

Food Safety Management by Retailers: A Global Inventory of In-Store Food Safety Requirements

Heather Bone and Alan Parker
JohnsonDiversey Consulting

CIES GLOBAL FOOD SAFETY INITIATIVE
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Safety Requirements

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AUTHORS

Heather Bone
JohnsonDiversey Consulting
Bretby, Staffordshire, England
Heather.Bone@johnsondiverse.com

Alan Parker
JohnsonDiversey Consulting
Annapolis, Maryland, USA
Alan.Parker@johnsondiverse.com

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Food Safety Management by Retailers: A Global Inventory of In-Store Food Safety Requirements

Project Overview:

A document summarizing discussion of Good Retail Practices (GRP's) at the 2003 CIES meeting for Chief Executive Officers included the following statement:

“Retailers use best practice to manage food under their control, but their efforts are largely unrecognized. These practices differ on a national and regional basis, and there is little exchange of information concerning GRP, mostly due to the absence of a suitable forum.”

To create this forum and to facilitate the sharing of “Best Practices” the CIES initiated a project to deliver:

- A reference document that provides a perspective on the legislative framework surrounding GRP's;
- An insight into the GRP's currently operating within the retail industry of selected countries
- An inventory of GRP resources, and
- A baseline assessment of the current state of global in-store food safety standards.

The descriptive research element for this project is now complete with 9 countries surveyed; The Netherlands, France, Germany, Ireland, UK, and Switzerland from Europe, Australia, Mexico and the United States. These countries were selected by CIES to provide a spectrum of approaches to food safety management.

The second essential element of this project uses a web-based questionnaire to collect data that will be analyzed to assess the development and maturity of food safety management systems. This analysis will be conducted at country level, not at company level but the data is to be provided by retailers so as to get the insiders' view of the industry.

Several retailers have already completed this questionnaire however the amount of data collected is currently insufficient to “map” into a country assessment. Additional data is therefore to be collected further to the February Rome conference.

Desktop Research - Executive Summary:

The comparative trends identified by the survey largely confirm the original CIES CEO's statement "Practices differ on a national and regional basis". There are of course many similarities that have also been identified, but essentially even the goal of "global consistency in food safety concepts – the logic behind the law" is not currently being demonstrated.

To exemplify this statement, of the 9 countries examined:

- Eight countries have National food safety legislation applicable to retailers. The United States is the exception and instead of national regulation, the Food and Drug Administration (FDA) code may or may not be adopted, in total or in part, as State Law. Individual States have the flexibility to make the decision.
- All nine countries have enforcement agencies that monitor compliance with regulations, administered either at national or local levels. The breadth of consistency of enforcement within countries is reported as differing with a range of:
 - Excellent – in terms of standardization of inspection process, documentation, reporting and inspector qualifications and approach. (The Netherlands)
 - To
 - Variable – inspection process is dependant on local enforcement agency objectives and agenda (Switzerland)
 - Variable – there is a lack of uniformity between regulations and enforcement practices at the State level. (United States)
- Six out of the nine countries have HACCP as a regulatory requirement for retail. Australia, Mexico and the United States do not, although mandatory HACCP is currently under discussion in Australia.
- Training of food handlers is mandatory in the majority of all nine countries with the only exception being some American States that have not included this requirement in their local legislation.
- Microbiological sampling and testing is mandatory within the retail industry in some countries e.g. France, but not in others.

The examples above demonstrate the global variability of just the regulatory and enforcement requirements that have been identified. It is therefore not surprising that there are differences in the practices and approaches to food safety; historically the priority has been to maintain legal compliance at a national and local level.

In this respect the majority of industry experts used to compile the data for the report felt that retailers were in compliance with the legislation the majority of the time. Mexico is the only country whereby frequent major and minor non-compliance is observed during audits.

However to put this statement in context, Mexico has only recently introduced the regulatory framework for food safety in retail and thus it is a new concept and needs time to evolve.

Whilst legal texts may be variable across the countries reviewed, with perhaps EU member states showing the most consistency in content, the majority of the legislation is non-prescriptive. Much of the text has been written to apply to multiple food sectors rather than specifically for retail and as such, Governments have included the provision of flexibility and individual industry interpretation.

Food safety elements, such as training or hygiene standards are not overly dictatorial for the majority of national legislation. Phrases such as “training should be commensurate with the role” and “permit good food hygiene practice, including protection against contamination” are frequently used.

This type of legal text whilst flexible has led to a wilderness response in some countries with each retailer interpreting the law and inventing their own in-house standards and thus potentially perpetuating the differences in practices even within a country.

This however has been prevented in those countries that have strong supporting industry bodies or Government agencies that have taken on the role of food safety resource providers / co-ordinators. Mexico and Switzerland are the only two countries that appear to be unsupported in this way.

The study has identified a plethora of food safety resources that are available in the majority of the nine countries surveyed. These range from validated HACCP studies specifically for the meat, fish, delicatessen, bakery and cheese departments of retail stores (France), to outlined training course subjects to be covered by retail store employees; Induction skills, Additional skills and Food safety skills for Managers (Ireland). Details of how to access the resources have been provided throughout the report, with links given for the retail industry representatives available in each country and appropriate Government agencies.

It is also clear from the information documented that in many countries it has been the retail industry itself that has driven the need for improved standards and consistency of approach. Indeed, for several countries this extends to retailers leading the whole of the food industry in terms of setting standards and continuous improvement targets. The countries that have introduced technical standards and approval protocols for suppliers of retailer branded products have already exemplified this.

Whilst these supplier technical standards initially originated at a national level, it has been the CIES that has been the provider of the forum that has developed the Global Food Safety Initiative and is coordinating efforts to ensure that individual standards become universally acceptable.

In the same manner this report highlights the many Retailer, Government and Industry Body initiatives that have been devised at a country level. The constraints of local legislation have been identified which is a particularly useful data resource for multinational companies. Each individual country report highlights their evolutionary status with respect to food safety. The resources listed can be used for guidance or benchmarking.

The CIES has therefore once again acted as the facilitator for the exchange of global information via the sponsorship of this data collection.

Food Safety Management for Retailers:

A Global Inventory of In-Store Practices

1.0 Introduction

In his highly acclaimed work Guns, Germs and Steel – the Fates of Human Societies, Professor Jared Diamond observes that it was the gradual diffusion of technical knowledge from one isolated area to another that contributed most to the development of societies over the course of the past 20,000 years. The migration of knowledge between previously isolated regions was fueled by the development of trade relationships and hindered to the extent there were barriers – barriers that could be geographical, climatic, or cultural - between the societies.

Professor Diamond goes on to point out that the development of trading relationships and the sharing of technical knowledge reinforce each other. As knowledge is shared, societies advance in their development; they consequently have more goods to offer in trade and more knowledge to share.¹

In today's marketplace, neither the sharing of technical knowledge nor the free flow of trade are simple matters. Although developed nations have long overcome the barriers of geography and climate, other barriers - cultural, political, legal, and economic barriers - have been erected in their place. In the world of commerce, certain types of knowledge are regarded as intellectual property that must be protected from disclosure. Other types of knowledge, and the present subject of food safety practices is among these types, are generally recognized as non-competitive issues, and that the sharing of knowledge on these subjects benefits all who share.

The European Parliament, in the basic regulations laying down the general principles and requirements of EU food laws, recognized the potential for food safety requirements that differ significantly among trading partners to impose a *de facto* barrier against the free flow of foods. The initial recitation states the following:

1. Diamond, Jared, Guns, Germs, and Steel – the Fates of Human Societies, 1997, W.W. Norton & Company, Ltd., NY, NY

“Whereas:

- (1) *The free movement of safe and wholesome food is an essential aspect of the internal market and contributes significantly to the health and well being of citizens, and to their social and economic interests.*
- (1) *A high level of protection of human life and health should be assured in the pursuit of Community policies.*
- (2) *The free movement of food and feed within the Community can be achieved only if food and feed safety requirements do not differ significantly from Member State to Member State.”²*

This astute observation on the part of the European Parliament members applies not only within the European Community, but is an important operating principle between any trading partners who trade in food and feed, mainstays of the world economy.

But how is this unintentional trade barrier to be avoided? In fact, there are important differences in food laws of nations, and those differences are based on underlying differences in “...concepts, principles and procedures.”³ It does not appear realistic that nations would ever adopt a uniform code of food safety practices. Moreover, such uniformity of required practices should not be sought or considered – it would not be desirable or scientifically valid. Required food safety practices must reflect local conditions – local agricultural practices, endemic microbial loads, transportation infrastructure, water quality, unique types of foods, and cultural traditions - to name but a few local conditions. These local conditions should be reflected in the types of food safety practices that are appropriate to that system.

What is desirable, and what should be sought, is not a global set of uniform practices, but global uniformity in food safety concepts and in the scientific methodology for determining what practices are appropriate in each locality - the logic behind the law.

If multiple nations, each with its own set of food scientists, attempted to harmonize their food safety practices, complete agreement, or even substantial agreement, regarding these practices, would probably never be attained. However, if the goal were to agree on the logic of hazard analysis and hazard management, that goal could be attained, given sufficient time and patience.

2. Regulation (EC) No. 178/2002, Office Journal of the European Communities, 1.2.2002, L31/1

3. Ibid.

Even with this more attainable goal defined, there are significant challenges to harmonization. If multiple scientists were to examine a particular hazard, the pathogen Salmonella in poultry for example, they may agree about numerous elements of the hazard assessment. They may agree about the incidence of the pathogen in the raw product (i.e. percentage of birds affected); they may agree about the cell density, the distribution, and the attachment of the pathogen on the contaminated birds; they may agree on the heat resistance of the organism; they may agree on all these elements, but still disagree on the internal temperature to which poultry should be cooked.

Why the ultimate disagreement? Because expert opinions may differ on the level of risk that is tolerable. One expert may offer the opinion that a 90% reduction in the incidence of Salmonella will result in a level of risk that is tolerable. A second expert may hold that a 99% or a 99.9% reduction is necessary to reach a tolerable level of risk for consumers. The expert's or the consumer's willingness to tolerate risk is a complex behavioral factor that differs between societies and among individuals.

In addition, the establishment of a boundary for risk tolerance depends on the measures required to limit risk. If, to follow our poultry example, cooking to higher and higher final temperatures is required to attain progressively higher degrees of reduction of the pathogen, then the gain in safety must be weighed against the effect of the higher temperatures on the aroma, flavor, appearance, and texture of the finished cooked product. Individuals, even expert individuals, judge that exchange of quality for safety quite differently. In addition, the availability of technology, and the ability and the willingness to tolerate the cost of applying the best available technology to reduce risk are factors that vary tremendously between nations, leading to legitimate differences in food safety practices.

This project is undertaken in order to progress towards a global view of food safety in the retail industry. The project scope and methodology are based on the assumption that no single set of global best practices can ever exist. The basis for harmonization of food safety practices is to focus on hazard assessment and hazard management – the logic behind the law. Progress towards understanding at this deeper level is advanced through the sharing of knowledge – and this project is intended to furnish a platform for the continued sharing of knowledge on good practices for food safety management in the retail industry.

2.0 Background and Objectives

In all developed societies, market trends and developments over the past 20 years have created many opportunities for retailers, but at the same time have created many potential hazards that need aggressive management.

To satisfy consumer demand, the average supermarket today stocks 3 – 5 times the number of SKU's that it did 20 years ago. Many more of the items are imported than ever before, and some items, especially fresh produce, may be imported from developing nations where sanitation standards are not yet consistently controlled.

The change in customer lifestyles and shopping behaviors is significant and in many countries daily purchase of fresh goods is an activity consigned to history. The customer however, still demands, “fresh food” with a longer shelf life, as opposed to frozen, dehydrated or canned products and this impacts on transportation, storage, handling, and display controls that the retailer needs to observe.

The continuing trend of an ever-increasing percentage of meals consumed outside the home, which currently represent 52% of food purchases in the U.S.,⁴ has placed retailers in direct competition with restaurants in trying to capture a significant share of this revenue. To compete effectively, retailers have modified their business, adding in some cases in-store kitchens that may prepare a variety of value-added, ready-to-eat, ready-to-warm, or prepared, ready-to-cook entrees. Many of these items require extra handling in the store or commissary kitchen, potentially exposing them to cross-contamination and sometimes requiring multiple cook-chill cycles that can allow microbial growth if not adequately monitored and controlled.

In a similar vein, the provision of in-store restaurant and cafeteria type facilities to enhance the shopping experience and extend customer service is another trend that has become firmly established in many food retail outlets over recent years. Again, this addition to the traditional food-retailing portfolio has increased the complexity and needs for the management of in-store food safety.

The examples above demonstrate just some of the challenges that retailers have/are facing with respect to food safety in order to meet the desires and wants of the consumer, compete effectively and deliver customer service.

2.1 Background of CIES Food Safety Initiative

In recognition of these added risks, CIES leadership initiated the Global Food Safety Initiative (GFSI) in May 2000. The stated objectives of the GFSI were to enhance food safety, to ensure consumer protection, strengthen consumer confidence, benchmark requirements of food safety systems, and to improve cost efficiency throughout the food supply chain. Toward those ends, GFSI created a Guidance Document that described detailed benchmarking requirements for food safety standards to be used by suppliers throughout the food chain.

As a complement to that far-reaching effort, the CIES leadership recognized the need for a second component to their food safety management program, a component focusing on in-store practices throughout the global retail industry.

This project is undertaken to advance and facilitate the sharing of best practices throughout the global retail industry.

2.2 Study Objectives

- To summarize expert opinion on the present status of in-store food safety management in selected countries.
- To establish a classified inventory of in-store food safety management practices within the retail industry.
- To identify, wherever possible, retail food safety management practices or concepts that can serve as benchmarks for the industry. This will become a reference document for retail associations and retailers to use when developing and evaluating industry and company codes on food safety management.
- To identify and management practices and other key drivers that promote, support, and sustain the continuous improvement of best retail practices.
- To position retailers, CIES and other industry partners as leaders taking the initiative to ensure continuous improvement and development of in-store food safety thus enhancing consumer confidence.

3.0 Study Organization and Methodology

3.1 Study Organization

This study is organized around two closely related work products, which both relate directly to in-store food safety practices by retailers, and which both share some common methodology.

3.1.1 Inventory of Food Safety Practices

The first work-product is descriptive in nature – an inventory, classified by country, of food safety requirements, retail industry practices, resources, and supporting organizations. This inventory is intended to serve as a briefing document – part of a manager’s tool kit to help learn more about the current Food Safety environment in the retail industry in selected countries. The inventory does not attempt to address the fine details of food safety operations, but focuses on the requirements for key elements, and wherever available, the scientific reasoning used to validate and establish those elements.

This inventory describes the retail food safety environment in nine countries. Within that general context, both required and voluntary programs, governmental and non-governmental codes of practices, industry guidance documents and other resource materials are identified and described. For some of countries, lack of access to data sources permitted only a limited description of their retail food safety systems. The countries included in the inventory are as follows:

Ireland	Switzerland	United States
Germany	Australia	United Kingdom
France	Mexico	The Netherlands

Within the section for each country, the inventory of food safety practices is organized around a series of 16 questions. This follows the Frequently Asked Questions format that has become familiar to most internet users.

3.1.2 Matrix Assessment of Food Safety Management Systems

Key stakeholders in the food retail industry in multiple countries will participate in structured on-line interviews. These interviews are designed to elicit information about the status of food safety within their company and, collectively, the retail industry in their country of operation. Status will be assessed over seven markers, specific aspects of operation and management that reflect the importance of food safety to the industry. The seven markers are:

1. Compliance With Regulatory Standards
2. Development and Application of Internal and External Standards
3. Maintenance and Documentation of Policies, Programs, and Procedures
4. Validation Audits
5. Effective Training Programs
6. Management Commitment
7. Business Culture of Food Safety Awareness

For each of these seven markers, a quantitative assessment will be made and the retail industry in each country will be positioned within one of four generations. The generations represent organizational maturity as awareness of food safety as a primary driver of brand value becomes more deeply rooted.

This Generational Matrix is particularly suited for address some of the underlying causes of food safety failures – in particular the role and responsibility of management – a factor that is not currently assessed within HACCP programs.

Matrix Assessment Criteria

GENERATION 1	GENERATION 2	GENERATION 3	GENERATION 4
<ul style="list-style-type: none"> • Compliance erratic • No formal policies • Variable standards • No time or budget for food safety • No internal or external audits • Little thought to training • Cost driven culture • Low awareness & commitment 	<ul style="list-style-type: none"> • Compliance more consistent • Policies exist, not 'owned' at board level • Systems and standards seen as impractical or irrelevant • Budget exists - but food safety seen as a cost • Some auditing • Some training • Food Safety seen as insurance 	<ul style="list-style-type: none"> • Policies exist and reviewed • Good communication • Management buy-in • Verification Audits • Data used effectively • Training programs effective 	<ul style="list-style-type: none"> • Policies exceed legal minimum • Board-level commitment • Excellent communication • Internal and external auditing • Regular and benchmarking • Food safety seen as competitive advantage



3.2 Study Methodology

3.2.1 Methodology for Establishing the Food Safety Inventory

The inventory for each included country was created by a combination of desktop research and in-depth interviews with industry experts in each of the designated countries. Experts have been drawn from a variety of sources: industry, government, and academia, but all possess demonstrable knowledge about the retail industry in the country they represent. A structured questionnaire was developed, and formed the basis of structured interviews conducted with industry experts. That questionnaire is included as an appendix to this report.

3.2.2 Methodology for Matrix Assessment of Food Safety Practices

As described above, the Matrix Assessment methodology is also driven by structured interviews. Key retail industry stakeholders from five countries, totaling at least 50 – 100 individuals per country, have been asked to participate in a survey by responding to a detailed questionnaire. Stakeholders include individuals working in a variety of different capacities in CIES member companies.

This questionnaire has been administered over the internet by a third party organization who will provide anonymity for the individual respondents and security for the data. The survey can be accessed through a link on the CIES web page. Data and information developed through this survey will be used to analyze current practices in the retail industry. Over a series of marker categories, the retail industry in each of 5 countries will be placed along the Generational Matrix as described in the preceding section, reflecting the degree of developmental maturity displayed for each marker.

Data collection from the stakeholder survey is still in progress as of this publication date. This data, when complete, will be tabulated and analyzed and the results published as an addendum to this report.

4.0 In-Store Food Safety Practices in the Retail Industry: **A Global Inventory Classified by Country**

4.1 United States

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Who Regulates Food Safety in Retail Stores?

In the United States, regulation of food safety in retail establishments is primarily accomplished at the state and local level. State and local inspectors enforce compliance with statutes and regulations that are enacted at the state level.

At the national level, both the U.S. Food and Drug Administration (FDA) and the U.S. Department of Agriculture (USDA) are charged with protecting consumers against impure and unsafe food.⁵ Both FDA and USDA actively enforce a variety of national laws and regulations that govern the retailers' supply chain - both agencies regulate food processors that supply the retail industry. USDA regulates meat and poultry processors and FDA regulates all other food processors.

However, neither FDA nor USDA has primary responsibilities to regulate the retail industry. This is the responsibility of the state and local regulatory agencies. FDA acts primarily in an advisory capacity to the states, and does not maintain or enforce regulations that directly govern the retail industry. FDA provides training and other guidance to state and local inspectors, drafts guidance documents for both the retail industry and for consumers, and provides model food codes that the individual states are encouraged to adopt.

Are There Multiple Levels of Regulation of Food Safety in Retail Stores?

FDA fulfills its mission to act in an advisory role to the individual states by maintaining and publishing the FDA Food Code. The Food Code is a model food safety regulation that FDA develops as a guideline document for the individual states. It is based on model codes that were first drafted by the U.S. Public Health Service in 1934, and was first published in comprehensive form in 1993.

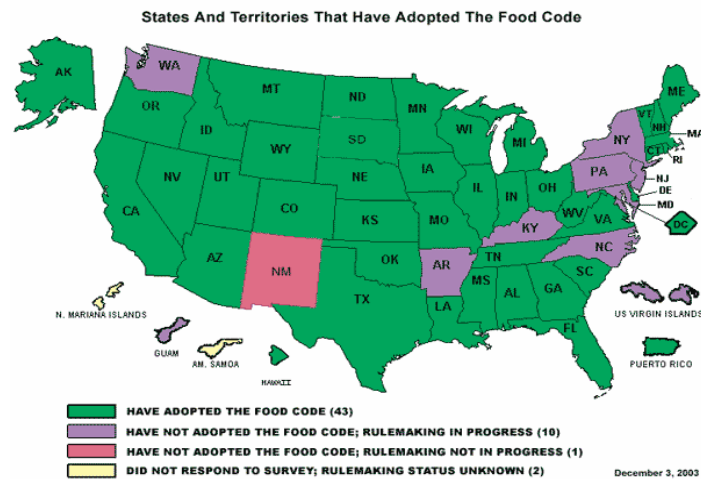
The 1993 version of the Food Code was the first FDA Code designed for all segments of the retail food industry - retail food stores, institutional food service, restaurants, convenience stores, and vending.

It is neither federal law nor federal regulation at retail level, nor is it pre-emptive or binding on state governments. Rather, it represents FDA's best advice for a uniform system of regulation to ensure that food at retail is safe. The primary responsibility for Codes and enforcement is within the state or local jurisdiction. Adoption of the FDA Food Code, in whole or in part, by the individual state governments is purely voluntary.

Is There Uniformity in the Food Safety Requirements for Retailers?

Lack of uniformity in the food safety regulations between different jurisdictions has been one of the most difficult obstacles facing the retail food industry in the U.S. The lack of uniformity between regulations and enforcement policies at the state and local level has made it particularly difficult for retail companies who operate in multiple states to establish consistent programs, policies, and standards.

The vision of a unified, uniform system of food safety regulations is one that is shared fairly universally in the U.S. Adoption of the FDA Food Code by the individual states, and incorporation of Food Code requirements into state law, is intended to provide the means to establish such regulatory uniformity.



Source: www.cfsan.fda.gov/~ear/fcadopt.html

Currently, 41 out of 50 states (43 out of 56 states and territories), representing 76% of the U.S. population, have adopted the FDA Food Code, either in whole or in part, as the basis for their retail food safety regulations.

However, this adoption rate can give a misleading picture of the current level of uniformity in the U.S. While it is true that 41 states have adopted Food Code provisions, most of these states have revised or edited the code before adoption. While the majority of the content is included, variations do exist from jurisdiction to jurisdiction.

Even in those states that have substantially adopted Food Code, local jurisdictions may have added requirements that may not be in the USFDA Food Code. Compliance inspections may be carried out by state or local inspectors who may not enforce or audit all sections of the food code. This is critical when codes and enforcements are based on risk-based requirements.

How are Food Safety Regulations Revised and Updated?

Over the period 1993 – 2001, the FDA Food Code was revised every two years. This frequent revision has, in fact, acted as an impediment to adoption by the states, due to the high cost of having state legislatures keep up with the biennial revisions.

Further revisions will now be issued every four years, beginning with 2005. A supplement to the 2001 Food Code was issued in 2003; additional supplements will be issued as needed. Although FDA publishes the revisions, the revision process is a collaborative effort that involves national, state and local regulators, the retail food industry, academia, independent third parties, and consumers.

