, hard grating cheese, semisoft part-skim cheese, part-skim spiced cheese, and skim milk cheese for manufacturing with an emulsifying agent prescribed by paragraph (c) of this section into a homogeneous plastic mass.”

In order to be labeled as such, pasteurized process cheese must be manufactured under this standard of identity, which controls the moisture and fat content of the cheese, along with emulsifying agents, mold-inhibiting agents, and other additives. All of which give pasteurized process cheese a combination of extrinsic and intrinsic factors that are likely to preclude the growth of microbial agents.

***Supporting Science:***

Recent studies (2006 and 2008) have been performed on pasteurized process cheeses, which has demonstrated that inoculated pathogenic and spoilage bacteria of concern were unable to grow at 86°F and 72°F, respectively. Additionally, based on the information obtained from FDA's approval letter, a product assessment was performed by Silliker, Inc., on the Sharp Pasteurized American Processed Cheese product manufactured by Schrieber Foods. This product assessment determined minimal proliferation of various pathogens at kitchen temperatures over a 96-hour period.

***Conclusion:***

Based on the Sharp Pasteurized American Processed Cheese product being manufactured under the standard of identity 21 CFR, Part 133 and supporting scientific data, it is the position of the MDARD that this product does not meet the definition of a potentially hazardous food (time/temperature control for safety food) under 3(d) and 3(e) of the definition of Potentially Hazardous Food (Time/Temperature Control for Safety Food), §1-201.10. Therefore, this product will not need to be maintained at 41°F for safety and the Wendy's tempering process does not need regulatory approval for time as a public health control or individual variances for exceeding six hours out of temperature control.



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