Changes in the Food Code are made, in part, in response to the recommendations of the Conference for Food Protection, an organization that originated in 1971. The structure of the conference is intended to provide a forum for discussions between regulators, industry, academia, and consumers to identify problems, formulate recommendations, and develop and implement practices that ensure food safety. The Conference for Food Protection (CFP) meets biennially to provide that forum. FDA has made a legal commitment to consider the recommendations of the CFP Board, although FDA retains the final decision on Food Code content and wording.

Are Food Safety Regulations Science-Based?

The FDA Food Code is based on scientific research that has identified predominant risk factors for food retail operations. Other research has assessed patterns of compliance by industry, identified the strengths and weaknesses of the current national-local cooperation model, and has led to the development of a national long-term strategic plan for retail food safety policy.

That Strategic Plan calls for a 25% reduction in the incidence of foodborne disease in the U.S. by 2010. To support that strategic goal, FDA has, in collaboration with the U.S. Centers for Disease Control & Prevention (CDC), also set up two additional scientific resources to monitor and track food safety:

Food Net, the Foodborne Diseases Active Surveillance Network, is a foodborne illness-monitoring program based on data collection over ten surveillance sites. FoodNet provides a network for responding to new and emerging foodborne diseases of national importance, monitoring the burden of foodborne diseases, and identifying the sources of specific foodborne diseases. FoodNet data are made publicly available in periodic reports that are published and posted on the internet at the CDC website.

PulseNet, the National Molecular Subtyping Network for Foodborne Disease Surveillance, ties together public health laboratories in all 50 states and in 6 Canadian provinces. These labs perform DNA “fingerprinting” of microorganisms suspected of causing outbreaks foodborne illness. Laboratory results collected by PulseNet are critical for the early recognition and timely investigation of outbreaks, thus reducing the burden of foodborne disease. This is especially important when the outbreak involves multiple jurisdictions.

Are Food Safety Regulations Risk-Based?

In Annex 4 of the Food Code, the retail food industry is divided into five risk categories based upon their operational practices and the populations they serve. The table on the following page illustrates the criteria for risk categorization. In describing how the risk categorization is used, the 2001 Food Code states the following,

“Studies have shown that the types of food served, the preparation steps these foods require, the volume of food, the population served, and previous compliance history can have a bearing on the opportunity for the occurrence of foodborne illness.

The rational allocation of inspection resources to target the highest risk establishments with more inspection time and the lowest risk establishments with the least is a HACCP approach concept. Risk categorization allows establishments to be ranked by considering risk factors and creating a variable inspection frequency for each category. An example of risk categorization and frequency of inspection is shown in Table 1. “

TABLE 1. RISK CATEGORIZATION OF FOOD ESTABLISHMENTS

RISK TYPE	RISK TYPE CATEGORY DESCRIPTION
1	Pre-packaged, non-hazardous foods only. Limited preparation of non-potentially hazardous foods only.
2	Limited menu (1 or 2 main items). Pre-packaged, raw ingredients are cooked or prepared to order. Retail food operations exclude deli or seafood operations departments. Raw ingredients require minimal assembly. Most products are cooked/prepared and served immediately. Hot and cold holding of potentially hazardous foods is restricted to single meal service. Preparation processes requiring cooking, cooling, and reheating are limited to 1 or 2 potentially hazardous foods.
3	Extensive handling of raw ingredients. Preparation process includes the cooking, cooling, and reheating of potentially hazardous foods. A variety of processes require hot and cold holding of potentially hazardous food. Advance preparation for next-day service is limited to 2 or 3 items. Retail food operations include deli and seafood departments. Establishments doing food processing at retail.
4	Extensive handling of raw ingredients. Preparation processes include the cooking, cooling, and reheating of potentially hazardous foods. A variety of processes require hot and cold holding of potentially hazardous foods. Food processes include advanced preparation for next-day service. Category would also include those facilities whose primary service population is immune-compromised.
5	Extensive handling of raw ingredients. Food processing at the retail level, e.g., smoking and curing, reduced oxygen packaging for extended shelf-life.

Within all types and risk categories of retail establishments, research and experience has identified five specific aspects of operations that produce the greatest incidence and severity of exposure to foodborne pathogens. Control of these aspects of retail operations create the content of the current Food Code:

- Food from Unsafe Sources
- Inadequate Cooking
- Improper Holding Time or Temperature
- Contaminated Equipment
- Poor Personal Hygiene

This risk-based approach in the analysis of operations and the deployment of inspectional resources is a progression from past food safety enforcement policy, when inspectors would sometimes give equal or greater weight to non-risk related deficiencies (rust or flaking paint on non-food contact surfaces, for example) as they gave to safe holding times and temperatures.

Some inspectors continue to inspect based on lower risk but easier to see and record factors, for example floors, walls, and ceilings. However, Inspections based on risk factors are being practiced in more progressive regulatory jurisdictions and by progressive and or well-trained inspectors.

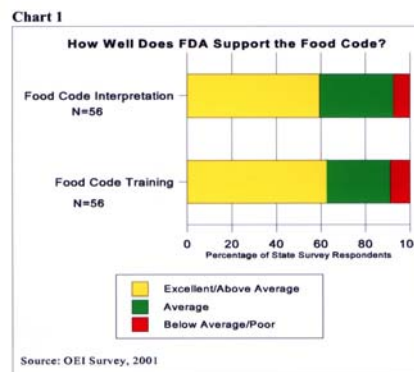
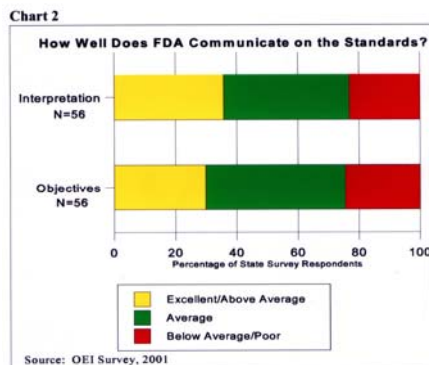
In addition to risk factor based inspections, the frequency and/or the duration and depth of facility inspections are often increased or decreased depending on the exact nature of the operation under review. For example, a store that prepares complete meals from scratch will be a higher risk than one that sells only packaged food. The higher risk facility will then be inspected more often for a longer period and for more details of the procedures.

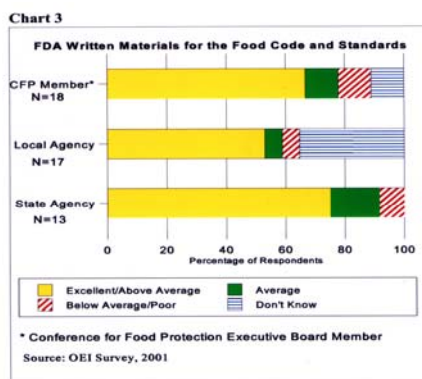
In addition, inspectional tools include checklists or forms that are based upon a system of weighted point scores that assign increased point scores or heavier weighting to higher risk factors. This has been a common practice for many years to focus the emphasis of enforcement actions on behaviors that incur the highest food safety risk.

Is the Effectiveness of the Current Regulatory Model Evaluated?

The effectiveness of the collaboration between national and state regulators was audited and evaluated by the Office of the Inspector General (OIG) in 2000.¹³ While state and local respondents to the OIG survey agreed overwhelmingly that the regulatory model is effective, numerous shortcomings and suggestions for improvement were identified.

The biggest sources of dissatisfaction by the states were the legislative cost and time of responding to biennial updates. Both were significant drawbacks to Food Code implementation. This issue has been addressed in FDA's Strategic Plan by reducing the revision schedule to once every four years.





Additional drawbacks include the feasibility of some Food Code provisions and the need to rely on FDA for interpretation. Specific provisions identified as drawbacks were those that are difficult for an inspector to enforce.

For example, it is difficult for an inspector to observe whether oven-roasted muscle-meats are maintained at an internal temperature of 54°C (130°F) for a period of 121 minutes, as the Food Code requires. These types of requirements

make it more difficult for an inspector to inspect, especially with the limited time available to conduct facility inspections. Budget cuts that limited training programs for inspectors also make it more difficult.

One area of disagreement between regulators, the industry, and food scientists concerns the time and temperature limits for cooling. Many states enforce time limits for cooling that are stricter than Food Code limits (6 hours for cooling from 57°C to 5°C). On the other hand, some food scientists cite studies which support cooling times as long as 15 hours between the same temperature limits.

Are the Provisions of Food Safety Regulations Considered “Best Practice” for Retailers?

Because a joint collaboration between the retail food industry and government regulators helps drive the process of Food Code revision, there is a forum for discussion and the industry point-of-view is effectively represented.

Consequently, most industry experts use the specific provisions of the FDA Food Code as “Best Practice” for the retail food industry. There is disagreement over some of the basic scientific assumptions on which the Food Code is based, particularly concerning several technical issues:

1. The use of a pH level of 4.6 as the threshold for defining Potentially Hazardous Foods. Some food safety authorities believe the pH threshold should be as low as 4.0.
2. The use of 57°C (135°F) as the basis for hot holding and cooling requirements. This was recently lowered from a previously recommended minimum of 60°C (140°F).

3. The enforcement of a 6-hour maximum limit on cooling times for products that are treated by a cook-chill process. As previously stated, disagreement with the 6-hour cooling limit is divided between those who consider it too restrictive and those who believe it is not restrictive enough.

What Practices Are Most Emphasized by Food Safety Regulations?

Industry experts responding to this survey ranked the following in-store practices as having the greatest potential for regulatory compliance problems:

1. Time and Temperature Controls (including cooking temperature, cooling time, cold holding, hot holding)
2. Food Storage Conditions (potential for cross contamination)
3. Training and Certification of Managers
4. Cleaning and Sanitation Practices

This ranking contrasted to a similar ranking of retail in-store practices most likely to contribute to foodborne illness, which ranked Employee Hygiene higher than the practices described above. When asked to describe the reasoning behind the rankings, respondents offered the following comments:

Employee Hygiene: *“It is difficult to change human habits. First, it is difficult to prevent people from working when they are ill – especially if they are penalized financially for informing managers of their illness. Additionally, language and cultural barriers may hinder acceptance of improved personal hygiene practices.”*

Another respondent pointed to unawareness, saying, *“Workers often do not realize that they have touched an unsanitary surface - picking up trash off the floor, pushing hair back, touching their face, etc. So it is difficult to get hands washed or gloves changed as frequently as needed.”*

Time and Temperature Control: *“Retail grocery chains and hypermarkets traditionally do not have elaborate food service operations. Consequently, some types of time/temperature controls, over cooking temperatures, hot holding temperatures, and during cook-chill cycles, for example, are not part of traditional operating practices. However, as retailers add more complex food service for their customers, there is a corresponding need to improve time and temperature controls. Hot holding in particular is a constant regulatory concern, and an important food safety concern, particularly in view of the potential of Clostridium perfringens to grow rapidly at temperatures approaching 50°C.”*

Cleaning and Sanitizing: *“Insuring adequate cleaning is a critical challenge to management. The challenge is to provide adequate resources, adequate time, adequate supervision, and adequate training to get this critical task done thoroughly. This is a test of the business culture: Is management thoroughly committed to food safety – will they provide these necessary resources, particularly in downward business cycles, that allow for adequate cleaning and sanitation?”*

Is HACCP a Required Element for Retailers?

In general, retailers are not required to have formal, written HACCP Plans in place. Only one individual state requires specific HACCP programs for all retail locations. In other jurisdictions, limited HACCP Plans may be required under certain circumstances. For example, if a retailer wants to handle a particular food in a manner that is not in compliance with Food Code requirements, a HACCP Plan may be required.

A specific food that fits this description is rice for sushi, which is usually allowed to cool at room temperature and then is held at room temperature for prolonged periods before service. HACCP Plans which call for the rice to be acidified to a specific pH level have been required by many states as a condition for granting an exemption from normal hot holding requirements that would apply to this product.

HACCP principles are the basis for many elements and provisions of the Food Code. However, HACCP principles are not generally applied in the same way in the retail industry as they are in food manufacturing. One significant difference is that food retailers who choose to develop voluntary HACCP programs generally do not follow the same decision tree as processors in order to identify Critical Control Points.

For this reason, retail HACCP programs frequently identify control points as CCP's that a food processor would exclude as being covered under a prerequisite program such as Good Manufacturing Practices. Storage temperature in coolers, for example, generally would not be a CCP for a processor, since it is a GMP requirement, while it would be a CCP for a food retailer.

To What Extent Is the Retail Industry Actually in Compliance With Current Food Safety Regulations?

Industry experts responding to this question estimated an overall compliance rate for the retail food industry of around 70%. The pattern of compliance they described was characterized by numerous, frequent minor violations, and occasional major or critical violations.

This estimate actually correlates very well with the assessment of the FDA Retail Food Program Steering Committee, who conducted 895 inspections of establishments in several segments of the retail food industry in order to establish baseline values for compliance with Food Code requirements. Their report, which was published in August 2000,¹⁷ identified five specific practices or behaviors that exceeded a 40% Out-of-Compliance rate:

- Cold Holding of Potentially Hazardous Food not properly held at 5°C (41°F) or below;
- Cold Holding of Ready-to-Eat, Potentially Hazardous Foods not properly held at 5°C (41°F) or below;
- Commercially processed Ready-to-Eat, Potentially Hazardous Foods, held without adequate control of holding time (date not marked)
- Surfaces and Utensils not properly cleaned and sanitized
- Proper, adequate Handwashing not performed

The purpose of the FDA study was “...to establish a baseline against which industry and regulatory efforts to change behaviors and practices directly related to foodborne illness will be measured.¹⁸” The underlying expectation is that future improvements in compliance with Food Code provisions will have a direct impact on the occurrence of foodborne illness. The tables and graphs presented below summarize, in progressively finer degree of detail, the findings of the study:

OVERALL PERCENT (%) of Observable and Applicable Data Items Found to be OUT-OF-COMPLIANCE

Facility Type	1998 Baseline: % Observation Out-of-Compliance
Institutions	
Hospital	20%
Nursing Home	18%
Elementary Schools	20%
Restaurants	
Fast Food	26%
Full-Service	40%
Retail Store Departments	
Deli	27%
Meat & Poultry	19%
Produce	24%
Seafood	17%

OUT-OF-COMPLIANCE Observations with Respect to Controlling Risk Factors in Retail Food Store Departments, Percent of Total Observations (%)

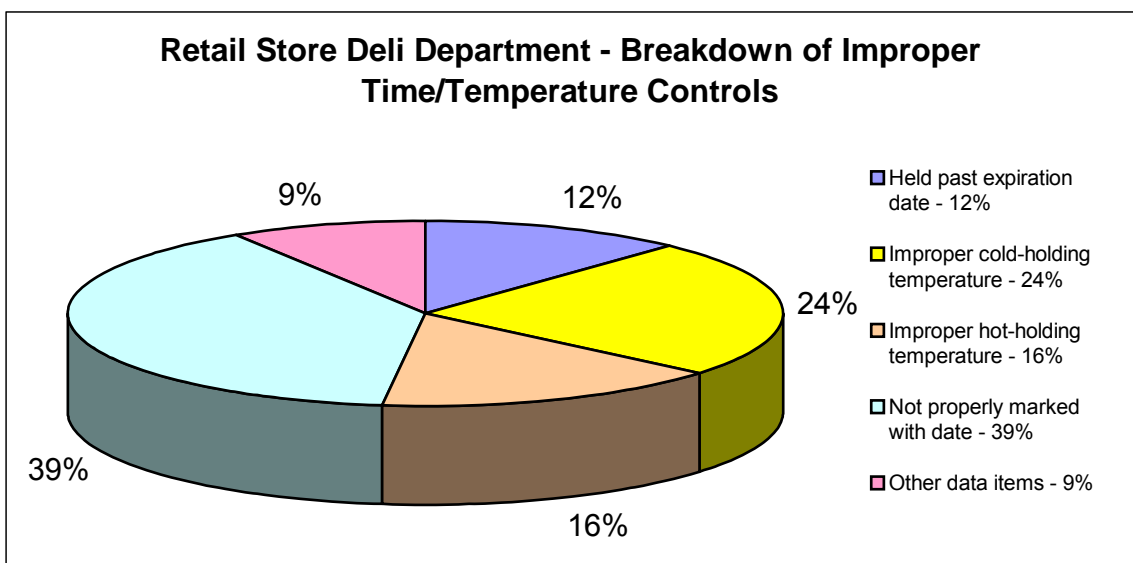
Risk Factor	Deli	Meat & Poultry	Produce	Seafood
Food from Unsafe Sources	2.9	5.4	0.5	16.0
Inadequate Cooking	10.7	*	*	*
Improper Holding/Time-Temperature	56.7	35.4	51.3	33.7
Contaminated Equipment/Protection from Contamination	20.6	22.5	21.7	14.2
Poor Personal Hygiene	26.4	18.4	26.1	15.8
Other/Chemical	16.9	11.5	11.9	6.5

* = Inadequate Data

OUT-OF-COMPLIANCE Observations with Respect to Controlling Specific Risk Factors in Retail Food Store Delicatessen Departments, Percent of Total Observations (%)

Specific Risk Factors	% Out of Compliance from Total Observations
Inappropriate Cold Holding Temperature	72%
Storage Date Not Properly Marked	66%
Inadequate Handwashing	54%
Inadequate Cleaning/Sanitizing	52%
Inappropriate Hot Holding Temperature	52%
Foods Held past Expiration Date	51%
Improper Storage/Use of Chemicals	35%

Finally, for each of the specific risk factors in each retail store department, further breakdown is available in the FDA report, expressed as pie charts. One example of this level of detail is presented here as an illustration. Out-of-Compliance observations that relate to Time and Temperature Controls in Retail Store Deli Departments were broken down to the % Out-of-Compliance for each specific type of Time/Temperature Control Factor.



Source: FDA Retail Food Program Database of Foodborne Illness Risk Factors, 08/10/2000

What Training or Certification is Required for Retail Food Handlers and Managers?

FDA recommends food safety training for all levels of employees in retail food operations. Required training in state and local jurisdictions ranges from none at all in a few states to stringent training and testing requirements that exceed the Food Code recommendations. Some states require specific certification that is unique to that state.

In general, the lack of uniformity in food safety training requirements between states is a huge impediment to the implementation of sound food safety programs by retailers. Trained employees are the foundation of all effective food safety management programs. But in the current system within the U.S., there is no reciprocity between states, and confusion about often-contradictory training requirements in neighboring states is the rule rather than the exception.

Training parameters that vary widely between states include all of the following:

- Training only required for managers in some states, for all food handlers in others;
- The length of the required course, ranging anywhere from 2 to 16 hours of classroom time;
- The acceptability of internet-based training;
- Certification and/or registration requirements for trainers;
- Content of the training course – some jurisdictions include subjects like customer service in addition to food safety topics;
- Testing requirements, which range from no testing required, to testing by only selected testing firms. In some cases, local jurisdictions have different testing requirements than the state in which they are located;
- Length of time between retraining;
- Fees paid directly to some jurisdictions for certification or registration, in addition to the costs of training and testing.

For retail establishments that operate in multiple states, keeping up to date on training requirements is a major task. Unfortunately, there is little reliable information describing the training requirements of all individual states that is available in one location. The National Restaurant Association has made an attempt to provide this information, but it is not totally accurate or up-to-date.

Are Internal Audits Commonly Utilized?

Internal auditing is not a specific requirement of the current Food Code, although this practice is well established as a food safety management tool in the retail industry. However, the effectiveness with which self-audits are implemented varies considerably. Principal limiting factors appear to be:

1. Lack of availability of adequately trained staff members;
2. Lack of time to adequately observe staff behavior, particularly in the area of hygiene practices;
3. Need to audit for quality criteria as well as food safety criteria.

Are External Audits Commonly Utilized?

Audits by independent, non-governmental third parties are generally well-accepted and highly-valued by the retail industry. However, while it is clear that retailers use third-party audits extensively to assess their suppliers, it is less clear the extent to which retailers use this method to assess their own practices.

Most of the leading suppliers of independent auditing services have their business base in the food-processing sector, and many of these auditing firms do not have audit formats and personnel that are focused specifically on retail practices.

Regulatory audits, which average 2-4 per year per retail establishment, are often limited in the extent and the depth of their observations by time constraints and administrative constraints.

Time constraints force health inspectors to focus very strongly on aspects of retail practices that are relatively easy to observe and measure. Temperature control and storage conditions were the areas identified by industry experts that receive the most attention from regulatory inspectors. Employee hygiene and cleaning and sanitation practices are areas that industry experts indicated received significantly less attention during regulatory inspections, although it's clear that these are critical factors contributing to transmission of foodborne illness.

Are There Non-Governmental Programs or Codes of Food Safety Practice for the Retail Industry?

Non-governmental programs that are targeted at the effective control of suppliers are well developed. However, the availability of non-governmental codes of In-Store Practices for retailers is quite limited in the U.S.

The only national organization identified by this survey is the Food Marketing Institute (FMI), a trade association representing 2,300 food retailers. FMI has developed HACCP-based programs to help retailers manage food hazards in areas most susceptible to contamination. In 2003, FMI launched their Total Food Safety Management Program, which is developing additional programs for ground beef, fresh produce cut in stores, and various prepared foods.

Professional and Trade Associations

The Conference for Food Protection (CFP), as discussed previously, is a non-profit organization consisting of members drawn from many segments of the retail food industry, from regulatory and academic sectors, and consumer organizations. They define their mission as "...focusing on and facilitating the food protection programs governing the food service, retail food store and food vending segments of the industry."

CFP also maintains certification standards for food safety training programs, and actively works through its committee structure to promote national uniformity in training requirements and food safety regulations. CFP promotes this uniformity by reviewing and updating the Food Code provisions. Although FDA is the authoring body of the Food Code, CFP recommendations carry significant weight in influencing FDA's decisions.

International Association for Food Protection (IAFP) is a professional association for the exchange of scientific information about food safety. IAFP sponsors a Professional Development Group for Retail Food Safety that promotes the exchange of scientific information of interest to the retail food sector.

Food Marketing Institute (FMI) has numerous programs and initiatives that support the retail industry. FMI has food safety training programs available for retailers, has developed compliance and food safety management programs for members, and works with legislators to promote the positions of the food retail industry. FMI maintains a long list of food safety resources on their website, including research reports, training materials, and both current and archived newsletters.

National Restaurant Association (NRA) represents the restaurant industry, and represents food retailers in those cases where retailers have foodservice within retail stores. NRA is extremely active in food safety training. The training and testing program NRA created, ServSafe[™], is the most widely used training program in the U.S. NRA and FMI are both active participants in working with regulators at the local, state and national levels on food safety regulations.

Food Safety Resources

Food Safety Gateway	http://www.foodsafety.gov/
National Food Safety Information Network	http://vm.cfsan.fda.gov/~dms/fs-toc.html
Public/Private Partnership for Food Safety Education	http://www.fightbac.org/
Department of Health and Human Services (DHHS)	http://www.hhs.gov/
Food Drug Administration (FDA)	http://www.fda.gov/
Centers for Disease Control and Prevention (CDC)	http://www.cdc.gov/
U.S. Department of Agriculture (USDA)	http://www.fsis.usda.gov/ http://www.usda.gov/
Animal and Plant Health Inspection Service (APHIS)	http://www.aphis.usda.gov/
Environmental Protection Agency (EPA)	http://www.epa.gov/
U.S. Codex	http://www.fsis.usda.gov/OA/codex/index.htm
Links to All 50 State Departments of Public Health and Agriculture	http://www.fsis.usda.gov/OPHS/stategov.htm
Links to Food Safety Agencies and Universities	http://www.fda.gov/ora/fed_state/default.htm
FDA Food Code	http://foodsafes.ucdavis.edu/fshttplinks2.html http://www.cfsan.fda.gov/~dms/foodcode.html#get01

National Consumer Organizations:

- American Council on Science and Health <http://www.acsh.org/>
- Center for Science in the Public Interest <http://www.cspinet.org/>
- Consumer Federation of America <http://www.consumerfed.org/>

Industry Organizations:

- Food Marketing Association (FMI) <http://www.fmi.org>
- National Restaurant Association (NRA) <http://restaurant.org>
- Grocery Manufacturers of America (GMA) <http://www.gmabrands.com>
- National Food Processors Organization (NFPA) <http://www.nfpa-food.org>
- American Meat Institute (AMI) <http://www.meatami.org>

Professional Associations:

- International Association for Food Protection (IAFP) <http://www.foodprotection.org>
- Association of Food and Drug Officials (AFDO) <http://www.afdo.org>
- Conference for Food Protection <http://www.foodprotect.org>

4.2 United Kingdom

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Who Regulates Food Safety in Retail Stores?

In the United Kingdom (England, Wales, Scotland and Northern Ireland), Food Safety is regulated through the issue of legislation at Government level.

The legislation that is currently operational has been generated to ensure conformance with EU Parliamentary Directives on Food Safety, however the UK has traditionally used legislation at Government level to control and enforce this subject.

The Food Safety Act 1990¹ is the foundation document for current food safety legislation and is enforceable in England, Scotland and Wales. A separate but similar law applies in N. Ireland; The Food Safety (Northern Ireland) Order 1991².

The Food Safety Act applies to any business that prepares, manufactures, packages, stores, transports, distributes, handles or offers food for sale or supply to the consumer and is thus applicable all areas of the food industry rather than exclusively for the Retail industry.

The Act itself is wide ranging and does not contain detailed technical rules however it does give the Government powers to make regulations on matters of detail. Thus from this core legislation there are a plethora of regulations covering specific subject areas for specific areas of the food industry.

For the Retail industry, the two main legislative documents that are applicable and must be observed are:

- The Food Safety (General Food Hygiene) Regulations, 1995³
- The Food Safety (Temperature Control) Regulations, 1995⁴

An industry guide to compliance with these regulations has been prepared by members of the “Food Safety and Hygiene Working Group” on behalf of the British Retail Consortium⁵. The Chadwick House Group Ltd⁶ publishes the document.

This guide has been formally recognized by the Secretary of State for Health and local authority officers are required to give due consideration to its contents when carrying out inspections of retail businesses. Retailers, however, are not legally obliged to follow the guide and may comply to the regulations by different means if they wish to do so.

For example, the industry guide provides HACCP assessment tables for the purpose of helping the industry to identify their hazards, critical control points and corrective actions. These tables do not have to be used and a different mechanism for achieving the same goal would be acceptable.

Are There Multiple Levels of Regulation of Food Safety in Retail Stores?

The Food Safety Act provides for enforcement both by Central and Local authorities, although the main responsibility for Food Law Enforcement lies with local food authorities.

Local authorities are responsible for enforcing the law in two main areas. Trading standards officers deal with the labeling of food, its composition and most cases of chemical contamination; Environmental Health Officers deal with hygiene, cases of microbiological contamination of foods and with food which, for any reason including chemical contamination, is unfit for human consumption.

Local authorities in the UK are not all structured the same, some are unitary councils, there are District and County councils and London has metropolitan boroughs and areas classified as the “inner and outer temple.”

For English non-unitary council areas, the County Council enforces Trading Standards and the District Council enforces Environmental Health Standards. In all other areas, local authorities are responsible for both services and in many areas; the environmental health department carries out food standards work.

In Scotland, most food laws are enforced by the Environmental Health departments of district and island councils; in Northern Ireland this work is undertaken by the Environmental Health department. In Wales, unitary authorities are responsible for both trading standards and environmental health functions. Thus a level of multiple regulation is possible depending on the local authority organization.

To eliminate potential problems and confusion with respect to food law enforcement responsibilities, documents defining duties for the different types of organizations within local authorities have been published. In simple terms, Trading Standards officers are responsible for Food Standards inspections and Environmental Health officers are responsible for Food Hygiene inspections.

Central authorities have written 20 Codes of Practice⁷ under the Food Safety Act covering the execution and enforcement processes. (These 20 Codes are currently being consolidated into one Code of Practice.) The Codes of Practice serve as the audit checklist for enforcement officers. Local authorities can generate their own working documents, checklists, and so forth, but these must comply with the scope of the regulations and Code of Practice guidance.

With regards to the role of Central Government and law enforcement, their main activity is to formulate food policy and to negotiate and implement food law resulting from the European Community Single Market. However, as indicated above, there are occasions when Central authorities represented by the Food Standards Agency become involved directly with food law enforcement.

This is generally in emergency situations whereby public health cannot be protected via action at a local level. For instance, if an imported food product were discovered to have microbiological contamination, the Food Standards Agency would make the decision on the necessity to withdraw the product from sale, and would issue hazard warnings both to local authorities and to the wider public if the situation were warranted. The responsibility for ensuring that the goods were withdrawn from the marketplace would then be delegated to the local authorities.

How are Food Safety Regulations Revised and Updated?

The UK is a mature market in terms of introducing food safety legislation and enforcing its requirements. (Food regulation in Great Britain dates back to 1207 when it was concerned with preventing the adulteration of wheat flour with pea flour!)

Generally, changes to the European Union requirements are now the drivers of changes in UK Food Safety legislation. Thus, whilst the key documents applicable to retail as detailed in this report have been cited as being from 1990 and 1995, there are a number of revisions that have been made to these documents. Additionally, a substantial number of separate new/revised regulations have also been introduced to support the goal of ensuring safe food from farm to fork. An example that can be cited as “may be applicable to retail” is:

The Food Safety (General Food Hygiene) (Butchers Shops) Amendment Regulations 2000⁸

This regulation relates to the licensing of premises when fresh meat is sold alongside cooked meats and it’s applicability to retail is dependant on the type of goods sold, and the level of segregation of facilities, equipment, storage and personnel. The legislation was introduced following an enquiry and investigation of a raw/cooked food cross contamination incident in the United Kingdom.

When revisions to the law are deemed necessary as with the example above, this can be achieved by revoking the parts of the legislation that are no longer applicable and replacing them with new requirements, or through the introduction of totally new legislation.

Before new legislation is implemented, draft documents are circulated to stakeholders for consultation and comment to ensure that the legislation will be understandable, enforceable, and workable. Key stakeholders for food safety legislation in the UK would include, for example: British Retail Consortium (BRC), Food and Drink Federation (FDF)⁹, Institute of Food Science and Technology (IFST)¹⁰, Local Authorities Coordinators of Regulatory Services (LACORS)¹¹, Chartered Institute for Environmental Health (CIEH)¹², and the Consumers Association (CA)¹³.

Those listed are just a sample, and the stakeholders' chosen are obviously representative of the proposed subject under discussion. These stakeholders, in turn, distribute the draft to their membership, and thus the consultation process can be extensive and lengthy. In addition, the Food Standards Agency "post" details of the proposed regulations or changes to guideline documents onto their web-site with an invitation to provide comments.

Following on from the consultation process the final proposed document will be "laid before parliament" and if accepted will then become law and a date of "coming into force" will be provided. This is the date that the legislation becomes enforceable.

One area of significance in the generation of regulations applicable in the UK, is that England, Scotland, Wales and Northern Ireland can now all operate independently in the proposal, issue and implementation of new or amended regulations. Thus whilst the licensing regulation for butchers shops listed above came into force in England in May 2000, the regulations for Scotland came into force in October 2000, for Wales it was June 2001 and Northern Ireland it was October 2001.

This highlights the possibility for inconsistency of applicable standards across the UK but in reality all existing and future legislation has the common theme of meeting EU requirements and this objective helps to facilitate some common uniformity between the regions.

With respect to the immediate future and regulations in the UK, 2003 represented a culmination of the European Commission's legislative programme, which was initiated by the White Paper on Food Safety in January 2000. In this time frame over 80 pieces of new regulation have been proposed, consulted on and enacted. In October of 2003, three new regulations and the directive repealing the current 17 hygiene directives were read for the first time in the European Union parliament. The second readings are due in January 2004, with enforcement-planned either for January 1, 2006, or 18 months from publication.

As a member state of the EU, the UK will be introducing, amending and implementing a wealth of new regulations in response to this legislation. A Food Law Guide that provides information and guidance on the main provisions of the Food Safety Act and its subsequent regulations can be found on the Food Standards Agency website.¹⁴

Are Food Safety Regulations Science-Based?

In general, legislation is generated because of a need to control some aspect of food safety. The decision that control is necessary is normally based on scientific research and whilst there may be debate on the scientific nature of the research, validity of the results etc, the decision to introduce legislation is not taken lightly. This can be exemplified by again citing The Food Safety (General Food Hygiene) (Butchers' Shops) Amendment Regulations 2000 which has a requirement for enhanced staff hygiene training. The investigation into the cross contamination incident that led to the introduction of this regulation highlighted that the existing regulations for hygiene training were insufficiently defined for staff working in a high- risk environment, i.e. raw meat is in close proximity with cooked meat. Enhanced and more prescriptive training was deemed necessary and this has been introduced via the legislation. It was the scientific assessment of the incident that led to the corrective action and the decision making process of additional legislation.

There are some elements within the current legislation where it is easier to demonstrate that scientific research has been used to define the standards that have been set. For example the Food Safety (Temperature Control) Regulations 1995 specify temperatures for chill holding, time exemptions for chill holding, and have hot holding temperature requirements. As with a lot of scientific data the temperatures and times that have been selected, for example, 8°C as the upper maximum for chill holding, has led to some interesting debates on the validity of this figure. However, microbiological data can at least be generated to support the use of this temperature and is thus more readily understandable as scientifically based.

Interestingly, there are additional temperature requirements set for Scotland and these regulations state that food that is being reheated should attain a temperature of not less than 82°C before hot-holding at 63°C. This requirement does not feature in the regulations applicable to England and Wales.

This anomaly demonstrates the difficulty of attaining common agreement on standards or "best practice", whether scientifically based or not. It equally serves to demonstrate that what appears to be a straightforward regulatory system for food safety in the UK, does have regional variation and multiple-store retailers may have to operate to different regulations depending on the part of the country a store is based in.

Are Food Safety Regulations Risk-Based?

Hazard analysis and the identification and monitoring of critical control points is part of the Food Safety (General Food Hygiene) Regulations 1995. As this legislative requirement is generic to the food industry rather than specific for the Retail industry, the main focuses for the enforcement process are with high-risk operations. These may or may not be within the retail industry.

Enforcement inspection frequency is based on the food safety risk of the food being manufactured or sold, the practices that are required within this process, the number of personnel that may be affected in the event of an incident and the inspection or complaint history of the business. As a general guide planned routine inspections for the retail industry would be carried out every 12-18 months, however additional inspections may be initiated via consumer complaints or for investigation of a food borne illness incident/outbreak. Full details of the planned inspection, risk categorization guidance that local authorities are required to use is given in Appendix A to this section.

It should also be highlighted at this point that both at Central Government and Local Authority level the roles and responsibilities of the agencies involved is not just compliance enforcement. Advice, sharing of information in order to improve standards, training etc is also a significant part of the day to day activities. As such, regulatory agencies also base their resource spending on the areas that require the most assistance, which in the main, is probably not the retail industry.

Is the Effectiveness of the Current Regulatory Model Evaluated?

The Food Standards Agency (FSA) collects and publishes data on a number of areas that are related to food safety and food borne illness. The Official Control of Foodstuffs Directive 89/397 (OCD)¹⁵ requires Member States to send the European Commission details of the number of establishments, food inspections, food samples and reported infringements undertaken and/or identified in each calendar year. The Food Standards Agency is responsible for collating the quarterly returns from 499 UK food authorities and arranging for the summary data to be submitted to the Commission. The data is required to be forwarded in a standard format laid down by the Commission.

Monitoring of local authority activity to ensure correct application of procedures, planning, reporting etc is carried out by the Food Standards Agency via planned audits. The full scope and procedure of a FSA audit of a local authority is again fully documented and published on the FSA website.¹⁶

Similarly, the audit reports are published on this website complete with the corrective actions that have been raised. The Agency's monitoring function provides information on food enforcement activities that contribute to understanding the "true picture" of food safety knowledge and application within the food industry of the UK. Obviously if the data providing the statistics is flawed through inappropriate adherence to procedures and standards of enforcement by local authorities then the picture will be skewed.

The Health Protection Agency, Communicable Disease Surveillance Center, publishes Foodborne illness data for the UK via a weekly Communicable Disease report¹⁷. The FSA has a defined target¹⁸ for a reduction of the level of foodborne illness in the UK and part of this work is ensuring that the reporting of data is accurate. This will assist in facilitating focused activity and resources in the areas that most require assistance.

Are the Provisions of Food Safety Regulations Considered “Best Practice” for Retailers?

As the Food Safety regulations implemented in the UK are largely generic and not bespoke for any particular section of the food industry, there will always be an element of opinion and inquiry as to the necessity and applicability of some parts of the regulations that are implemented.

However, as previously highlighted, there is an extremely active consultation process for both draft UK legislation and prior to this, draft EU directives / legislation. This process does allow for opinions and the positives and negatives for each area of the food industry affected by the regulations to be considered in a measured way and if necessary, amendments can be made before implementation.

The majority of the legislation relating to the hygiene elements of food safety is non-prescriptive, using descriptors such as “adequate” and “appropriate.” The general legislation is therefore not attempting to define “best practice” but is only identifying that a risk to food safety exists, (for example facilities, personnel or equipment,) and thus needs to be controlled. Specific instruction on how to control isn’t provided.

This approach allows for individual interpretation which is welcome, however it can also lead to widely differing standards and no common agreement as to what constitutes “best practice.” The support of trade bodies such as the BRC in advising the industry via the means of the guide to compliance is therefore a significant step towards identifying and setting “best practice” standards for the industry. In addition to minimum requirements, advice on good practice has been provided and therefore the suggestion from this research is that it is Guidance documents rather than the regulations that delivers the “Best Practice concept” for Retailers in the UK.

Consideration does however need to be given to the increasing sophistication of products and services sold by retailers in the UK. It is now common place to see some, or all of the following in UK retail stores for customer use; in-store bakery, in-store restaurant, fresh meat and fresh fish counters, delicatessen counters and increasingly hot food take-away and salad bars.

Each of these areas need to be evaluated for food safety risks beyond the low risk pre-packed foods that used to be the mainstay of most retailers and as such, each of these areas may also be linked to additional regulations that previously did not need to be considered.

Thus, while the BRC retail industry guide helps to identify some good practices for achieving food safety and compliance to some of the legislation, there are increasingly more areas to think about. To avoid duplication of effort “Best practice” guidance may need to be resourced from other areas of the food industry such as Food Service to completely cover the range of activities that now take place in retail.

The generation of national guides to good practice is a significant feature of the EU Hygiene and Foodstuffs regulations and will therefore become an important component of UK regulations in the future. Proposals indicate that guides that are written at a National level can then become registered at a community level for use by other Member states. The approval of such guides at both national and European level will be of interest in terms of legal status.

The BRC guidance document has already demonstrated in the UK, that a well written, balanced guide for the retail industry on how to comply with the legislation, has now effectively become a “best practice” document that the enforcement agencies are obliged to consider. Conferring legal status onto a “best practice” document may help to ensure everybody operates on a “level playing field” and may also help authorities and industry with consistency of enforcement.

However, getting agreement of what the “best practices” should actually be is likely to be a fraught process even within the same industry yet alone across different food industry sectors. For EU guides there will then be the additional hurdle of possible contradictory interpretation of the same subject, by the same sector, across different Member States.

What Practices Are Most Emphasized by Food Safety Regulations?

As previously outlined, the food safety regulations and subsequent enforcement protocols involve two clearly defined types of inspection; Food Standards and Food Hygiene. Food hygiene inspections have the most focus on the food safety elements such as handling, cross contamination risks, temperature requirements, facilities, equipment and personnel. The main focus for a hygiene inspection should be:

- Assessment of the risks to the public if food hygiene requirements are not met (This gives a perspective for any non-compliance’s that may be found);
- Assessment of the hazards of the business and the management’s understanding of those hazards;
- Assessment of the hazard analysis and critical control point management system that is in place;
- Verification that internal checks of critical control points are operating effectively;
- Assessment of handling, are the premises operating hygienically, is the food safe to eat and are relevant temperature controls being observed.;
- Assessment of health marks and retention of same if appropriate.

Both management and staff are interviewed to assess understanding and physical verification as well as paperwork verification techniques should be used. Samples can be taken as necessary and these are sent to Public Analysts for testing.

Food Standards inspections assess the legal requirements relating to the quality, composition, labeling, presentation and advertising of food and of materials or articles in contact with food. Clearly some elements of a food standards inspection may impact on food safety. So for example, if an in-store bakery that doesn't label a product correctly in terms of the presence of an allergen this could lead to far more serious consequences for some consumers than the flaking paint in a dry goods store room. A hazard analysis management system should identify the risks of allergens, and the subject may therefore be checked during food hygiene inspections as well as during a food standards inspection.

Is HACCP a Required Element for Retailers?

The first four principles of the seven HACCP steps as identified by Codex are required. There is a requirement to review the analysis of food hazards, the critical points and the control and monitoring procedures periodically and whenever the business's operations change.

There is no specific requirement to establish corrective actions, establish verification procedures or document monitoring and corrective actions. However, the legislation states, "*...a proprietor of a food business shall identify any step in the activities of the food business which is critical to ensuring food safety and ensure that adequate food safety procedures are identified, implemented, maintained, and reviewed.*" This covers the need for corrective action in the event of deviation and the need for verification via maintenance and review.

To What Extent Is the Retail Industry Actually in Compliance With Current Food Safety Regulations?

Enforcement Activity figures for the Year 2000, provide the following figures for the Retail industry in the UK

Number of Establishments	185,147
Number of Inspections	122,771
Number of establishments inspected	151,186
Number of establishments committing infringements *	45,649
<u>No. of Prosecutions and Reason:</u>	
1. Hygiene general (handling procedures, equipment and condition of premises)	82
2. Hygiene of personnel	1
3. Composition (including raw materials and additives)	46
4. Contamination (other than microbiological)	23
5. Labeling and Presentation	157
6. Other violations	18

*"Infringement" is defined by the EC and is not limited to formal prosecutions. For example, it includes all formal action by enforcement officers in response to incidents of non-compliance with food laws. Examples include written warnings (except where purely advisory), demands to come into line by a set date, confiscation, seizure or destruction of food, withdrawal of approval, total or partial closure of the business, service of legal notices and formal cautions

The data demonstrate that whilst the number of infringements is reportedly fairly high at 30% of establishments inspected, the actual number of prosecutions for hygiene infringements is <0.2% of total infringements. Whilst all of the prosecutions listed are classified as offences against the Food Safety Act and its subsequent regulations, they may not all constitute a food safety risk to the consumer. Nevertheless, the figure is still only 0.7% of the total infringements and 0.2% of establishments inspected.

The relatively high figures for infringements can be partially attributed to routine enforcement work that was carried out in relation to the new butchers' shop licensing requirements; written notification on the need to license would have fallen into the infringement category.

In discussion with industry experts it was felt that the highest potential for regulatory action lies with Time and Temperature Control infringements, Cleaning and Sanitation Practices, and Facilities and equipment violations and this correlates reasonably well with the prosecution data.

When questioned as to the reasoning behind this opinion, industry experts believed that the most likely risks to food safety within retail stores would be generated from the impact of high staff turnover.

In the UK, staff turnover is a significant problem and makes training of staff a difficult area to manage. This situation could lead to potential food safety risks via the necessity of using staff with insufficient training or experience in higher-risk situations such as the delicatessen counter or refilling the salad bar. This in-turn could contribute to improper handling procedures, potential cross contamination incidents, or poor equipment cleaning.

The high number of suppliers for retail was also perceived to be a difficult area to manage. There is nothing in the regulations that stipulate that suppliers must be approved because the onus is on manufacturers to comply with the Food Safety regulations. For retailer branded goods, the major retailers in the UK have developed a sophisticated supplier approval and monitoring system via third party auditing and certification.

While this provides an element of due diligence for “own label” goods, the number of suppliers of branded products to retailers that are not covered by a third party audit scheme does make this a moderately high-risk area for introducing food safety problems into a store. Whilst it is the manufacturers and not the retailers who have ultimate responsibility for branded goods, consumer attitudes may still lay some of the blame with the retailers and reputations can be tarnished.

Over a number of years, standards have improved via both legislation and voluntary food safety management systems. It is probably fair to suggest that from the 1970’s onward, super-markets have been gradually improving in-store food safety and food hygiene standards to the point where compliance with legislative standards is the rule and non-compliance is an exception. The non-compliance that does occur could be characterized as occasional, minor violations.

The importance of food safety is very well understood within the country’s retail companies. Today, the major retailers are clearly of a mindset that food safety is non-negotiable. Investment in training, auditing, and quality/technical management systems are all in evidence. Consumers are familiar with the high standards that the major retailers have in place and therefore reject lower standard operations. This ultimately leads to the improvement of the lower standards or to sub-standard stores going out of business. Consumer surveys do however still indicate an element of doubt with respect to food safety standards in the retail industry.¹⁹

In many ways, retail is driving the improvement in food safety standards via the supplier approval and monitoring programs that have been introduced within the UK. Whilst the 3rd party audits are primarily only applicable to retailer branded goods, there are very few manufacturers, if any, who would operate separate food safety management systems for the branded and non-branded product lines. As such, there has been a general improvement in standards across the industry.

What Training or Certification Is Required for Retail Food Handlers and Managers?

The Food Safety regulations require food premises to be registered/licensed and approved rather than individuals.

With respect to training the legislative requirement states that: “The proprietor of a food business shall ensure that food handlers engaged in the food business are supervised and instructed and/or trained in food hygiene matters commensurate with their work activities.”

This is obviously a very open-ended statement and can be interpreted and delivered in numerous ways. There are many organizations that offer external food hygiene and food safety courses, at a number of levels from foundation through to advanced, on the principle that the individuals operating within medium or high-risk situations will need a higher level of training. “In house” training is equally acceptable and course content, suitability, etc., and will be evaluated through Food Safety inspections via the local authority.

Are Internal Audits Commonly Utilized?

Major retailers have quality management systems with procedures, training and internal verification procedures that ensure that risks to food safety are minimized. Internal audits are normally checks to verify compliance to exactly described standards for in-store operations because each retailer strives to have the same consistently high standard across all stores. This enables customers to be confident of the standards no matter which store they are visiting.

Retailers have a variety of approaches to assessing their in-store practices with some using in-house teams and others using independent third party. Typically, the audit frequency is annual although some aspects such as cleaning and sanitation may be carried out more frequently and if corrective actions and improvement plans are generated, re-inspection may be necessary. Internal audits within an outlet by stores personnel are also on a more frequent basis.

Are External Audits Commonly Utilized?

Whilst BRC certification audits for suppliers of retailer branded goods have become commonplace in the UK, the retailers have not, as yet, extended the concept of BRC certification for in-store practices. In fairness, some of the elements of the BRC standard would not be applicable to in-store retail activities, however the majority of the standard is applicable.

One UK retailer has achieved an external accreditation status via ISO9001: 2000 for their Quality Management system. This is reportedly a first for the retail sector.

Are There Non-Governmental Programs or Codes of Food Safety Practice for the Retail Industry?

As previously described under the auspices of The British Retail Consortium and published by the Chadwick House Group Ltd. there is the “*Industry Guide to Good Hygiene Practice: Retail Guide.*”

There are a number of other professional bodies such as the Institute of Food Science and Technology (IFST) and the Society of Food Hygiene Technology (SOFHT)²⁰ who also generate documentation and provide advice on the implementation of food safety regulations.

Trade and Professional Associations

The British Retail Consortium represents the industry and is active in providing guidance to it.

There are a number of other organizations that either have an interest in, or represent aspects of food safety within the UK. A sample of these is listed below, but there are others that may be of use when ascertaining information relating to Food Safety.

A fairly comprehensive external link service operates via the Food Standards Agency and this can be found at:

[www.food.gov.uk/enforcement/external links](http://www.food.gov.uk/enforcement/external-links)

Categories listed on this site include:

- **Environmental Health** e.g. CIEH
- **Trading Standards** e.g. Office of Fair Trading and Trading Standards Institute
- **Professional bodies** e.g. IFST, Campden & Chorleywood Food Research Association (C&CFRA)
- **Central Government** e.g. HMSO, Department of Environment, Food & Rural Affairs (DEFRA)

- **Agencies and Inspectorates** e.g. HPA, Pesticides Safety Directorate (PSD)
- **Local Government** e.g. Association of Port Health Authorities (APHA), Local Government Association (LGA)
- **Industry & Consumer** e.g. British Nutrition Foundation (BNF), National Consumer Council (NCC)

Food Safety Resources / References

NB: The numbers assigned to the listing below relate to the superscript reference numbers in the text of the UK report.

1. SI No. 2372 Food Safety Act 1990
2. The Food Safety (Northern Ireland) Order 1991 No.762 (N17)
3. SI No. 1763 Food Safety (General Food Hygiene) Regulations 1995
4. SI No. 2200 Food Safety (Temperature Control) Regulations 1995
5. SI No. 930 The Food Safety (General Food Hygiene) (Butchers Shops) Amendment Regulations 2000
6. Copies of legislation can be accessed via the following website:
www.hmsso.gov.uk
7. Printed copies of legislation can be obtained from:

The Stationery Office Limited (TSO)
PO Box 29
Norwich
NR3 1GN
Tel: 0870 600 5522
Fax: 0870 600 5533

8. British Retail Consortium
Second Floor
21, Dartmouth Street
London
SW1 9BP
Tel: 0207 854 8900
Fax: 0207 854 8901
Website: www.brc.org.uk

9. Industry Guide to Good Hygiene Practice: Retail Guide
ISBN 0 900 103 60 4, published by:

Chadwick House Group Ltd.
Chadwick Court
15 Hatfields
London
SE1 8 DJ

10. Food Safety Act 1990 Codes of Practice for Local Authority Enforcement: List published June 2003 for England & Wales only (Scotland and N. Ireland have separate listing)

No. 1 Responsibility for Enforcement of the Food Safety Act 1990. Issued 1991
ISBN 0-11-321354-9

No. 2 Legal Matters. Issued 1991. ISBN 0-11-321353-0

No. 3 Inspection Procedures – General. Issued 1991. ISBN 0-11 321355-7

No. 4 Inspection, Detention and Seizure of Suspect Food. Issued 1991. ISBN 0-11-321350-6

No. 5 The use of Improvement Notices (Revised 1994). ISBN 0-11-321777-3

No. 6 Prohibition Procedures. ISBN 0-11-321349-2

No. 7 Sampling for Analysis or Examination (Revised October 2000) *

No. 8 Food Standards Inspections (Revised July 1996) *

No. 9 Food Hygiene Inspections (Revised October 2000) *

No. 10 Enforcement of the Temperature Control Requirements of the Food Hygiene Regulations. Issued 1991. ISBN 0-11-321465-0

No. 11 Enforcement of the Food Premises (Registration) Regulations. Issued 1991. ISBN 0-11-321478-2

No. 12 Quick-Frozen Foodstuffs Division of Enforcement Responsibilities: enforcement of temperature monitoring and temperature measurement (revised February 1994). ISBN 0-11-321793-5

No. 13 Enforcement of the Food Safety Act in relation to Crown Premises. Issued 1992. ISBN 0-11-321500-2

No. 14 Enforcement of the Food Safety (Live Bivalve Mollusks and Other Shellfish) Regulations 1992. Issued 1994. ISBN 0-11-321695-5

No. 15 Enforcement of the Food Safety (Fishery Products) Regulations 1992 and associated regulations. Issued 1994. ISBN 0-11-321798-6

No. 16 Enforcement of the Food Safety Act 1990 in relation to the Food Hazard Warning System (Revised August 1997)*

No. 17 Enforcement of the Meat Products (Hygiene) Regulations 1994. Issued 1994. ISBN 0-11-321880-X

No. 18 Enforcement of the Dairy Product (Hygiene) Regulations 1995 and the Dairy Product (Hygiene) (Scotland) Regulations 1995. Issued 1995. ISBN 0-11-321957-1

No. 19 Qualifications and Experience of Authorised Officers (revised October 2000)*

No. 20 Exchange of Information between Member States of the EU on routine Food Control Matters. Issued 1996*

* Denotes resources only available from the FSA Local Authority Enforcement Division

11. Food & Drink Federation: www.fdf.org.uk
12. Institute of Food Science & Technology: www.ifst.org
13. Local Authorities Coordinators of Regulatory Services: www.lacors.gov.uk
14. Chartered Institute for Environmental Health: www.cieh.org
15. Consumers Association: [www.whichnet/consumers association](http://www.whichnet/consumers%20association)
16. The Food Law Guide on Food Standards Agency: [www.food.gov.uk/Industry/Regulation/ Food Law Guide](http://www.food.gov.uk/Industry/Regulation/Food%20Law%20Guide)
This document is updated quarterly
17. The Official Control of Foodstuffs Directive 89/397 (OCD) can be accessed via: [www.europa.eu.int /Index/EUR-LEX/Legislation](http://www.europa.eu.int/Index/EUR-LEX/Legislation)

18. The Food Standards Agency's Approach to Auditing Local Authorities can be found on the FSA website at:

[www.food.gov.uk/Enforcement/Audit Scheme](http://www.food.gov.uk/Enforcement/Audit%20Scheme)

19. The Health Protection Agency's website can be found at:

www.hpa.org.uk

And the weekly communicable disease report can be found at: [www.hpa.org.uk/ Infectious Diseases/CDR Weekly](http://www.hpa.org.uk/Infectious%20Diseases/CDR%20Weekly)

20. The Food Standards Agency mission report on the reduction of food borne illness in the UK can be found at:

[www.food.gov.uk/Science & Research/Sciencetopics/ Microbiological Safety/Foodborne Disease Strategy Consultative Group](http://www.food.gov.uk/Science%20&%20Research/Sciencetopics/ Microbiological Safety/Foodborne%20Disease%20Strategy%20Consultative%20Group)

21. The Food Standards Agency consumer survey conducted in 2001 can be found at:

[www.food.gov.uk/ Hygiene / Consumer research](http://www.food.gov.uk/Hygiene/Consumer%20research)

22. Society of Food Hygiene & Technology

PO Box 37

Lymington

Hampshire

SO41 9WL

Tel: 01590 671 979

Fax: 01590 671 359

Website: www.sofht.co.uk

Appendix A

Food Hygiene Scoring System used in the UK to determine Food Hygiene Inspection Frequency.

There are 3 parts to consider:

Part 1: The Potential Hazard, which is further sub-divided into 3 sections

A: Type of Food and Method of Handling

B: Method of Processing

C: Consumers at Risk

Part 2: Level of (Current) Compliance

Part 3: Confidence in Management / Control Systems

Scores are assigned to each Part and sub-section as follows, with the total score from all parts dictating the inspection frequency to be assigned to each food premises.

Part 1: The Potential Hazard – A: Type of Food and Method of Handling

Score	Guidance on the Scoring System
40	Manufacturers of high-risk food that are not subject to approval under product specific hygiene Regulations. Wholesalers and packers who re-wrap or re-pack high risk foods. In this context, high-risk foods may be regarded as foods that support the growth of microorganisms. And/or are intended for consumption without further treatment that could destroy pathogenic microorganisms or their toxins.
30	Preparation, cooking, or handling of open high-risk foods by caterers and retailers, except caterers that prepare less than 20 meals a day (see below)
10	Handling of pre-packed high-risk foods; Caterers that prepare high-risk foods but serve less than 20 meals a day; Wholesalers and distributors of shelf stable foods; Manufacture or packing of foods other than high-risk; Premises involved in the filleting, salting, or cold smoking of fish for retail sale to final consumer.
5	Retail handling of foods other than high-risk, such as fruit, vegetables, canned and other ambient shelf stable products. Any other businesses not included in the categories above.

Score:	
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B: Method of Processing

An additional score should be included for processes listed in the table below. If an additional score under this section is appropriate it may only be allocated once; i.e. the maximum score under this section is 20.

Score	Guidance on the Scoring System
20	<ul style="list-style-type: none">• Thermal processing or aseptic packing of low-acid foods;• Vacuum and sous-vide packing (except raw/unprocessed meat and dried foods);• Manufacture of cook/chill food i.e. cooked and prepared meals or foods which may be eaten cold or after reheating; (NB: Catering premises should not be included in this category unless they are engaged in the specific operation referred to commercially as the preparation of cook-chill meals. The simple reheating of cook-chill meals is excluded from the scope of this paragraph);• Small-scale production of cooked meat products that are exempt from product-specific food hygiene legislation e.g. certain retailers including butchers.
0	Any other case not included in the above.

Score:	
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C: Consumers at Risk

The number of consumers likely to be at risk if there is a failure of food hygiene and safety procedures.

Score	Guidance on the Scoring System
15	Substantial – manufacture of food that is distributed nationally or internationally.
10	Intermediate – businesses whose trade extends beyond the local area, e.g. regional supermarket/hypermarket, small-scale local manufacturer.
5	Few – businesses supplying the local area, e.g. high street or corner shop, local supermarket, local restaurant.
0	Very Few – businesses supplying less than 20 consumers each day.

Score:	
--------	--

PLUS

An additional score of 20 (in addition to the score above) should be included for premises such as hospitals, nursing homes, day-care centres and child nurseries, where production and/or service of high risk foods takes place, and where more than 20 persons in a vulnerable group are at risk. In this context, vulnerable groups are people who are under 5 or over 65 years of age, people who are sick, and people who are immunocompromised.

Score	Guidance on the Scoring System
20	Production and/or service of high-risk foods in premises where there are more than 20 people in a vulnerable group at risk;
0	Any other case not included above.

Score:	
--------	--

Part 2: Level of (Current) Compliance

The food hygiene and safety procedures (including food handling practices and procedures and temperature control) and the structure of the premises (including cleanliness, layout, condition of structure, lighting, ventilation, facilities etc.) should be assessed using the scoring system below.

The score should reflect compliance observed during the inspection according to the guidance below. Adherence to any relevant EU Industry Guide to Good Hygiene Practice should be considered when assessing compliance.

Conformity with relevant national guidelines or industry codes of recommended practice will also be necessary to be categorized as “Exceptional” or “Typical”.

Score	Guidance on the Scoring System
25	Unacceptable – non-compliance with significant statutory requirements.
15	Fair – non-compliance with multiple statutory requirements; effort required to raise standards to the “typical” level.
5	Typical – minor non-compliance with statutory requirements and industry codes of recommended practice, but standards generally being maintained or improved.
0	Exceptional – compliance with statutory requirements and industry codes of recommended practice; adoption and implementation of relevant industry best practice; standards generally above the statutory minimum.

Score - Hygiene:	
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Score - Structural:	
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Part 3: Confidence in Management/Control Systems

The actual performance of management is scored in part 2 on the basis of the results achieved and observed. A management that achieves good food hygiene performance, well understood by the workforce, should have achieved a good standard in part 2, and consequently a low score for that factor.

Confidence in Management is not meant to reconsider this aspect. It is to elicit a judgement on the likelihood of satisfactory compliance being maintained in the future.

Factors that will influence the inspector's judgement include:

- The “track record” of the company, its willingness to act on previous advice and enforcement, and the complaint history;
- The attitude of the present management towards hygiene and food safety;
- Hygiene and food safety technical knowledge available to the company (internal or external), including hazard analysis/HACCP and the control of critical points;
- Satisfactory documented procedures and HACCP based food safety management systems.

Score	Guidance on the Scoring System
30	No Confidence – poor or variable compliance record; little or no relevant technical knowledge; little or no appreciation of hazards and control measures; no food safety management system.
10	Some Confidence – reasonable compliance record; access to, and implementation of, relevant in-house and/or external technical advice; satisfactory food safety management system.
5	Moderate Confidence – satisfactory compliance record; access to and implementation of, relevant in-house and/or external technical advice; satisfactory documented food safety management system; demonstrates effective control of hazards; Food Authority audit confirms general compliance with documented system with only minor non-conformities not related to critical control points.
0	High Confidence – good compliance record; access to, and implementation of, in-house technical advice; satisfactory documented HACCP based food safety management system that is subject to internal and third party audit; Food Authority confirms general compliance with documented system with only minor non-conformities not related to critical control points.

Score:	
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PLUS

An additional score of 20 (in addition to the score above) should be included where there is a significant risk:

- Of food being contaminated with *E. coli* 0157 or other VTEC; or
- Of food being contaminated with *Clostridium botulinum* and the microorganism surviving any processing and multiplying; or
- Of ready-to-eat food being contaminated with microorganisms or their toxins that are pathogenic to humans.

Score:	
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Food Hygiene Inspection Frequencies

Category	Points Range	Minimum Inspection Frequency
A	91-195	At least every 6 months
B	71-90	At least every 12 months
C	41-70	At least every 18 months
D	31-40 25-30*	At least every 2 years
E	0-30**	Alternative enforcement strategy

*** Only if total includes 20 points for vulnerable groups**

**** Only if total DOES NOT include 20 points for vulnerable groups.**

4.3 Germany

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Who Regulates Food Safety in Retail Stores?

In Germany, food legislation for all areas of the food industry is enacted at the national level, while compliance with legislation is enforced at the state (Bundesländer) and local level. National authorities responsible for regulations are:

- The Federal Ministry of Consumer Protection, Food and Agriculture (“Bundesministerium für Verbraucherschutz, Ernährung und Landwirtschaft”, BMVEL)
<http://www3.verbraucherministerium.de/index2804D294E247F1BEF4F4F9D9C2BC4C.html>
- The Federal Ministry for the Environment, Nature Conservation and Nuclear Safety (“Bundesministerium für Umwelt, Naturschutz und Reaktorsicherheit”, BMU)
<http://www.bmu.de/de/1024/js/base/>
- The Federal Ministry for Health (“Bundesministerium für Gesundheit und soziale Sicherung”, BGMS) <http://www.bmgs.bund.de/>
- The Federal Institute of Risk Assessment (“Bundesinstitut für Risikobewertung”, BfR)
http://www.bfr.bund.de/cms/detail.php?template=internet_de_index_js
- Federal Office for Consumer Protection and Food Safety (“Bundesamt für Verbraucherschutz und Lebensmittelsicherheit”, BVL)
<http://www.bvl.bund.de/>

The Authorities of the sixteen German federal states (Bundesländer) all have regulatory agencies and these can be accessed via the following website:

http://www.bvl.bund.de/vs_land.htm?pagetitle=Verbraucherschutz+in+den+L%E4ndern

Due to the political structure of Germany, there is still some fragmentation of food safety-related responsibilities across Federal ministries and the states. The main activity of the national authorities is to formulate food policy and to draft, negotiate, and implement food law resulting from EU requirements.

Effectiveness of food safety management on the level of the states is varying. Baden-Württemberg for instance is known for its particularly effective food monitoring system. Emphasis on food safety is reflected by the quality of the states’ websites.

Whilst some states’ web-sites easily allow to access various food safety resources, other states’ websites don’t even have links to the regulatory and enforcing agencies.

The majority of the Food safety tasks at Government level are co-ordinated within the Federal Ministry of Consumer Protection, Food and Agriculture (“Bundesministerium für Verbraucherschutz, Ernährung und Landwirtschaft”, BMVEL). However, there are some activities that come under the auspices of different ministries.

The Federal Ministry for the Environment, Nature Conservation and Nuclear Safety (“Bundesministerium für Umwelt, Naturschutz und Reaktorsicherheit”, BMU) is responsible for the prevention of risks to consumers arising from foodstuffs that were exposed to air, soil or water contaminants. Equally, the Federal Ministry for Health (“Bundesministerium für Gesundheit und soziale Sicherung”, BGMS) is responsible for the Protection against Infection Act (IfSG) and derived regulations.

The Federal Institute of Risk Assessment (“Bundesinstitut für Risikobewertung”, BfR) and the Federal Office for Consumer Protection and Food Safety (“Bundesamt für Verbraucherschutz und Lebensmittelsicherheit”, BVL) are also contributing organisations for the management of food safety matters at government level.

The BfR is a scientific body that aims to prepare expert reports and opinions on questions of food safety and consumer health protection on the basis of internationally recognised scientific assessment criteria. The BfR provides scientific advice to the Federal ministries and is responsible for risk analysis and risk communication to policy makers and the public. In addition, the BfR is engaged in scientific cooperation with international institutions e.g. the European Food Safety Authority (EFSA).

The BVL is the coordinating agency of the Federation. Its responsibilities lie in the establishment of a central internal data network for food safety issues, the co-ordination of joint control functions between the Federation and the states and the harmonization of control standards and crisis management. The responsibility of the states is to exercise food-monitoring functions. In most of the states food monitoring is divided into three levels:

- Supreme authorities are the states’ ministries that co-ordinate food monitoring.
- Regional and district councils are on the second level. They are the supervisory bodies for the local regulatory authorities.
- Counties and county towns are on the third level and are responsible for inspection onsite.

Food monitoring activities are the task of the individual states. They are able to enact individual regulations for execution, competence and responsibility. Whilst the organization of food monitoring activities is different, the food monitoring process is the same. Food monitoring activities in all federal states are carried out according to §§ 40-46 of the LMBG (*The Foodstuffs and Commodities Act “Lebensmittel-und Bedarfsgegen-ständegesetz”, LMBG*) and §§ 22a and 22b of the FlHG (*The Meat*

Hygiene Law “Fleischhygienegesetz” FIHG). This includes the control of tobacco goods, cosmetics and materials and articles, which come into contact with food.

Food monitoring applies to all steps of manufacturing, producing, storing, transporting, handling and trading of food products. Each company that produces or sells food should be controlled at least once or twice a year without previous notice. Additional inspections are carried out if there is evidence that the company doesn't comply with regulations or if there are consumer complaints. There are two types of inspections:

- Health protection inspections: These are focused on food safety elements such as pathogenic bacteria in food and compliance with the limits for pesticides, heavy metal and other not wanted substances.
- Inspection for protection against deception: These are to assess the compliance with legal requirements relating to the composition and labelling of foods.

Inspections include the investigation of internal measures and controls. Food samples are taken and sent to public analysts for testing. In addition to inspection activities regulatory agencies are responsible for the registration of establishments that produce, prepare, trade or import meat. Local authorities are also responsible for the provision of food safety training in accordance with the requirements of IfSG (*The Protection against Infection Act “Infektionsschutzgesetz” IfSG*)

Are There Multiple Levels of Regulation of Food Safety in Retail Stores?

As the previous section has indicated there are multiple regulatory bodies for Germany and there are also multiple national laws that form the basis for food safety requirements. The overriding framework law in the field of food legislation is the Foodstuffs and Commodities Act (“Lebensmittel-und Bedarfsgegenständegesetz”, LMBG). It aims at providing a comprehensive protection of consumers against health hazards and deceit in the marketing of foodstuffs, tobacco products, cosmetics and other commodities.

http://bundesrecht.juris.de/bundesrecht/lmg_1974/index.html

The LMBG makes provision for regulations to be made to support the protection of consumer health. For example:

- §9 LMBG enables regulations to be made for preventative health protection,
- §10 LMBG gives the enabling power to enact regulations to ensure the proper condition of food (hygiene regulations).

Via § 9 LMBG, special regulations made for preventative health protection include:

- The standard for food additive approval (“Zusatzstoff-Zulassungsverordnung”),

<http://www.umwelt-online.de/recht/lebensmt/lebensmb.ges/zzulv1.htm>

- The food packaging standard (“Fertigpackungsverordnung”),
http://bundesrecht.juris.de/bundesrecht/fertigpackv_1981/index.html
- The standard for dietetic food (“Verordnung über diätetische Lebensmittel”)
http://bundesrecht.juris.de/bundesrecht/di_tv/index.html and
- The food labelling standard (“Lebensmittelkennzeichnungsverordnung”)
<http://bundesrecht.juris.de/bundesrecht/lmkv/index.html>

Via §10 of the LMBG, The Food Hygiene Regulation, “Lebensmittelhygieneverordnung” (or LMHV) has been enacted. This regulation implements The European Food Hygiene Directive 93/43/EWG and was put into German legislation in 1997. Prior to this date variable local hygiene regulations at state level existed, but the LMHV has replaced all local requirements. This has had the effect of simplifying some requirements of food safety legislation across the country. The LMHV includes three core aspects of food safety:

- The general hygiene requirement;
- Internal measures and controls; and
- The responsibility for employees training

Details can be found at <http://bundesrecht.juris.de/bundesrecht/lmhv/index.html>

Also pursuant to the enabling power of § 10 LMBG, The Food Transport Container Regulation (“Lebensmitteltransportbehälterverordnung”, LMTV) defines the general hygiene requirements for the transport of unpacked food. Further details can be accessed via the web:

<http://www.lebensmittelrecht.com/>

The Protection Against Infection Act (“Infektionsschutzgesetz”, IfSG) also has an impact on food safety matters in the retail industry. Persons suffering from various infectious diseases are not allowed to deal with food. According to § 43 IfSG, food business employees need food safety training certified by the local health authorities.

<http://bundesrecht.juris.de/bundesrecht/ifsg/index.html>

http://www.rki.de/INFEKT/IFSG/IFSG_E.PDF

For some food, especially food of animal origin, there are specific laws, enabled not by the LMBG but by the German constitution. These laws were enacted mainly to meet the EU requirements. The most important are:

- The meat hygiene law („Fleischhygienegesetz“, FIHG),
<http://bundesrecht.juris.de/bundesrecht/flbg/inhalt.html>

- The poultry hygiene law („Geflügelfleischhygienegesetz“, GFIHG)
http://bundesrecht.juris.de/bundesrecht/gflhg_1996/index.html,
- The milk and margarine law (“Milch- und Margarinegesetz”)
<http://home.t-online.de/home/siegfried.kunze/seite24.htm>
- The wine law (“Weingesetz”, WeinG)
http://bundesrecht.juris.de/bundesrecht/weing_1994/index.htm

These laws are also supplemented by a number of vertical regulations that may be applicable to the retail food industry, depending on the type of food handled and supplied by the outlet.

- Following the requirements of the meat hygiene law (FIHG), the meat hygiene regulation (“Fleischhygieneverordnung”, FIHV) defines minimum Hygiene standards for facilities and general Hygiene demands for personnel and equipment.
http://www.mlur.brandenburg.de/v/lbsvet/TEILC/C3_1.PDF
- Enabled by the poultry hygiene law (GFIHG), the poultry hygiene regulation (“Geflügelfleischhygieneverordnung”, GFIHV) defines the minimum hygiene requirements for poultry.
<http://home.t-online.de/home/siegfried.kunze/seite24.htm>

Other important vertical hygiene regulations that could be applicable to the retail industry are:

- The ground meat order („Hackfleischverordnung“, HFIV)
<http://www.chemlin.de/shop/download/Hackfleisch-Verordnung.pdf>
- The fish hygiene order, (“Fischhygieneverordnung”, FischHV),
<http://bundesrecht.juris.de/bundesrecht/fischhv/index.html>
- The egg product order and the egg standard („Eiprodukteverordnung“; “Hühnereiverordnung”)
<http://home.t-online.de/home/siegfried.kunze/seite24.htm>
- The milk hygiene order and the milk quality standard (“Milchverordnung; “Milchgüteverordnung”)
<http://home.t-online.de/home/siegfried.kunze/seite24.htm>
- The ice cream standard (“Speiseeisverordnung”, SpeiseeisV)
<http://home.t-online.de/home/siegfried.kunze/seite24.htm>
- The pasta standard (“Teigwarenverordnung”)

<http://www.lebensmittelrecht.com/>

- The cacao standard („Kakaoverordnung“, KakaoV)
<http://home.t-online.de/home/siegfried.kunze/seite24.htm>
- The honey standard („Honigverordnung“, HonigV)
<http://home.t-online.de/home/siegfried.kunze/seite24.htm>
- The wine standard (“Weinverordnung”)
http://bundesrecht.juris.de/bundesrecht/weing_1994/index.htm
<http://www.lebensmittelrecht.com/>
- The beverage dispensing equipment standard
(“Getränkeschankanlagenverordnung”),
www.umwelt-online.de/recht/z_pdf/archiv/schankv.pdf
- The mineral water standard (“Mineral- und Tafelwasserverordnung”, MTVO)
http://bundesrecht.juris.de/bundesrecht/min_tafelwv/index.html
- The drinking water standard („Trinkwasserverordnung“, TrinkWV)
http://bundesrecht.juris.de/bundesrecht/trinkwv_2001/index.html
<http://bundesrecht.juris.de/bundesrecht/ifsg/index.html>

Despite the fact that governance reorganisation related to food safety has led to improved effectiveness of regulations, as can be seen from the catalogue above German food law is still fragmented and complex.

German food safety legislation applies to any business that prepares, manufactures, packages, stores, transports, distributes, handles or offers food to the consumer rather than exclusively for the retail industry. As such, the parts that are applicable to retail will be dependent on the type of food being served, practices being utilised etc and thus will need to be evaluated on a retailer by retailer basis.

Is There Uniformity in the Food Safety Requirements for Retailers?

As German legislation is applicable at a national level, there is uniformity in the Food Safety requirements for retailers. Differences may however be seen in relation to enforcement of food safety legislation.

With respect to enforcement, the process is the same nationally, however the organization of enforcement practices is regulated at the local and state levels, and thus may be different from state to state. The skills and training requirements for food inspectors operating within the food business are defined in the food inspector regulation. (“Lebensmittelkontrolleurverordnung”, LkonV;
<http://www.chemlin.de/shop/download/lkonv.pdf>)

According to this regulation, a special 24 months training, including certification, is required. Admission to the training courses requires education as technician or master craftsman in the food business sector. Alternatively, technical college graduates and certain employees of the public administration or the police are also permitted to attend the food inspector training.

How are Food Safety Regulations Revised and Up-Dated?

The Food Law („Nahrungsmittelgesetz“, NMG), enacted in 1879 was the first law that applied to all areas of the food business in the former German Reich. It enabled an effective food monitoring, enforced by the police. The NMG was revised in 1927, 1958 and 1974. The LMBG, enacted in 1974, can be considered the most radical reform of the German food law in the 20th century.

The main drivers of changes and revisions in German food safety legislation are adoptions to EU requirements. One of the most recent important changes applicable to the retail industry was made in 1997, when the European Food Hygiene Directive 93/43/EWG was put into German legislation. As previously described, the LMHV replaced all local hygiene regulations, enacted at the state (Bundesländer) level and was thus a step forward to the harmonization of food safety requirements in Germany.

In the meantime, several new or revised regulations have also been introduced to support the EU's goal of ensuring safe food from farm to fork. Drivers of changes may also be incidents such as the first BSE case in Germany in November 2000. The fast erosion of consumer confidence in the safety of meat products led to a rapid restructuring of government agencies and policy instruments related to food safety.

Before legislation is implemented, revised or updated, draft documents are circulated to stakeholders, such as industry and trade associations for consultation and comment to ensure that the legislation will be understandable and applicable. Stakeholders chosen are representative of the proposed subject under discussion. Additionally, draft documents are published on the websites of the government agencies, such as the BMVEL and the BVL. Retail industry stakeholders for food legislation in Germany include, for example:

- The German Federation of Food Law and Food Science (“Bund für Lebensmittelrecht und Lebensmittelkunde e.V”, BLL)
- The Federal Consortium of German Trade Associations (“Bundesvereinigung Deutscher Handelsverbände”, BDH)
- The Main Association of the German Retail Industry (“Hauptverband des Deutschen Einzelhandels, e.V.“, HDE)

- The Federal Association of Food Retailers („Bundesverband des Deutschen Lebensmittelhandels e.V.“, BVL)

Comments on the draft documents of currently revised legislation can be found on the websites of the associations mentioned above.

The German Federation of Food Law and Food Science (“Bund für Lebensmittelrecht und Lebensmittelkunde e.V”, BLL) is an umbrella organization, with its members coming from all sectors of the food industry, especially associations and companies stemming from industry, trade and commerce, the craft professions, agriculture, and associated fields.

The scope of tasks with which the BLL is charged includes representation of its members' interest vis-à-vis the Federal and Länder Parliaments, including such dealings with the Federal Government, the Länder Governments, the executive authorities, European Union institutions and FAO/WHO.

As a representative body of the German food industry, the BLL works towards a harmonisation and the further development of food law at national, European, and international level. It supports efforts to cut down on bureaucracy and strives to ensure appropriate levels of consumer protection.

The Institute for Food Science and Food Information Ltd (“Institut für Lebensmittelwissenschaft und -information GmbH”, ILWI) is associated with the BLL. ILWI has on-line access to the most important European and American databases. The ILWI's charge-based service is also open to non-members.
<http://www.bll-online.de/english/index.htm>

Trade associations, such as the Federal Association of Food Retailers („Bundesverband des Deutschen Lebensmittelhandels e.V.“, BVL) are representing their member`s interests vis-à-vis legislation, authorities and the public at the federal and the EU level. If food safety laws or regulations are developed or revised, trade associations have access to draft legislation and can attend hearings to discuss drafts. Normally, objections and suggestions are considered.

The BVL is a member of the Main Association of the German Retail Industry (“Hauptverband des Deutschen Einzelhandels, e.V.“, HDE).

www.lebensmittelhandel-bvl.de/index.php and www.einzelhandel.de

Draft legislation is revised, if necessary, and the final proposals are laid before parliament for resolution. Proposals have to be approved by both, the Bundestag (federal parliament) and the Bundesrat (representation of the Bundesländer). If approved, a date of coming into force will be fixed. This is the date at which the legislation becomes enforceable.

New legislation under discussion currently stems from the European Union initiatives in the area of food safety. The major interests of the European Commission are to guarantee the highest standard of food safety in the European Union and to harmonise and simplify food safety legislation within the member states. This priority is reflected in the German White Paper on Food Safety that was adopted by the EU Commission on 12 January 2000.

The aim of the White Paper is to establish the prerequisites for a high standard of food safety in the European Union by implementing a new concept and to help regain lost consumer confidence in the safety and quality of foodstuffs. With the help of the proposals from the White Paper and the implementation of an "Action Plan on Food Safety", a comprehensive legal framework is to be set up for all elements of the food chain ("from farm to fork").

These proposals also extend to the production of animal feeds (see EU Basic Regulation 178/2002). The Action plan lists more than 80 proposals for possible measures in particular as regards food and feed legislation, animal health, hygiene, contaminants and pesticides. Various proposals have already led to definite legal provisions.

The current 17 hygiene directives (especially product specific regulations for meat, meat products, milk, milk products, egg products, ground meat, fish etc.) shall be combined and repealed by a new regulation for microbiologically sensitive food from animal origin.

German food legislation is currently adapted to the most important EU food safety regulations resulting from the white paper, especially the EU Regulation 178/2002. Furthermore, by means of the Law for the Reorganisation of the Food and Feed legislation ("Gesetz zur Neuordnung des Lebensmittel- und Futtermittelrechts") the food law and the feed law shall be combined and the enactment of 10 existing laws in the area of food and feed legislation shall be repealed. A new Foodstuffs and Feedstuffs Act ("Lebensmittel und Futtermittelgesetz", LFBG) shall replace the LMBG. Vertical legislation such as the FIHG and the GfHG shall be integrated into the LFBG.

After hearing the Bundesländer and the food business associations' recommendations, the draft legislation will be laid before parliament for resolution in 2004. The LFBG shall be enacted on January 1, 2005, together with the most important EU food safety regulations.

The European Parliament and Council process of repealing the 17 hygiene directives has been completed and replacement regulations are now in place (April 2004). These new regulations are binding for all EU member states and will come into force in from January 2006.

Are Food Safety Regulations Science Based?

The LMBG, the LMHV and the FIHG are general in their requirements and do not contain technical rules. The vertical regulations deriving from this core legislation are covering product specific minimum requirements, for instance microbiological criteria for specific food. The legislator intended to keep the legislation free from technical rules to a large extent.

The German Institute for Standardisation (“Deutsches Institut für Normung”, DIN) develops technical standards for food hygiene. Food hygiene standards that are currently developed and published can be accessed at Beuth-Verlag, <http://www.beuth.de/>.

There are also some standards that are currently under development by the DIN Standards Committee for Foodstuffs and Agricultural Products; Workgroup Food Hygiene. http://www.nal.din.de/index.php?lang=en&na_id=nal).

Compliance with these standards is voluntary, but ensures that the main requirements of the LMHV are met.

Are Food Safety Regulations Risk Based?

The LMHV requires a self-control programme based on certain HACCP principles for any food business. This requirement stems from the EU Directive 93/43/EWG, and thus food safety regulations in Germany, as in many other European Union country members, are risk based.

Generally, the enforcement agencies operate a risk-based system for all food business segments. The frequency of inspection is determined with regard to product specific risks, company structure and risks that can be expected for consumers. Thus retailers with high risk activities such as fresh meat preparation, delicatessen outlets, hot food to go, etc will be categorised as higher risk than a simple bakery with only baked products.

In some states, HACCP audits are already performed in hospital kitchens and university canteens. If a complete HACCP program is implemented, inspections mainly focus on how CCP's were established to control possible health risks. The correct separation of general hygiene measures and specific hygiene control according to HACCP principles is evaluated. Documentation and verification are especially inspected.

Currently for the retail industry enforcing agencies mainly perform compliance audits with recognised good practice standards. It is anticipated that auditing the HACCP

systems of a food business and evaluating the level of self – control with respect to food safety will extend to all food segments in the future including retail.

Is the Effectiveness of the Current Regulatory Model Evaluated?

As food borne illness can be considered as an indicator for the effectiveness of food safety regulations, the Epidemiological Bulletin of the Robert-Koch-Institut contributes to the evaluation of the effectiveness of food safety regulations. The Epidemiological Bulletin includes information on food-borne disease for all types of food business and can be found at:

<http://www.rki.de/INFEKT/EPIBULL/EPI.HTM>

In addition, the 8th report of the WHO Surveillance Programme for Control of Foodborne Infections and Intoxication in Europe provides information and statistics on foodborne diseases for all types of food business and can be found at:

http://www.bfr.bund.de/internet/8threport/8threp_fr.htm

On a governmental level, the BVL is co-ordinating and controlling the regional and local enforcement bodies and establishing a central data network for food safety issues. This aims to improve communication and focus resources where there is most need. Currently the relationship between industry, Government and the enforcement agencies is considered to be a hybrid relationship with elements of both collaboration and confrontation. Improved food safety organization and availability and transparency of food safety data via the BVL may help to move this relationship to one that is more co-operative in nature.

Effectiveness of food safety management on the level of the states is varying. Baden-Württemberg for instance is known for its particularly effective food monitoring system. Emphasis on food safety is reflected by the quality of the federal states' websites. Whilst some states' sites easily allow to access various food safety resources, other states' websites don't even have links to the regulatory and enforcing agencies.

Unfortunately, the number of food business establishments that are being controlled via inspection and monitoring by enforcement agencies is decreasing due to staff shortages. According to an internal statistic of the BMVEL, only 59 % of all food business establishments are currently controlled per annum. („Bild am Sonntag“ vom 8.3.2004).

Are the Provisions of Food Safety Regulations considered “Best Practice” for Retailers?

As the majority of the Food Safety legislation in Germany is composed of horizontal regulations, then by nature of this type of legislation the requirements are broad and very unspecific. As such there is often debate as to the exact meaning of generic clauses and how they should be interpreted for implementation purposes within a

specific sector of the industry. One cannot therefore state that the provisions of food safety regulations are the “Best Practice” for retailers, except from the standpoint of flexibility.

This style of flexible legislation allows for the definition of sector standards based on industry expert opinions. As long as there is an organisation that actively supports the retail industry by defining the appropriate standards that should be practised, and the retail industry then conforms by implementation of the standards defined, this level of flexibility in legislation is best practice. Difficulties arise when either:

- The industry sector body doesn't set standards thus leaving individual businesses to interpret, as best it can, the standards required.
- Or the majority of the businesses within the sector don't follow the internal code of practice that has been defined.
- Or the enforcement agencies do not agree with the standards that have been defined internally within the sector.

If any of the three points above are observed, then different standards are implemented and enforced which is generally to the detriment of the whole of the industry in terms of resources and cost. It may be to the detriment to the consumer in terms of inappropriate food safety standards implemented that may lead to a food safety incident. It is also probably detrimental to the objectives of the legislation that makes the farm to fork supply chain safer.

In Germany, to support understanding of the requirements of food safety legislation, Guidelines and Codes of Practice have been developed for the Food industry. These standards are voluntary, and adherence to the standards will ensure that the food safety legal requirements are being complied with.

The German Food Book (“Deutsches Lebensmittelbuch”) is a collection of guidelines and policies describing manufacturing, quality and other characteristics relating to marketability of food. Defined in § 33 LMBG, they augment the regulations and have the character of objective expert opinions, recognised from the German food industry and accepted by the jurisdiction. Whilst these guidelines are not a legal requirement, enforcing authorities use the guidelines of the German Food Book as an assessment standard.

Currently there are 20 guidelines for different food products. The guidelines are defined by the German Food Book Commission (DLBK), and take account of international food standards and are approved by the Federal government. The DLBK includes members of the industry, enforcing (food inspection) agencies, consumer associations and science.

In addition to the German Food Book, the former Federal Associations of Self Service Department Stores („Bundesverband der Filialbetriebe und Selbstbedienungswarenhäuser e.V., BFS) together with the German Federation of Food Law and Food Science (“Bund für Lebensmittelrecht und Lebensmittelkunde e.V”, BLL) and the Social Ministry of Hessen, created a guideline for good food hygiene practice for food retailers according to the European Food Hygiene Regulation 93/43/EWG. Retailers are not legally obliged to follow this guideline but if they do, they can be sure to be in line with the general hygiene demand and the internal measures and controls required by the LMHV.

The Codex Alimentarius HACCP recommendations and application guidelines are also used as Best Practice guidance documents by some retailers and other types of food business.

What Practices are most emphasised by Food Safety Regulations?

The states’ enforcement agencies operate a risk-based system to determine a frequency of regular inspections with regard to product specific risks, company structure, and risks that can be expected for consumers.

Inspection frequency is aimed at once or twice per year, however some of the states are not achieving this frequency level because of staff shortages. Additional inspections may be carried out following customer complaints but food safety inspections are not triggered by complaints only. As previously mentioned, there are two types of inspections:

Health protection inspections: These are focused on food safety elements such as pathogenic bacteria in food and compliance with the limits for pesticides, heavy metal and other not wanted substances. Inspections include:

- Assessment of design, maintenance and hygienic condition of facilities and equipment.
- Assessment of refrigerators and freezers.
- Assessment of personal hygiene and employee training.
- Assessment of storage conditions.
- Assessment of pest control programs.
- Assessment of the HACCP system that is in place.

If a complete HACCP program is implemented, inspections mainly focus on how CCP’s were established to control possible health risks. Especially documentation and verification are inspected. A self-control system based on certain HACCP principles is

checked for a correct separation of general hygiene measures and specific hygiene control according to HACCP. Future inspections will more and more focus on HACCP and HACCP based self-control systems.

Deceptive practices inspections: This includes the assessment of the compliance with legal requirements relating to the composition and labelling of foods. Generally, food retail inspections are focused on labelling, price marking, shelf life, and the required cooling and freezing temperatures. Freezers in the retail industry and refrigerator hygiene were both parts of special programs of some enforcing agencies in 2001 and 2002. In bakeries and butcher shops, inspections are more detailed following the elements mentioned above.

Routine inspection reports are written but these are not readily available for assessment by consumers, academics, industry bodies etc. If, however, there is evidence via an inspection that harmful food has already been sold, warnings can be given to the public via the media.

Routine laboratory testing of food is not legally prescribed, but is mandatory as a part of a quality assurance system in the food processing industry. In some cases, microbiological testing is used to monitor CCP's, although this is of limited informational value due to statistical characteristics of microbiological sampling plans. Governmental food monitoring activities in all federal states are carried out according to §§ 40-46 LMBG and §§ 22a and 22b FIHG.

These laws enable sampling, but do not prescribe a specific methodology. Nevertheless, routine sampling and laboratory testing is mandatory in all states. In Baden-Württemberg for example, sampling is conducted according to a food monitoring order requiring at least 11 food samples per 2000 inhabitants per year (including all types of food business). Regulations in Bayern require 5 samples per 1000 inhabitants and year. Routine samples are taken according to a plan, considering questions such as:

- Has a certain foodstuff been noticed in the past due to poor labelling, composition or presentation?
- What types of foods are eaten by the majority of consumers?
- Are there manufacturers or retailers that have been noticed in the past due to food scandals?
- Are there new products that have not been previously tested?

Sampling plans must also consider EU enforcement provisions (“coordinated monitoring program”) and requirements of the national government (“national residue control plan”), which is the nation-wide food monitoring programme related to certain

chemical residues. These requirements lead to various monitoring programs with different content.

- Routine sampling is independent of regularly performed inspections.
- Additionally samples are taken if there is cause for suspicion or in case of consumer complaints.
- Some samples are taken within the scope of inspections of retail locations.

Food samples are tested for correct labelling and presentation, for composition, quality and contamination. The samples are microbiologically examined for food spoiling and pathogenic microorganisms. In order to prove the hygienic condition of facilities and equipment, swab samples are taken from food contact surfaces.

Laboratory testing is carried out according to formally approved methods (§ 35 LMBG). The regulatory agency does not require retailers to have a formal recall program, but is able to order a recall if necessary and give warnings to the public according to the German product liability law. Due to this fact and the imminent loss of reputation, retailers have a recall plan implemented as part of their quality and crisis management systems.

As product testing and sampling is carried out according to formally recognised methods, there is no need for support by an industry association. Support for recall and crisis management is given by specialised private consultancies.

An important, retailer led initiative to improve food quality is the Central Marketing Association of German Agriculture (CMA), a joint venture of the German farmers' federation, the federations of feed processors, meat processors and retailers.

The CMA established a voluntary national label and quality assurance scheme for conventionally produced meat and meat produce that covers the entire vertical supply chain based on HACCP principles ("QS"). The structure of controls of CMA members can be described in terms of three steps:

- In-house self-control,
- Independent auditing and
- Control of the auditing.

Independent auditing occurs randomly, but auditors have to announce their visit at least one week in advance. The auditor checks on physical criteria such as hygiene, and administrative criteria such as documentation. In 2004, QS will also start in the fruit and vegetable sector. Further information is available via the following websites:

<http://www.q-s.info/de> and <http://www.cma.de/>

Is HACCP a Required Element for Retailers?

The LMHV “Lebensmittelhygieneverordnung.” (The Food Hygiene regulation) requires a HACCP program for any food business, not only for retail stores. This includes the need to:

- Conduct a hazard analysis.
- Determine the Critical Control Points (CCP’s) by identifying the points where hazards can occur and decide which points are critical for food safety
- Establish critical limit(s).
- Establish a system to monitor control of the CCP’s.
- Establish verification procedures.

Thus not all of the steps identified by the Codex Alimentarius are required. The 5 steps indicated above base on article 3 (2) of the EU Food Hygiene Regulation 93/43/EWG.

The HACCP concept is a requirement of the LMHV and has thus been in force since 1997. According to the LMHV, HACCP is required for any business that prepares, manufactures, packages, stores, transports, distributes, handles or offers food to the consumer. The steps as indicated above are therefore required for all food industry segments including Retail since 1997.

As previously mentioned, the Federal Associations of Self Service Department Stores („Bundesverband der Filialbetriebe und Selbstbedienungswarenhäuser e.V., BFS) created, together with the BLL and the social ministry of Hessen, a guideline for good food hygiene practice for food retailers according to the European Food Hygiene Directive 93/43/EWG.

As a 5 step HACCP program is mandatory, the guide does not encourage the voluntary use of HACCP plans in retail stores but gives support on how to conduct hazard analyses and helps to define CCP’s for perishable food from receipt of goods until delivery to the consumer. Support on HACCP can be also found at:

<http://www.haccp.de/index.htm>

To What Extent Is the Retail Industry Actually in Compliance With Current Food Safety Regulations?

Within the Retail Food Industry of Germany, there is a strong belief that in-store food safety standards have improved via both the needs to meet the legislative standards and through the implementation of voluntary food safety management systems. This statement is applicable across the retail industry however it is the supermarkets and larger food stores that find it easiest to comply with regulations.

In discussion with representatives from within the retail food industry the pattern of legal compliance by food retailers such as supermarkets was deemed to be between 75% and 100% with occasional minor violations.

The pattern of legal compliance by manufacturers with retail activities e.g. craft establishments such as bakeries and butchers shops has however been described as frequent minor violations and occasional major violations. This is largely due to poor facility and equipment design and maintenance, insufficient internal control programs and poor employee training. Enforcement agencies are therefore more likely to audit this type of establishment.

Data taken from the annual reports of some of the food monitoring agencies do confirm the opinion that retailers, i.e. supermarkets, are less likely to commit infringements than manufacturers with retail activities such as bakeries and butchers. The results do however differ significantly within the federal states and are depending on the type of retail store. The following enforcement activity figures are selected from various statistical informations offered by the federal states:

Annual Report of the Food Monitoring Agency of Bayern, 2001

	<i>Retailer</i>	<i>Manufacturer with retail activities (e.g. craft establishments such as bakeries and butcher shops)</i>
Number of establishments	54,962	14,380
<i>Number of establishments inspected</i>	47,677	13,291
<i>Number of inspections</i>	84,412	22,833
<i>Number of establishments committing infringements</i>	5,759 <i>12 %</i>	2,823 <i>21 %</i>
<i>Type of infringement *</i>	<i>Number of all infringements (more than one possibility can apply)</i>	
<i>Hygiene (HACCP, training)</i>	750 (<i>13 %</i>)	538 (<i>19 %</i>)
<i>Hygiene general</i>	2,878 (<i>50 %</i>)	1,592 (<i>56 %</i>)
<i>Composition (not microbiological)</i>	322	353
<i>Labelling and presentation</i>	1,979	861
<i>Others</i>	829	287

“Infringement” is not limited to formal prosecution. It includes all formal action by inspectors in response to incidents of non –compliance with food laws, such as written warnings, demands to come into line by a set date, confiscation, seizure or destruction of food, total or partial closure of the business, service of legal notices and formal cautions.

Annual Report of the Food Monitoring Agency of Baden-Württemberg, 2002

	<i>Retailer</i>	<i>Manufacturer with retail activities (e.g. craft establishments such as bakeries and butcher shops)</i>
Number of establishments	48,515	9,956
<i>Number of establishments inspected</i>	19,981	5,273
<i>Number of inspections</i>	37,864	8,517
<i>Number of establishments committing infringements</i>	3,303 <i>16.5 %</i>	1,922 <i>36%</i>
<i>Type of infringement</i>	<i>Number of all infringements (more than one possibility can apply)</i>	
Hygiene	4.114	3.333
<i>Labelling and presentation</i>	1.121	550
<i>Others</i>	596	338

Annual Report of the Food Monitoring Agency of Thüringen, 2002

	<i>Food Retailer</i>	<i>Manufacturer with retail activities (e.g. craft establishments such as bakeries and butcher shops)</i>
<i>Number of establishments</i>	10,112	2,070
<i>Number of establishments inspected</i>	7,415	1,885
<i>Number of controls</i>	20,294	5,280
<i>Number of establishments committing infringements</i>	555 <i>7.5 %</i>	217 <i>11.5 %</i>
<i>Official actions</i>		
<i>Written warning without preliminary fine</i>	190	76
<i>Written warning including preliminary fine</i>	283	132
<i>Court order</i>	87	67
<i>Fine</i>	57	37
<i>Criminal complaint</i>	31	9
<i>Confiscation</i>	120	8
<i>Closure</i>	15	18

The data as shown on the charts above may not only reflect the actual level of non-compliance in the different federal states but also the methodology of the enforcing agencies. The highest figures for infringements can be found in Baden-Württemberg, a federal state that is known for its particularly effective food monitoring system.

In special field monitoring study, the enforcing agency of Thüringen inspected freezers in retail stores. These results are shown below:

Number of Establishments Inspected:	2,464
Number of Establishments without Infringements:	1,834 (74%)
Number of Establishments committing infringements:	630 (26%)

The types of infringement noted were as follows:

- Temperature control by employees at irregular intervals (11.3 %)
- Temperature deviation (8.3 %)
- Fill level too high (8 %)
- Bad product maintenance (6.5 %)
- No thermometer or damaged thermometer in place (5.8 %)
- Icing at the freezer (5.4 %)
- Icing at the packages (2.8 %)
- Incorrect labelling of food (2.6 %)
- Freezer condition (2.5 %)
- Freezer burn at product (1.6 %)
- Soiled freezer (1.2 %)
- Food packages soiled or damaged (0.8 %)
- Employees` working clothes dirty (0.6 %)
- Expired shelf life (0.4 %)
- Thawed products (0.2 %)

Whilst the data above does indicate a 74% compliance with regulations and good practice standards, a 24% non-compliance level in a “relatively simple area of food safety management” does illustrate that some areas of the industry do struggle with the implementation and management of basic tasks. The data from the special monitoring programme also helps to highlight why the figures for the numbers of infringements as reported annually by the enforcement agencies are so high. Minor non-compliance issues are easily raised during inspections.

Industry experts felt that one of the most difficult areas for compliance is within the area of personal hygiene and minimising the risks of cross contamination. The opinion was expressed that it does not seem to be difficult to meet legal training requirements as training content is clearly defined by national standards and authorities, associations and hygiene suppliers’ support training activities.

However, it is debatable as to whether the training programs in use are appropriate in relation to employees’ previous training level, particularly in the case of high staff turnover. Wherever there is a high staff turnover, it is particularly difficult to maintain the level of training required. This situation then leads to the use of staff with insufficient training or experience which in turn then leads to potential food safety risks such as improper handling procedures, cross contamination or poor equipment and personal hygiene. As it is always difficult to deal with the “human factor”, personal hygiene is a food safety risk even if staff members sufficiently trained.

Whilst some of the data from the enforcement agencies does not seem to fully support the view that retailers are generally in compliance with legislation there is a relatively high level of optimism of what is being achieved in Germany with respect to in-store food safety.

As previously mentioned, there is a guideline for good food hygiene practice for food retailers according to the European Food Hygiene Regulation 93/43/EWG. Retailers are not legally obliged to follow this guideline but if they do, they can be sure to be in line with the general hygiene demand and the internal measures and controls required by the LMHV.

Other guidelines for good hygiene practice supporting the retail industry to simplify regulatory compliance can be found on the web site of the BLL. The Federal Association of Food Retailers („Bundesverband des Deutschen Lebensmittelhandels e.V.“, BVL) also publishes several brochures and codes of practice related to food safety. Names and contact information:

<http://www.einzelhandel.de/servlet/PB/menu/1025297/index.html>

<http://www.lebensmittelhandel-bvl.de/modules.php?name=Bestellung>

http://www.bll.de/07_schule/index.htm

<http://www.haccp.de/index.htm>

An additional factor that may have encouraged an improvement of in-store food safety has been the introduction of formal supplier approval and auditing initiatives for retailer branded goods. Based on the Global Food Safety Initiative (GFSI) of the CIES, German retailers developed the International Food Standard (IFS), which defines standard audit criteria for suppliers of retailer branded goods.

The IFS is officially recognised by the Federal Consortium of German Trade Associations (“Bundesvereinigung Deutscher Handelsverbände”, BDH). The BDH committee for food law and quality assurance has developed an online database together with the Agency for Supporting the Economic Exchange among Retailers (“Wirtschaftlicher Förderdienst des Einzelhandels”, WFE) in order to complete a large service pack for the auditing of food suppliers. More information is available at the following sites:

http://www.vetcontrol.at/Basisinformation_IFS1.pdf

<http://www.bdh-handelsverbaende.de/>

Whilst the IFS is aimed at the assessment of food manufacturing establishments and is not 100% applicable to in-store food safety, there is no doubt that lessons have been learnt and practices changed within retail as a result of an IFS policy adoption.

With the above in mind, retailers are well served with support resources and assistance on how to comply with legislation. This may help to explain why it is felt that over a number of years, standards have improved via both legislation and voluntary food safety management systems. Compliance with legislative standards is now the rule in supermarkets and non-compliance is the exception.

What Training or Certification Is Required for Retail Food Handlers and Managers?

Food hygiene training is required as part of internal measures and controls for all food handlers commensurate with their work activities and their training level. Additionally to this LMHV requirement, food safety and food hygiene training is a mandatory instruction of the disease prevention legislation (IfSG).

Based on the LMHV, the DIN Standards Committee for Foodstuffs and Agricultural Products; Workgroup Food Hygiene developed a standard hygiene training program (DIN 10514) including:

- Basic knowledge of food microbiology such as characteristics and types of microorganisms,
- Requirements for microbial growth,
- Hazards caused by pathogenic microorganisms,
- Pest management
- Chemical and physical contamination,
- Processing and production hygiene,
- Storage and transport hygiene,
- Personal hygiene,
- Facility and equipment hygiene and
- Basic knowledge of food legislation.

The training has to be documented. Training effectiveness is normally controlled by on-the-job observations. Suppliers such as producers of cleaning and sanitizing agents often support retailers training activities. Additionally, all food handlers need food safety training to IfSG standards that is conducted and certified by the local health authorities. Only attendance at a course is certified and there is no examination as a means of testing the learning.

The training comprises of a basic knowledge of human pathogens, transmission and infection risks, personnel hygiene and reasons for prohibition of employment. Providers of Food Safety training in Germany therefore include:

- The local health authorities for all food business employees according to the requirements of the IfSG.

- Veterinary and food monitoring agencies provide HACCP training for managers and employees and support food retailers and manufacturers in implementing HACCP programs.
- The Federal Association of Food Inspectors (“Bundesverband der Lebensmittelkontrolleure”) provides a training program on CD rom including certificate.
<http://www.lebensmittelkontrolle.de/Rubriken/pcschulung/Schulung.htm>

Important guidelines, recommendations and publications for the whole food business are provided on the website of The Federal Institute for Risk Assessment (“Bundesinstitut für Risikobewertung”, BfR)

<http://www.bfr.bund.de/cd/455> and <http://www.bfr.bund.de/cd/674>

As the above resources for training are available to the Retail industry in Germany, it would be superfluous for Retail associations to provide any additional resources in the field of training and certification.

Are Internal and External Audits Used by Retailers?

The value of audits as an element to improve food safety and consumer confidence is well understood within the major retail companies. This awareness refers to internal audits e.g. as part of the QS label as well as to external supplier audits according to the IFS.

Whilst IFS certification audits for suppliers of retailer branded goods are officially recognised by the Federal Consortium of German Trade Associations (“Bundesvereinigung Deutscher Handelsverbände”, BDH), the retailers have not yet extended the concept for in-store practices and there is no retail industry association that provides auditing services for retail stores. Auditing training and certification services for any food businesses are provided by various hygiene suppliers and consultancies:

<http://www.haccp.de/>

<http://www.sim-qm.de/dienstl.htm#schulung>

http://www.lga.de/en/products/products_food.shtml

http://www.sgs.com/food_retail_store_check?serviceId=31739&lobId

http://www.fresenius.com/dienstleistungen/foodconsumer_products/lebensmittelhersteller-handel/index.shtml

The approach for internal audits and audits of retail establishments by 3rd parties such as the QS label is risk based and thus the focus of attention is HACCP implementation and management control. Regulatory agencies tend to perform more compliance auditing and therefore it is not possible to correlate the results of in-house audits directly with regulatory audits.

Internal audits or third party audits are not legally required but are part of the quality management systems that are implemented by major retailers. The QM systems include procedures, training and internal verification procedures to ensure, that risks to food safety are minimised.

Internal audits are normally checks to verify compliance to standards for in-store operations because each retailer strives to have the same consistently high standard across all stores. In most cases, the audit frequency is at least once a year. If corrective actions and improvement plans are generated, re-inspections may be necessary.

Are there Non-Governmental Programs or Codes of Food Safety?

As previously indicated, there are associations that define or create standards for retail food safety. The former Federal Association of Self Service Department Stores („Bundesverband der Filialbetriebe und Selbstbedienungswarenhäuser e.V., BFS) created, together with the BLL and the social ministry of Hessen, a guideline for good food hygiene practice for food retailers according to the European Food Hygiene Directive 93/43/EWG. The retail industry can follow this guideline on a voluntary basis to be in line with the general hygiene demand and the internal measures and controls required by the LMHV.

<http://www.einzelhandel.de/servlet/PB/menu/1025297/index.html>

Based on the Global Food Safety Initiative(GFSI) of the CIES, German retailers developed the International Food Standard (IFS), that defines standard audit criteria for suppliers of retailer branded goods. The IFS is officially recognised by the Federal Consortium of German Trade Associations (“Bundesvereinigung Deutscher Handelsverbände”, BDH). The BDH committee for food law and quality assurance developed an online database together with the Agency for Supporting the Economic Exchange among Retailers (“Wirtschaftlicher Förderdienst des Einzelhandels”, WFE) in order to complete a large service pack for the auditing of food suppliers.

http://www.vetcontrol.at/Basisinformation_IFS1.pdf

The Federal Association of Food Retailers („Bundesverband des Deutschen Lebensmittelhandels e.V.“, BVL) publishes several brochures and codes of practice related to food safety, such as: *Ground Meat Regulation Guide, and Good Hygiene Practice Guide, including HACCP Concept.*

<http://www.lebensmittelhandel-bvl.de/modules.php?name=Bestellung>

Other guidelines for good hygiene practice applicable to the retail industry can be found on the website of the BLL:

http://www.bll.de/07_schule/index.htm

The section Food Microbiology and Hygiene of the German Association for Hygiene and Microbiology (“Deutsche Gesellschaft für Hygiene und Mikrobiologie”, DGHM) publishes guideline and caution values for the assessment of food.

<http://www.lm-mibi.uni-bonn.de/dghm.html>

The German Veterinary Medical Association (“Deutsche Veterinärmedizinische Gesellschaft“, DVG) and the DGHM are testing and approving disinfectants and sanitisers according to recognised standards and are publishing a list of tested and approved products.

<http://www.dvg.net/>

Business Culture

The importance of food safety is very well understood within the German retail industry. Investment in training, auditing and quality management systems are in evidence. Consumers are familiar with the high standards that the major retailers have in place and therefore reject lower standard operations. A high food safety standard is not least an element to improve the competitive position. This leads to the improvement of lower standards or to sub-standard stores going out of business.

Retailer driven initiatives such as the implementation of the QS label and the IFS certification system for suppliers of retailer branded goods, as well as the activities of the Global Food Safety Initiative, clearly show that the retail industry is leading in developing and implementing the major trends in food safety.

The first BSE cases in Germany and the fast erosion of consumer confidence have shown, that food safety is an elementary necessity for the food business to survive and therefore there is a clear commitment to food safety programs on the part of the senior management of the major retail companies.

In terms of how effective is communication regarding food safety within the German retail industry, retail representatives’ feel that it is very effective both internally within organisations and with industry associations. Communication between government and industry, retailers and consumers and government and consumers could be more effective.

The German Chancellor initiated an analysis of possible weaknesses in consumer protection at the end of 2000. This was conducted by the German court of auditors (“von Wedel report”, von Wedel, 2001) and indicated three main weak points in the scope of governance:

- The fragmentation of food safety related responsibilities across Federal ministries,
- The lack of scientific advice and research that links more directly to the BMVEL and
- The lack of co-ordination between the Federation, the federal states and the EU in matters of food safety.

Subsequent to the governance reform in 2001, fragmentation of responsibilities has been reduced and food safety tasks are bundled within the current BMVEL. With the establishment of the BfR and the BVL a credible attempt was made to separate risk communication and risk analysis from risk management and to improve the effectiveness of food safety regulations through conducting original research and promoting research in general. Also liability rules have been improved for producers, consumers and consumer groups.

Transparency regarding data access to the public still remains a problem. Another proposal of the von Wedel report, the complete reform of the central policy department within the BMVEL in order to account for future strategic issues, has also not been implemented. Nevertheless, food safety management has very much improved on the national level.

It is the German retailers who spend energy and resources to manage food safety. German retailers developed the International Food Standard (IFS), which defines standard audit criteria for suppliers of retailer branded goods and implemented the QS label. As a part of the Global Food Safety Initiative, retailers support food safety perspectives for the future. Nevertheless there is a lack in provision of auditing, training and certification services.

In summary, retail associations support the retail food industry in various elements of food safety but do not provide support for implementation and maintenance of comprehensive food safety programs

Professional and Trade Associations / Food Safety Resources

The German Federation of Food Law and Food Science (“Bund für Lebensmittelrecht und Lebensmittelkunde e.V”, BLL)

<http://www.bll-online.de/english/index.htm>

The Institute for Food Science and Food Information Ltd (“Institut für Lebensmittelwissenschaft und -information GmbH”, ILWI)

<http://www.bll-online.de/english/index.htm>

The Robert-Koch-Institute

<http://www.rki.de/INFEKT/EPIBULL/EPI.HTM>

The Federal Association of Food Retailers („Bundesverband des Deutschen Lebensmittelhandels e.V.“, BVL)

<http://www.lebensmittelhandel-bvl.de/index.php>

The Main Association of the German Retail Industry (“Hauptverband des Deutschen Einzelhandels, e.V.“, HDE)

www.einzelhandel.de

The Federal Association of Self Service Department Stores („Bundesverband der Filialbetriebe und Selbstbedienungswarenhäuser e.V., BFS)

<http://www.einzelhandel.de/servlet/PB/menu/1025297/index.html>

The Federal Consortium of German Trade Associations (“Bundesvereinigung Deutscher Handelsverbände”, BDH)

<http://www.bdh-handelsverbaende.de/>

The section Food Microbiology and Hygiene of the German Association for Hygiene and Microbiology (“Deutsche Gesellschaft für Hygiene und Mikrobiologie”, DGHM)

<http://www.lm-mibi.uni-bonn.de/dghm.html>

The German Veterinary Medical Association (“Deutsche Veterinärmedizinische Gesellschaft“, DVG)

<http://www.dvg.net/>

The German Institute for Standardisation (“Deutsches Institut für Normung”, DIN)

http://www.nal.din.de/index.php?lang=en&na_id=nal

The Central Marketing Association of German Agriculture (CMA)

<http://www.q-s.info/de>

<http://www.cma.de/>

The Federal Association of Food Inspectors (“Bundesverband der Lebensmittelkontrolleure”)

<http://www.lebensmittelkontrolle.de/Rubriken/pcschulung/Schulung.htm>

The German Chamber of Industry and Commerce (Deutsche Industrie- und Handelskammer, DIHK)

<http://www.ihk.de/>

4.4 France

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Who regulates Food Safety in Retail Stores?

In France, food safety legislation for all areas of the food industry is enacted at the national level.

There are three Ministries that have responsibilities for food safety.

- The Ministère de l'agriculture, de l'alimentation, de la pêche et des affaires rurales (MAAPAR), with the Direction Générale de l'Alimentation (DGAL) is the agency responsible for enforcement of food safety laws and regulations concerning agricultural production, food manufacturing and animal product distribution.
- The Ministère de la l'économie et des finances et de l'industrie (MINEFI) avec le secrétariat d'état au commerce is responsible for all food safety regulation concerning plants, drinks and additives.
- The Ministère de la Santé is responsible for food safety regulation when there are concerns that are of a public health nature that would affect many individuals, for example a Listeria problem in the food chain.

The DGAL is therefore the primary legislative body with respect to the French retail industry and the DGAL mission is stated as control of food quality and safety along the food chain.

The three Ministries listed above have the responsibility of transposition of any EU legislation concerning food safety into national regulations. This also includes the provision of practical details on the meaning of the legal texts such as information/service notes and validation, as appropriate, of any Best Practice guides written by industry associations' etc.

The DGAL and the MINEFI are also responsible for enforcement of food safety regulations and this is achieved via the performance of inspections across the food chain.

The MINEFI utilise the Direction Générale de la Concurrence, de la Consommation et de la répression des fraudes (DGCCRF) for inspection services and the DGAL uses the Direction Départementales des Services Vétérinaires (DDSV). The DDSV has approximately 4000 agents around the country and they control Food Safety regulation enforcement by performing inspections to a defined action plan throughout the Food chain. They also work with specialised laboratories for the purposes of testing food samples.

Are there Multiple Levels of Regulation of Food Safety in Retail Stores?

There are multiple laws applicable to food safety activities in France however these are national laws and individual provinces do not make local laws in addition to these. All of the regulations are applicable to the whole of the food industry of France rather than being written for individual segments of the food chain.

There are lots of legal texts but the most important are the following:

- Directive 93/43/CEE du Conseil, du 14 juin relative à l'hygiène des denrées alimentaires
- Arrêté du 9 mai 1995 réglementant l'hygiène des aliments remis directement au consommateur (application of 93/43/CEE) + amendments
- Règlement CE n°852 / 2004 du Parlement européen et du Conseil du 29 avril 2004, relatif à l'hygiène des denrées alimentaires

The “Arrêté du 9 mai 1995 réglementant l'hygiène des aliments remis directement au consommateur” + amendments is the main regulation that applies the objectives of EU directive 93/43/CEE for the French food industry. This approach has to be taken because EU directives are not regulatory texts and thus each EU country has to introduce their own regulations to meet the requirements of a directive.

All legislation is available on the Internet at:

www.admin.com/jo/index or www.journal-officiel.gouv.fr

The information on these sites is only available in French.

Is there Uniformity in the Food Safety Requirements for Retailers?

The food safety requirements for retailers within France in terms of legislation are consistent throughout the country, as is the enforcement agencies protocols for assessment of compliance.

Enforcement agencies operate specific entry qualifications for their inspectors, which includes college degree and advanced further education. In addition there are bespoke training courses that are detailed for the role of auditing food safety and all inspectors are certificated via the completion of national examinations. One can therefore observe a consistency in both intent and application, rather than multiple levels of regulation and enforcement that is observed in some other countries.

How are Food Safety Regulations Revised and Up-Dated?

As with all long-term EU membership countries, the current national legislation of France is largely derived from the EU directives that deal with food safety subjects and thus revisions are applied in response to changes at the EU level.

Food safety legislation in France was however in place pre-EU membership and from 1979 there have been specific rules on the microbiological criteria of food that are applicable to any food sold to the end consumer. The French food industry is therefore very familiar with the concept of food safety control via the use of regulations.

AFSSA - Agence Française de Sécurité Sanitaire des Aliments, is the French food safety risk evaluation body. It is this group that is responsible for providing opinions and assessments on food safety matters and the relevant Ministries may then act upon this information via the introduction of new or revised legislation.

Currently revisions to national legislation are under review because of the extensive change to EU texts on hygiene controls for food and feedstuffs.

One of the primary aims behind the EU change was one of consolidation and simplification of the multiple texts on food hygiene that have evolved over the years, however an additional consequence of great significance is the move from EU Directives to EU Regulations.

EU Regulations are directly applicable and binding in all Member States without the need for any national implementing legislation, however within these new regulations there are provisions for national measures under certain circumstances. All EU countries are therefore currently evaluating / reviewing their existing national legislation with a view to change / amend / repeal.

Regulation (EC) No 853/2004 on the Hygiene of Foodstuffs was published on the 29th April 2004 comes into force on the 1st January 2006 and this is the new regulation that is of most significance for in-store food safety within the retail industry.

Are Food Safety Regulations Risk Based and Science Based?

Food Safety Regulatory requirements in France are quite specific for some of the areas of the food product range and are more general in others. For example, for fresh fish, the storage temperature criterion is very detailed; glace fondante 0°C to 2°C. However, for dairy products, it is the supplier who is responsible for the storage temperature determination using shelf life studies of the type of product.

With these examples one could argue that there are elements of both a science base and a risk based approach for both product sets.

For the fresh fish, the regulatory bodies have erred on the side of caution and have set a precise temperature range. This approach can be considered as risk based because the nature of the product is such that industry is not allowed any flexibility on temperature range. The temperature defined is based on scientific evidence of microbiological growth patterns.

In the case of dairy products, it will be the supplier that is doing the risk evaluation and the temperature storage determination. As there are regulatory requirements for the microbiological criteria of a food at the end of shelf life, the supplier must meet this requirement. If a dairy product were manufactured in virtually aseptic conditions it would be possible to have a relatively high storage temperature and still comply with end of shelf life criteria. If however the conditions of manufacture expose the food to residual inherent contaminants and multiple cross contaminants then a low temperature would be essential to prevent the growth of these organisms and thus meet the end of shelf life microbiological criteria. In this example the regulatory agency are leaving the individual supplier / industry to assess the risks and provide the scientific data to support the decision on storage temperature.

In terms of enforcement of the regulations inspections are risk based with the aim of identifying the level of compliance with applicable food safety regulations. For retail the type of inspection will vary depending on the risks of the category of products and the aim of the inspection with respect to the regulations being assessed.

One of the inspection frequency criteria is also the volume of goods that is sold by the retail unit and small businesses are inspected less frequently than large retail outlets such as hypermarkets.

Is the Effectiveness of the Current Regulatory Model Evaluated?

There are a number of organisations that collate and publish data with respect to food safety and each of these contributes to the assessment and evaluation of the effectiveness of food safety legislation implementation and compliance.

The FCD, Fédération du Commerce et de la Distribution, maintains data on food safety trends within the retail food industry but this is only available for retailers that are part of this association.

The DGAL also collates data on the number and type of inspections undertaken by its enforcement division the DDSV and summary information is published in their annual report. In a similar manner the DGCCRF will report on specific items and trends on behalf of the MINEFI. Via these bodies reports are available on subjects such as pesticide levels in vegetables, Salmonella in egg related products, Listeria controls in butchery departments etc. The DGAL annual report can be accessed via the following website:

www.agriculture.gouv.fr

AFSSA, agence française de sécurité sanitaire des aliments, is an independent body with responsibilities for risk evaluation within the French food industry. This is the group that highlights to the Ministries where there are possible concerns in food safety. Thus via the annual action plan for enforcement, the Ministries may request that the enforcement agencies have a particular focus for inspections to establish the true nature of a potential problem or trend. Alternatively AFSSA may advise for the need for national legislation on a food safety topic and then the enforcement agencies will inspect to identify compliance levels.

The AFSSA website is www.afssa.fr

Are the Provisions of Food Safety Regulations considered “Best Practice” for Retailers?

Whilst the food safety regulations are not in themselves considered a best practice guide and are applicable to the whole of the French food industry there are some best practices guides that have been generated specifically for the retail industry. These are called Guide des bonnes pratiques hygiéniques (GBPH). There are five in total:

- fromages à la coupe » en grande et moyennes surfaces (cheeses)
- charcuteries à la coupe » en grandes et moyennes surfaces (delicatessen)
- rayon pâtisserie et viennoiseries » en grandes et moyennes surfaces (bread and pastries)

- rayon marée » en grandes et moyennes surfaces (fish)
- rayon viande » en grandes et moyennes surfaces (meat)

These guides are used by retailers that are preparing ready to eat foods in-store and for in-store food safety practices. The guides document the HACCP approach to identifying, managing and controlling food safety risks for each of the food groups. They also provide :

- Guidance on appropriate temperatures to be used throughout the different stages of in-store food handling eg from reception to display.
- A guide to interpretation of microbiological analysis and results
- Maintenance standards and considerations that should be observed
- Cleaning and Disinfection guidance and
- Best practice guidelines for Traceability

These best-practice guidelines have been developed using a collective group of experts in retail and food safety and are published by the FCD – Federation des Entreprises du Commerce et de la Distribution. Independent validation and approval has been provided by AFSSA. The guides listed are largely aimed at the larger food retailing companies however best practice guides for various other areas of the food industry in France have also been written and are available via the pertinent industry body.

The FCD website is located at www.fcd.asso.fr and details of the guidelines available are listed in the Links and publications section of the site. A nominal fee is given for each publication and language availability is French only.

As the GBPH guidelines are specifically written to advise on compliance for the French national legislation these are the practices that are in use and followed by the retail industry in France. Externally sourced documents are not necessary for in-store practices because of the availability of these guidelines. However, for retailers that have own brand products manufactured by 3rd party suppliers, the approval process and monitoring of their suppliers is via the use of the International Food Standard (IFS). This standard complies with the GFSI standard documented by the CIES and is primarily used by French and German retailers for assurance of standards of suppliers of own brand products.

What Practices are most emphasised by Food Safety Regulations?

The formal enforcement programme of France is planned on an annual basis, however there is also the possibility of additional inspections being scheduled in the response to complaints or a food safety related issue such as a foodborne disease with a specific *Listeria* spp linked to a particular food group.

In addition there are also “summer inspection campaigns” undertaken by the DGCCRF that are aimed at controlling the food-related businesses within the holiday areas of France. This includes the seasonal shops and restaurants that are only open in the holiday period.

Within the formal action plan programme there is an element of variability for both the focus of enforcement inspection and frequency. Size of outlet, the type of food sold and volume of goods sold all impact on the type of inspection undertaken. For example, a hypermarket will be inspected several times per year however a small town supermarket / food retail outlet will probably only be inspected once per year maximum.

The inspection process is routinely conducted by one inspector and the length of time on-site is of course dependent on size of store, aim of inspection etc. Somewhat unusually in comparison with other countries studied in this survey, the inspection protocol does not routinely include a written report of findings. It is only in the event of non-compliance being identified that a verbal or written warning will be issued depending on the severity of the non-compliance. Higher sanctions are available, including closure of business, in the event of major violations.

In discussion with representatives from the French market it was felt that the regulatory audits undertaken within retail stores were primarily focussed on:

- Time and Temperature Controls
- Food Storage Conditions and
- Cleaning and Sanitation Practices

A number of other elements of food safety are also examined in detail such as employee hygiene and pest control however the criteria examined can be dependant on the agenda of the inspector on each individual inspection.

Routine laboratory testing of food and environmental samples is required by food safety regulations in France. The retail industry is required to implement microbiological and analytical autocontrols (self-controls) and the results are used to demonstrate the effectiveness of the in-house food safety management systems. The majority of retailers therefore use external laboratories to perform these autocontrols.

The typical tests that are performed are:

- General microbiological flora levels – to give an indication of the hygienic practices in place
- Pathogen testing – to demonstrate compliance with the legal requirements
- Pesticide residues in vegetables – again to demonstrate compliance with legal requirements

These autocontrols of food and environmental samples are also appraised at different points within the store such as:

- In store / in the food preparation areas
- Warehouse receipt
- At points within the chilled storage chain

Naturally the results of the autocontrols performed by the retailer are evaluated during enforcement inspections both from the aspect of showing compliance with the regulations that require this aspect of testing and to verify that hygienic practices are being achieved. In this way an inspection is not just a “snap-shot” of the conditions found on one day and some historical evidence of standards is available.

Product Recall procedures are also a feature of the food safety systems currently operated in France however this has been a retailer led initiative as opposed to Government driven. The frequency of food alerts and product crisis situations had reached a level by which administrative systems to manage media and authority communication, product recall handling and to measure the costs of each alert became essential.

It is estimated that on average there is one product recall to be managed per day in France and thus a formal procedure is vital to ensure efficient management of the situation.

Again it is the FCD that has established practical guidance information for retailers on the points to consider when developing a Product Recall system. For example, who is to be involved and notification routes, when should it happen, how to identify where the affected material is, what additional support is required and available etc. This guidance was generated approximately 5 years ago and so major retailers that are most affected by this type of incident have their own procedures in place.

The FCD - Federation des Entreprises du Commerce et de la Distribution is the organization that represents the retail industry in France and is extremely pro-active at

provision of guidance and advice on a number of food safety related areas. As previously mentioned the GBPH HACCP studies were generated via this group and the FCD facilitate the sharing of best practice information via workshops and seminars. In addition they provide advice and explanation on legal text meaning and scientific research studies and co-ordinate working groups and committees for hygiene, microbiological pathogens and allergens.

The FCD also operates a Food Alert System whereby on receipt of food alerts they codify the information and add to it as necessary and then they warn retailers by notification to named individuals of the problem and action to be taken.

Is HACCP a Required Element for Retailers?

HACCP is a requirement of the French food safety regulations and this is consistent across all segments of the food industry including retail and all of the 7 steps as identified by Codex are required.

For the retail industry, there are 5 GBPH guides that provide the hazard analysis and critical control point (HACCP) system for cheeses, delicatessen, bread and pastries, fish and meat.

The guides indicate what the control points need to be, what the controls are, how to monitor control points, the corrective actions that need to be taken and how to verify that the system is working effectively.

As the guides have been validated by AFSSA, it is logical for the industry to follow the practices and procedures recommended rather than to try to develop their own system. This also has a consequential affect on the enforcement agency inspection approach to this part of the regulation. The authorities have taken the view that if a GBPH best practice guide is the selected method for doing HACCP then the inspection does not need to include HACCP evaluation – the HACCP is correct.

Whilst the GBPH guides are strongly recommended for use, they are not mandatory and hence there will some parts of the food industry that do develop their own HACCP systems and these will need to be evaluated to confirm that the food safety risks are being controlled.

Of course as the retail industry extends it's portfolio of goods manufactured and sold in-store, for example provision of restaurant facilities, the GBPH guides primarily written for other food sectors will also become commonplace within the sector.

To what extent is the Retail Industry actually in Compliance with Current Food Safety Regulations?

An expert working within the French retail industry has indicated that cross contamination risks, control of the chilled supply chain, time and temperature control and customer behaviour are perceived to be the areas where there is the greatest risk to food safety.

The management of cross contamination is also seen as the most difficult area to comply with in terms of meeting regulatory requirements. This is partially an investment issue in terms of separate equipment for different tasks and applications but there is also the “human factor” whereby many cross contamination incidents result from inappropriate actions by an individual employee. Whilst training programs can be given on the subject in a range of delivery formats, it doesn’t necessarily mean that procedures will be followed by all personnel at all times.

There is also a fairly high staff turnover within the retail industry in France and this creates difficulties in managing food safety training programs for all food handlers.

Despite the reservations and concerns on food safety raised above, the retail industry is believed to be generally in-compliance with the regulations and the percentage of regulatory inspections that result in any enforcement action is believed to be approx. 5 - 10%. Non-compliance is identified as occasional minor violations rather than major or serious problems.

There are many actions available to enforcement inspectors should the need arise and these include follow up inspection, fines, suspension of business / shop closure, withdrawal of product from the marketplace and even imprisonment but the application of these depends on the type of violation.

What Training or Certification is Required for Retail Food Handlers and Managers?

In France there is no special certification or registration required for anybody working within the food industry however food handlers must receive appropriate hygiene training.

The Government or its enforcement agencies do not act as training providers to industry per se.

Food safety does feature in some training programs within the National Education courses for young people and it is the Agriculture Ministry (MAAPAR) that has made the stipulation that food safety modules should be included. Therefore some of the personnel joining the French food industry may have some experience and training of the subject.

It is however the norm for new employees to the retail trade to undertake in-store food safety training delivered mostly by web-based programs.

Are Internal and External Audits Used by Retailers?

Internal audits and self-control is the accepted approach for most food retailers in France.

External inspections are carried out by the enforcement agencies for compliance purposes however 3rd party audits of in-store practices are not common.

It is however recognised by the industry that providing the external auditor has a good understanding of the retail trade, familiarisation with the appropriate best practice guidelines and relevant qualifications in food hygiene and food safety, an external audit may be beneficial because of the impartiality aspect to the findings.

Impartiality is very difficult to achieve in a self-audit particularly when carried out by staff members from that store. There are also potential problems with familiarity whereby poor practices are not recognised as such because they have become the norm and accepted standard.

Retailers that have introduced self-audits that are performed by a Head Office QA Manager or QA teams have reported that because this approach has more independence, the audit is more challenging and thus is seen as more reliable and of better value.

Internal audit results are difficult to compare with regulatory audit results because the inspection points and the focus for the two types of audits are not necessarily the same. As indicated earlier in this survey, the regulatory inspections may not result in a written report if a good level of compliance is found and thus individual stores will not necessarily have a record of what has been checked by the inspectors. Comparative studies to establish correlation is therefore difficult.

External audits of suppliers to the retail industry in terms of retailer branded products are an accepted best practice in France and the International Food Standard (IFS) is the preferred standard in use. Some French manufacturers have been assessed against the British Retail Consortium (BRC) Global Standard because they are supplying products to the UK market and this is the standard that the UK prefers to use. However both the BRC and IFS standards have been developed in response to the need for the retail industry to manage incoming quality and safety of foodstuffs. As such the standards and specifications that suppliers need to demonstrate as being achieved are very precisely defined, as are the requirements of the auditing bodies that provide the inspection and approval service for these standards.

Are there Non-Governmental Programs or Codes of Food Safety?

As described throughout various sections of this report, the GBPH – Guide des bonnes pratiques hygiéniques are the best practice guides developed for use across the food industry. Retailers via a series of workshops co-ordinated by the FCD developed the five guides that are specifically aimed at retail stores and these have become the recognised programs to use for in-store food safety. As AFSSA an independent food

risk advisory body have validated the content of these guides, Government and hence regulatory bodies endorse the use of the standards stipulated.

In summary, the GBPH documents are the practical standards that retailers need to implement to meet the legislation. As such, they remove the necessity for individual retailers to undergo the interpretation and the decision-making process that is generally associated with legal texts that are non-specific.

For suppliers of retailer own label products the International Food Standard is used as an assessment and approval mechanism and this again is a non-governmental code of practice.

Business Culture.

Food Safety is well understood within the retail industry of France and the subject is considered as a non-competitive issue both by government and by the industry.

In many aspects, retail is considered to be leading the rest of the food industry in food safety implementation. The French Government in particular prefers to address the seven or eight major retail companies to elicit response and communication on food safety matters rather than address the numerous Food and Beverage companies in France. Retail is also seen as a major tool for managing food safety throughout the food supply chain because it has set high standards not only in-store but for suppliers.

There is a clear commitment to food safety throughout the major retail organisations, including at senior management level and this was largely stimulated by the BSE crises that developed in 1996. It is the norm for the quality department to report directly to the Managing Director, which demonstrates the importance that this subject has.

Whilst communication between retail organisations, between government and industry and between the FCD and retailers is reported as good, it is felt that the communication to consumers could be better. This is applicable for both links between government and consumers and also between retailers and consumers. Part of this difficulty has been identified as the role of the media in food safety reporting, which unfortunately is a trend that many countries have identified as being problematical.

4.5 Switzerland

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Who Regulates Food Safety in Retail Stores in Switzerland?

In Switzerland, food legislation for all areas of the food industry is enacted at the national level. Compliance with legislation is enforced at the State and Local Government levels.

The regulatory agencies focus primarily on control and compliance auditing of the retail industry. However, for smaller retail enterprises that do not have the resources for a Quality Management department, the enforcement bodies also provide food safety training.

Traditionally, each state has both a regulatory body and a central laboratory testing facility although some states are now using one communal laboratory for operational efficiency and resource efficiency purposes.

Are there Multiple Levels of Regulation of Food Safety in Retail Stores?

There is one national law that forms the basis of food safety requirements for the whole of the food industry rather than legislation specifically for the retail industry. This is entitled Lebensmittelgesetz and is very generic in nature but allows for the enactment of regulations for food safety. These regulations, Lebensmittelverordnung (LMV), are more specific and detailed.

All publications relating to both the law and the subsidiary regulations are published by the Federal Office in Berne and can be accessed via the web at: www.admin.ch/ch/f/rs/c817

Is There Uniformity in the Food Safety Requirements for Retailers?

Whilst Swiss legislation is applicable at a national level, the food safety requirements for retailers vary within the country because the enforcement agencies set their own objectives and agenda for assessing this subject. Enforcement practices vary from state to state, depending on the head of the agency and the priority defined.

Industry experts have reported that co-ordination of enforcement practices has improved during the past two years however retailers feel that more consistency via the use of uniform policies and procedures with respect to enforcement would be beneficial.

How are Food Safety Regulations Revised and Up-Dated?

In Switzerland, legislation is revised as needed, as opposed to a regular review of the requirements and the most recent revisions have been made in 2004.

In terms of revisions to legislation, each industry has its own association that plays an active role in developing and approving laws and regulations. Industry organisations can submit proposals to the National agency and equally draft laws and regulations are sent to the associations for approval or comment prior to the official decision.

Currently (November 2004) there are no retail store food safety regulations under discussion.

Are Food Safety Regulations Science Based?

Some of the regulations are general in nature however others are very specific and this is largely dependent on the products and the risks. Where detailed requirements are specified, these have been arrived at based on scientific reasoning and practical results.

Are Food Safety Regulations Risk Based?

The enforcement of regulations does include the use of a risk based approach whereby retailers that prepare foods in store will have a different level of inspection to a retail operation that is just selling packaged goods only.

HACCP is a requirement of the regulations of the country, and enforcement agencies do assess compliance to this part of the legislation.

The Authorities also perform compliance audits to assess if the regulations with very specific requirements are being met. For example, microbiological criteria of some foodstuffs are very specifically defined for some food products and sampling and testing to evaluate if the materials comply with the stated levels will be undertaken. A risk-based approach to the sampling regime is used.

Is the Effectiveness of the Current Regulatory Model Evaluated?

At present there is no industry, government or academic body within Switzerland that is maintaining data on food safety trends within the retail industry.

There is no common database that maintains data for statistical information and there is no independent body that evaluates the effectiveness of the current food safety regulatory model or effectiveness of the food safety enforcement.

Industry experts do anticipate that greater co-operation and co-ordination will be seen in the future between industry and regulatory enforcement agencies. National Government is exerting political pressures for improvements in relationships between industry and regulators and limited financial resources are also helping to encourage greater collaboration. At present the situation is described as hybrid between the two parties, sometimes partnership and sometimes confrontation. It is anticipated that in time this will be able to move to a more joint industry-regulatory partnership.

Are the Provisions of Food Safety Regulations Considered “Best Practice” for Retailers?

From various published articles and questionnaire responses the approach to the implementation of food safety legislation and regulations within Switzerland appears to be very straightforward and “as it should be”. This may be as a result of the content of the legislation and regulations being sufficiently precise and detailed for certain products and high-risk situations that debate and deliberation is felt unnecessary. It may also be a reflection of the input and consultation of the industry organisations prior to enactment however, to-date, the retail industry via its trade representation has not generated guidelines or codes of practice detailing “how to comply” with the legislative requirements.

The Global Food Safety Initiative standards are used as a reference for food safety requirements in Switzerland, as are the EurepGAP standard but there is no retailer industry standard that has been developed specifically for the country.

Retail stores based in Switzerland that are from a multi-national company do utilise the resources of guidelines and standards that have been created for corporate use but the FIAL which is the association that represents the retail industry in the country have not published a best practice guideline.

What Practices Are Most Emphasised by Food Safety Regulations?

Food safety inspections by the enforcement authorities are normally conducted twice a year and this is applicable to most of the food industry including retailers. The minimum that a retailer should anticipate is an annual audit, which may be the case when resources are limited, or priorities for the agency are non-retail biased.

The typical time length of an audit is only 2 hours by one inspector and on occasion 2 auditors will be present. The focus of an inspection tends to be within the food safety areas of Cleaning and Sanitation and Food Storage conditions particularly in relation to:

- Facility Maintenance
- Food Handling Equipment and Design and

- Pest Control

Time and temperature control and employee hygiene are also areas that are emphasized during a visit. Routine laboratory testing is a regulatory requirement, and using the principles of risk assessment, a plan of testing must be presented and implemented.

Further requirements of the regulations are the use of audits to demonstrate compliance and management control of the implemented food safety system. These audits can be internal or externally provided. Formal product recall plans detailing the process of recall with responsibilities and communication mechanisms are also a requirement.

The Swiss Food Safety model is therefore fairly expansive in its requirements and directs implementers to use a coordinated management system as an effective mechanism of control of the various subject areas. The Swiss Retail industry body FIAL does provide some support and advice on sampling, product testing and recalls however this has been described as not very efficient.

Is HACCP a Required Element for Retailers?

HACCP is a requirement of food safety regulations and this is consistent across all segments of the food industry including retail.

All 7 steps as identified by Codex are required and the State regulatory bodies perform enforcement of HACCP.

When the legislation for HACCP implementation was initially introduced assistance was provided by the FIAL but this is deemed no longer necessary as the industry deems itself compliant in this subject.

To What Extent is the Retail Industry Actually in Compliance with Current Food Safety Regulations?

Within the Retail Food Industry of Switzerland, there is a strong belief that in-store food safety standards are good and industry experts have estimated that 90% of the time, retail stores are in substantial compliance with legislation.

Regulatory compliance is easier to achieve for the larger retailing groups as these generally have a supporting Quality department and the resources to assist with implementation. Smaller outlets and production units generally require external assistance in understanding the regulations and identifying appropriate implementation techniques and the FIAL plays a supporting role in this. Enforcement bodies also support industry as necessary.

The two food safety risks that were felt to be most problematical within retail stores that sell or serve food were identified as:

- Inappropriate Time and Temperature Control and
- Inappropriate Cleaning and Disinfecting procedures or practical techniques

These are both areas that are likely to be checked during enforcement inspections and thus there is a high potential for regulatory action to be taken in the event of non-compliance. Other areas that seem to result in regulatory action on a regular basis are:

- Facility design
- Food Storage Conditions
- Employee Training and
- Auditing

Facility design and maintenance has been cited as both an area that is frequently identified as non-compliant during inspections and an area that is difficult for retail stores to comply with and two reasons have been given for this. The first is that stores are often built within existing facilities rather than “green field” sites and, as such adaptations are not always easy. The second reason suggested relates to the problems experienced by technical installations that give problems due to incorrect handling and low performance levels.

These explanations are interesting because they demonstrate that managing food safety is not simply a case of writing procedure manuals and training staff with follow-up audits. One-stop solutions will only be applicable if there is total consistency of facility design, product supply, employee behaviour etc and in real terms this is unlikely to be the case.

Dealing with the individual environmental conditions of each unit, assessing the risks and identifying solutions for that store alone is often required because each outlet will have unique problems and a distinctive identity. Whilst HACCP has been identified as the tool to perform this analysis, the increased use of “generic HACCP” studies for, amongst others, cost/resource purposes, means that each situation is not assessed.

On this basis, it is probably realistic to accept that there will always be a level of regulatory non-compliance of minor violations. Management’s role therefore is to define what that acceptable non-compliance level is and ensure that minor violations do not deteriorate into major violations and food safety risks.

Industry experts for Switzerland have indicated that the percentage of regulatory inspections that result in enforcement action is between 0 and 5% and that non-compliance can result in:

- Follow-up inspection
- Warning letters
- Threat of business interruption or suspension, including legal action
- Actual business interruption or suspension, including legal action or
- Withdrawal of product from the market place

What Training or Certification Is Required for Retail Food Handlers and Managers?

In Switzerland, there is a requirement for both Food Handlers and Managers to be trained and this is normally performed as “on the job” training. The training does not need to be certification-based and there is no registration scheme for anybody within the food industry. Internal training is therefore performed where possible however external training is available for those companies that does not have this resource.

Generally the enforcement agencies do not act as training providers unless it is for small businesses/craft establishments and provision of resources by the agencies on training is restricted to Guidance documents and technical advice.

Are Internal and External Audits Commonly used by Retailers?

Internal audits and self-control is the accepted approach for most food retailers in Switzerland with the accepted external audits by the enforcement agencies for compliance purposes.

There are very few 3rd party audits undertaken within the country and as such the perception of the value of such audits to improving in-store food safety cannot really be estimated. Some retailers have considered programs such as ISO 9001 and HACCP certification but this has been dependant on individual retailers and their senior management commitment to achieving an externally recognised accreditation rather than a trend within the industry as a whole.

In general, however, there is an apprehension of adopting a 3rd party audit approach to demonstrate food safety compliance in retail. A spokesperson for the industry felt that if the results of external audits were undisclosed then there may be an interest however, as results of internal audits correlated well with the results of Governmental audits the value of an additional auditing experience may be limited.

Are there Non-Governmental Programs or Codes of Food Safety?

There are no non-governmental programs or Codes of Food Safety Practice available in Switzerland and personnel within the industry have to look externally for resources of this nature. The Global Food Safety Initiative and the publication of the GMP standards has therefore been useful as an improvement tool for the industry.

The trade association FIAL provides resources in the form of statements and technical advice on specific subjects when necessary and encourages a communal approach to food safety knowledge and problem solving. The retail industry of the country is however somewhat divided in terms of joint initiatives, some are willing to share whilst others keep as low a profile as possible.

There are also universities, research institutes, retailer owned laboratories etc that add to the resources on food safety within the country although the best positioned group to support food safety is considered to be other trading partners and suppliers.

Professional and Trade Associations / Food Safety Resources.

As Switzerland is a multilingual country with German, French and Italian languages routinely used within different parts of the country, all publications such as legislation, food safety resources etc., must be issued in multiple languages. As such, it is easier to direct the reader of this report to the central repository for food safety information and this can be found at: www.bag.admin.ch

This site belongs to the Swiss Federal Office of Public Health and provides links into the language of choice and the documents that have been translated. Although English is included, the material available in this language is limited.

Another site that is also available in multiple languages and is extremely useful for the explanation of the legislative process and organization of the various Governmental and regional bodies of Switzerland is: www.admin.ch

4.6 Australia

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Who Regulates Food Safety in Australia?

Food regulation in Australia dates back to 1838, when the then-territory of New South Wales enacted the *Adulteration Bread Act*. Over the course of the next 150 years, control over the food supply was a local matter, with each of the individual Australian territories adopting their own legislation.

Even after Australia was established as a federation in 1901, responsibilities for public health were generally retained by the newly formed states, and the Commonwealth assumed a very limited role, except in relation to quarantine. Shortly after federation, however, the Federal Council of the Associated Chambers of Manufacturers of Australia began to lobby the Commonwealth and State governments for a uniform system of food laws, and in 1908, the Prime Minister promised uniform food standards.

Little real progress towards this goal was achieved until the early 1990's. Under the Australian Constitution, the Commonwealth has no general power to regulate food, and Constitutional limitations mean that responsibility for the regulation of food is shared between the Commonwealth and State governments. Then in 1991, the Commonwealth, States and Territories entered into a co-operative arrangement, and the National Food Authority Act of 1991 established the National Food Authority (the NFA) as a Commonwealth statutory body with the mandate to develop national food standards and enforcement policies.

Food Standards Australia New Zealand (FSANZ)

In 1995, Parliament passed amending legislation to transform the National Food Authority into the Australia New Zealand Food Authority (ANZFA). This initiative introduced a joint food standards setting system for Australia and New Zealand, providing a focus for cooperation between governments, industry, and the community to maintain a safe food supply.

However, conflicts regarding standards, food safety policies and enforcement practices between the national and the various local authorities persisted, resulting in a food regulatory system that was, in the words of a government commission convened in the 1997 to study the system, “widely considered to be complex, fragmented, inconsistent and wasteful”¹.

1. Food: A Growth Industry, The Report of the Food Regulation Review, W.H. Blair, ed., Canberra, 1998.

In 2001, largely in response to the Commission's evaluation, ANZFA was transformed, giving the agency much broader powers to draft and enforce food standards and policy. This bi-national, independent statutory authority is now known as Food Standards Australia New Zealand (FSANZ). FSANZ's mission is develop and amend food standards to ensure the safety of food sold in Australia and New Zealand, to ensure the provision of adequate information to consumers, and to prevent misleading or deceptive conduct in the marketplace. FSANZ standards cover the composition and labeling of foods and the presence of contaminants, including microbiological contaminants, for all foods offered for sale in Australia and New Zealand.

More specifically, FSANZ is responsible for:

- Developing standards for food manufacturing and distribution (*including retail*), food labeling, processing and primary production;
- Providing information to consumers to enable better consumer choice;
- Coordinating national food surveillance, enforcement and food recall;
- Conducting consumer and industry research;
- Undertaking dietary exposure modeling and scientific risk assessments; and
- Providing risk assessment advice on imported food.

Are There Multiple Levels of Regulation of Food Safety in Retail Stores?

Remarkably, there is in Australia today only one set of food safety regulations – codified in the *Australia New Zealand Food Standards Code* - that apply in whole or in part to all segments the food industry, retailers and to food processors alike.

The Code is divided into four chapters: Chapters 1, 2 and 4 apply to food processors only, but Chapter 3, which deals with food hygiene standards, applies to retailers as well as processors.

Interestingly, Chapter 3 of the Code, which covers food safety programs, hygienic practices, facilities, and equipment, applies in Australia only. New Zealand has its own food hygiene arrangements, and food hygiene is not part of the joint food standards system.

In fact, there is some opposition in New Zealand to the continuation of the joint regulation of the food industry, on the basis that FSANZ, its governing Board, and the Ministerial council to which it reports are all strongly Australian dominated. In an

open policy statement written in 2002, the NZ Green Party calls for its supporters to, “...demand that New Zealand regain sovereignty over its food supply, by either negotiating equal status under FSANZ or opting out of it altogether.”²

Enforcement of the Food Standards Code in Australia is carried out by Environmental Health Officers at the State and Territorial level. Each type of food business is assigned to a risk category, and enforcement activity (i.e. frequency and type of audits) is determined, in part, by this risk assignment. The risk category is assigned depending on what commodities are handled and the population segment that is served.

By design, then, not all retailers will face the same enforcement activity, depending on the risk assignment of their stores. Retailers that include hot and cold holding of ready-to-eat (RTE), potentially hazardous foods in their stores, or retailers that grind meat in-store are classified as high risk.

Self-regulation is also an important part of Australia’s overall food control program. Standard 3.2.1 of the Food Standards Code requires food businesses to demonstrate that they are controlling food safety hazards in their businesses by developing and complying with HACCP-based food safety programs. This standard, which is currently voluntary but soon to be mandatory, calls for businesses to employ private, third-party auditors to audit both the food safety program itself as well as the businesses’ compliance with the program.

Is There Uniformity in the Food Safety Requirements for Retailers?

Because of the 1995 agreement between the Australian national government (the Commonwealth) and the six Australian states and two territories, the local codes are identical with the Australia New Zealand Food Standards Code (ANZFSC). The state and territorial authorities agreed to adopt food safety provisions that are identical to the ANZFSC.

Consequently, retailers throughout Australia can be confident that food safety requirements are standardized. Specific requirements for an individual retailer will only differ according the risk category to which the retailer is assigned. Local governments perform regularly scheduled inspections or audits of retail locations based on the level of assessed risk. All businesses in Australia are rated as High, Medium, or Low risk and food safety principles are implemented accordingly.

2. *NZ Greens: Food Sovereignty*, 2004, cited on [www.greens.org.nz/food-revolution / sovereignty. asp](http://www.greens.org.nz/food-revolution/sovereignty.asp)

How Is the Effectiveness of the Current Regulatory Model Evaluated?

Food Standards Australia New Zealand is charged with assessing the effectiveness of the current regulatory model. Prior to the adoption of the current model, extensive analysis of alternative proposed models was undertaken by FSANZ. Five options were considered, ranging from making no change in the then-current system to multi-tier, highly prescriptive mandatory regulations covering all products regardless of risk. The current risk-based system was adopted after the five optional systems were compared for cost and impact:

- Impact on government: Implementation costs and recurring costs were estimated;
- Impact on communities: The most probable reduction of foodborne illness cases was calculated for each model, with an associated cost savings;
- Impact on industry: The cost of compliance and the competitive position of the Australian food industry in the global market were considered.

Since adoption of the current regulatory model, benchmarking and evaluation of the effectiveness of the current system have continued. A major benchmarking study was commissioned by FSANZ in 2001 to be carried out by independent consultants. This benchmarking study had two primary objectives, for which two surveys were launched:

1. Measure the level of awareness of safe food handling practices among food businesses regulated by the *Australia New Zealand Food Standards Code*.
2. Measure the extent to which safe food handling practices are actually used by food businesses.

Both surveys included questions on areas of food safety where compliance with required standards is an important indicator of preventing foodborne illness. However, substantially different sampling techniques and survey instruments were used. For the survey to address the first objective, the contractor used structured, computer assisted telephone interviews (CATI) with the owners and managers of 1,200 food businesses in a variety of food industry segments, including food retailing.

The survey to address the second objective used the expertise of Environmental Health Officers, who administered on-site surveys to evaluate the actual practices used by 483 different Australian food businesses. Both surveys addressed practices in the following areas:

- Temperature controls
- Prevention from contamination

- Cleaning and sanitation
- Staff hygiene and health
- Training

This study was performed just prior to official adoption of all of the provisions of the ANZ Food Standards Code by the States and Territories. The results of the study will provide a baseline benchmark against which the effectiveness of the Code can be measured in the future.

How are Food Safety Regulations Revised and Updated?

FSANZ's framework for making decisions on standards is complex. It is firmly based on the legislative requirements of the Food Standards Australia New Zealand Act of 1991, but also incorporates the requirements of government policies and international treaties, including the need to analyze the economic and social impact of regulatory decisions.

FSANZ operates within the oversight of two governing bodies and also has several advisory panels that help review proposed legislation of changes to existing regulations. The Ministerial Council is comprised of the Ministers of Health (or comparable officials) from the two Commonwealths of Australia and New Zealand, the six Australian States and two Territories.

The Ministerial Council sets the policy guidelines for FSANZ's work in developing food standards. It does so based on the advice of the Food Regulation Standing Committee, which comprises senior government official from the Commonwealth, New Zealand, the States and the Territories. The Council also consults with stakeholders on the development of policy guidelines. After FSANZ approves standards and variations to them, it notifies the Ministerial Council of its decisions.

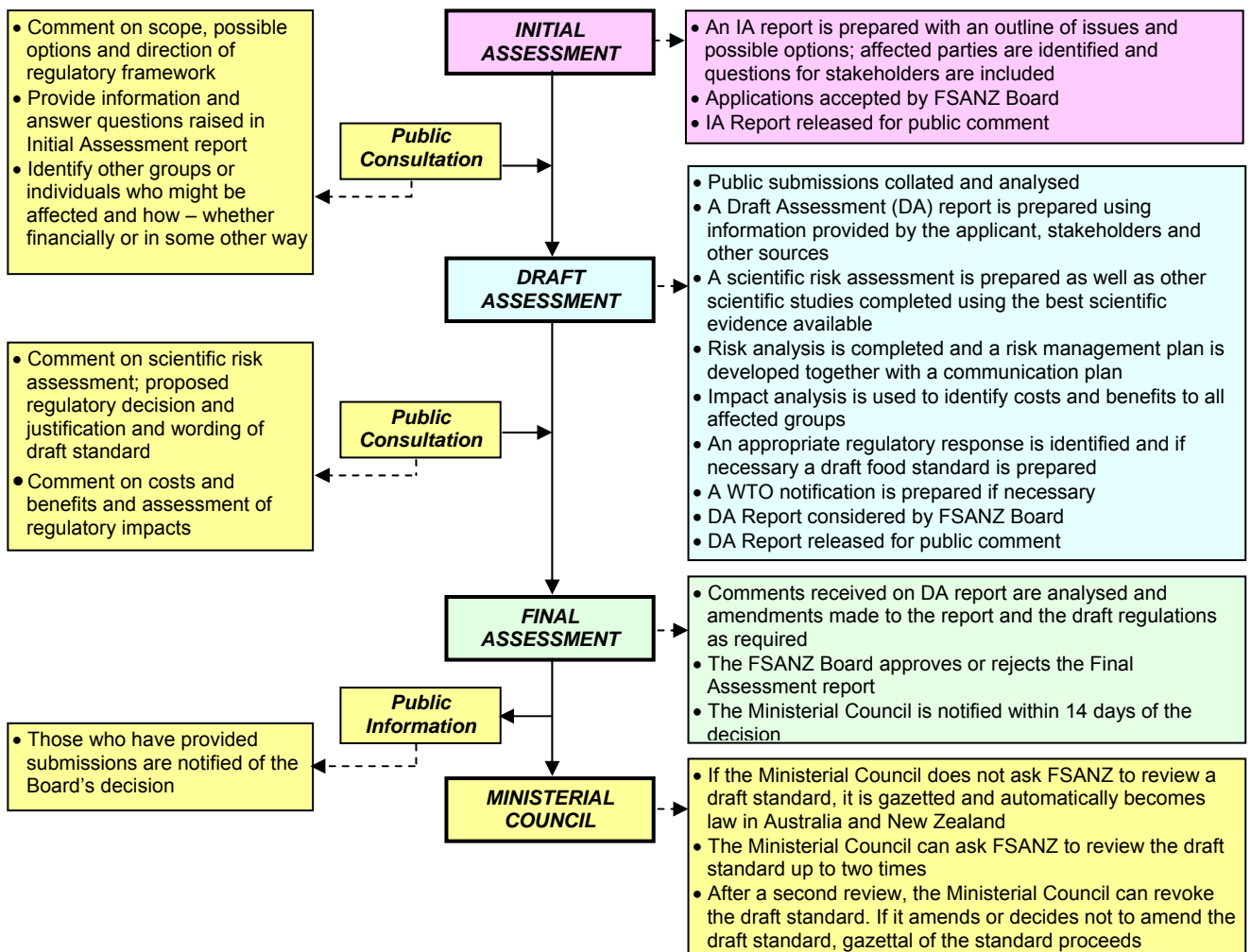
The Ministerial Council may then reject, amend, or seek of a review of any standard. The Board of FSANZ has appointed thirteen FSANZ fellows to augment the organization's knowledge base and provide scientific and other professional advice. They are appointed to three-year terms and are selected for their expertise in food-related matters. The fellows examine emerging issues impacting on food in the next five to ten years in order to help set the authority's agenda.

States and Territories would adopt the food safety standards containing minimal prescription and mandatory food safety programs but apply them only to food business assessed as high risk. In addition to updating, simplifying and removing prescription from current State and Territory food hygiene regulations, the proposed food safety

reforms introduce a range of initiatives. A food business that adheres to its food safety program would meet all the requirements relating to food safety.

Consultation with the community is also an essential part of FSANZ's decision-making process, as prescribed in the guiding legislation. FSANZ's work is open for public scrutiny. FSANZ generally holds two rounds of public consultation when developing or changing a food standard.

The Process for Revising and Updating Food Safety Standards in Australia



Are Food Safety Regulations Risk-Based and Science-Based?

The frequency of audits and level of inspection are based on the risk presented by the business, whether the business is a retail operation that prepares food in-store or a facility that sells only packaged foods. Regulatory requirements are worded to define practices very specifically.

All food businesses, whether in the food processing sector or the food retailing sector, are classified based on a Priority Classification System (PCS) first employed by ANZFA (now FSANZ) in 2001. The PCS, which is designed for use in the field by Environmental Health Officers, classifies businesses as Low, Medium, or High Risk depending on the food type, intended customer use, activity of the business, method of processing, and customer base.

SECTION 1. FOOD TYPE AND INTENDED USE	SCORE
High risk, ready-to-eat foods	35
Medium risk, ready-to-eat foods	25
High risk foods that are not ready-to-eat	15
Medium risk foods that are not ready-to-eat	5
Low risk foods that may or may not be ready-to-eat	0
Score Section 1	
SECTION 2. ACTIVITY OF BUSINESS	
High and medium risk, ready-to-eat foods that are handled during processing or operations	25
High and medium risk, ready-to-eat foods that are only portioned prior to receipt by the customer	20
Low or non-risk foods that are handled during processing or operations	15
Storage, distribution, or sale of packaged foods only	5
Score Section 2	

SECTION 3. METHOD OF PROCESSING		
A pathogen reduction step is performed during processing by the food business prior to sale		-10
A pathogen reduction step is performed during processing by the food business prior to sale		0
Score Section 3		
SECTION 4. CUSTOMER BASE		
The food business <u>is not</u> a small business		10
The food business <u>is</u> a small business		5
Score Section 4		
ADDITIONAL POINTS		
Business directly supplies food to at-risk groups		20
A catering business that prepares and serves food at different locations		15
Score – Additional Points		
SECTION 5. BUSINESS PRIORITY CLASSIFICATION		TOTAL BUSINESS SCORE
Low Risk	39 or less	
Medium Risk	40 – 64	
High Risk	65 or more	

Based on this classification system, different sections of a supermarket would be classified as low to medium risk. The grocery section would be considered low risk, while the service deli, dairy department, an in-store café, or self-service salad bar would be considered medium risk.

Whatever the risk categorization of the food business, the scheduled frequency and level of the auditing process, once established is maintained. The usual frequency is 1-2 times per year, depending on the level of risk. If significant non-conformances are identified during the scheduled audit or if an incident arises within a business, the rigor of audits increases accordingly.

Are the Provisions of Food Safety Regulations Considered “Best Practice” for Retailers?

According to FSANZ, compliance with the mandatory food standards is generally considered best practice. However, Food Standard 3.2.1, which is currently voluntary for all but the most high-risk food businesses, provides for a higher level of Food Safety control program than compliance with the mandatory standards alone.

Standard 3.2.1, titled Food Safety Programs, is a HACCP-based regulation that would require all who voluntarily comply with its requirements to do the following:

1. Systematically identify the potential hazards that may be reasonably expected to occur in all food handling operations of the food business;
2. Identify where, in a food handling operation, each hazard identified under paragraph (1) can be controlled and the means of control;
3. Provide for the systematic monitoring of those controls;
4. Provide for appropriate corrective action when that hazard, or each of those hazards, is found not to be under control;
5. Provide for the regular review of the program by the food business to ensure its adequacy;
6. Provide for appropriate records to be made and kept by the food business demonstrating action taken in relation to, or in compliance with, the food safety program; and,
7. Ensure that the food safety program is audited by a food safety auditor at the auditing frequency applicable to the food business;

It has been suggested that a relatively high percentage of the food retailers have made significant progress to the development of HACCP-based Food Safety Programs as stipulated by Standard 3.2.1

Supermarkets dominate the retail food industry in Australia, as discount stores and hypermarkets have not gained a strong foothold in the marketplace. Australian supermarkets are heavily dominated by the large chains, with the three largest chains accounting for more than 80% share of supermarket sales. As is frequently the case, the large chains have greater technical and financial resources than small independent retailers, and have been able to support earlier development of strong food safety programs.

In 2000, a Code of Conduct for the Retail Grocery industry was adopted, largely in response to the Blair Report, a Commonwealth-sponsored study that examined, among other subjects, trade practices and competitive positions in the retail grocery industry. As a result of recommendations in the Blair Report, a voluntary Code of Conduct was created. However, this Code is concerned only with trade practices and issues of free competition in Australia's retail markets, not with any aspect of food safety.

The only grocery industry trade association with any significant visibility, the National Australian Retail Grocers Association, is affiliated with small, independent grocery chains rather than with the industry as a whole. Their principal activity is in the area of trade practices and trying to advance the case that a cap is needed on the relative market share of the larger grocery chains.

What Practices Are Most Emphasized by Food Safety Regulations?

The Australian Food Standards cover the handling of foods during all phases of distribution and storage. Standard 3.2.2, titled *FOOD SAFETY PRACTICES AND GENERAL REQUIREMENTS*, sets out specific requirements for food businesses and food handlers at each step of the food handling process.

Some requirements relate to the receipt, storage, processing, display, packaging, distribution disposal and recall of food. Other requirements relate to the skills and knowledge of food handlers and their supervisors, the health and hygiene of food handlers, and the cleaning, sanitizing, and maintenance of premises and equipment.

The regulations are generally not prescriptive, relying on general requirements such as illustrated by the following section (3.2.2, Division 3.6):

6. Food storage

- (1) A food business must, when storing food, store the food in such a way that:
 - (a) it is protected from the likelihood of contamination; and
 - (b) the environmental conditions under which it is stored will not adversely affect the safety and suitability of the food.
- (2) A food business must, when storing potentially hazardous food:
 - (a) store it under temperature control; and
 - (b) if it is food that is intended to be stored frozen, ensure the food remains frozen during storage.

On the other hand, in detailing time and temperature requirements during hot and cold holding, when hot foods are cooled, the regulations are quite specific in requiring compliance with time/temperature standards. Similarly, in 3.2.2, Division 4, employee hygiene requirements are spelled out in a quite prescriptive manner.

Routine laboratory testing of food samples or environmental samples (i.e. surface swabs) from retail sources is not required, unless the food is deemed high risk, if

handling such food items as seafood, kebabs, salads, and smallgoods (certain processed meats).

The need for businesses to have a recall program is assigned according to the level of the retailer's risk. However, all food retailers must demonstrate that they can isolate and remove products from sale that poses an unacceptable safety risk to consumers. All must notify the local government if a problem occurs. Local governments initiate and administer product recalls only when an issue has escalated and it appears that the industry is not practicing a "duty of care". Recalls can be conducted at the trade or consumer level.

Is HACCP a Required Element for Retailers?

Formal HACCP Plans or HACCP-based Food Safety Programs are not mandatory at this time. Standard 3.2.1, which requires such programs, is voluntary for all food businesses except those operating in specified high-risk areas. No retail grocery operations are in this risk category.

It has been formally proposed that Standard 3.2.1 become mandatory, but this proposal is still in the period during which FSANZ is soliciting public comments on the proposed change in the status of this regulation.

To What Extent Is the Retail Industry Actually in Compliance With Current Food Safety Regulations?

The 2000 / 2001 National Food Safety Benchmark Study evaluated the current level of adherence by food business, including food retailers, to the current Food Standards. Their observations regarding the food safety practices of Australian food businesses were summarized according to the food-handling step observed:

Receiving Food

Nearly all (87%) of food businesses had temperature sensitive foods delivered to their premises. Most of these businesses (77%) at least occasionally checked the temperature of the foods upon receipt. Larger food businesses, which tended to be higher risk, were more likely to check food temperature.

Temperature Probes

Of the businesses having temperature sensitive foods delivered and reported that the temperature of incoming foods was checked, fully 24% did not have a probe thermometer on the premises.

Storing Chilled Food

One in five (21%) food businesses storing chilled food did not know the temperature at which chilled food should be stored or incorrectly reported that chilled food should be stored higher than 5°C.

Holding Hot Food

Four in ten (38%) food businesses store food hot for some period of time. Of these, 23% did not know the correct temperature requirements for safely holding hot foods.

Cooling Cooked Foods

Three of ten food businesses did not know proper procedures for cooling hot foods safely.

Protecting Food From Contamination

There was generally good knowledge and awareness regarding prevention of cross contamination through improper hand contact, contaminated cutting boards or other product contact materials.

Personal Hygiene and Health

There were poor practices and knowledge of personal hygiene and health. More than half of food businesses surveyed responded that it would be acceptable for an employee experiencing diarrhea to undertake food handling tasks such as “handling unpackaged food”, “serving food”, or “setting the table”.

Cleaning and Sanitation

The study identified poor awareness and poor practices of cleaning and sanitizing surfaces of equipment and the premises. Improper understanding and use of mechanical dish washing equipment, both high and low temperature machines, were widespread. Inadequate rinse temperatures and sanitizer concentrations were found in a majority of businesses surveyed.

Staff Training

More than one quarter of food businesses reported that they did not provide any training for staff on safe food handling procedures. Businesses engaged in higher risk operations were also more likely to provide staff training.

What Training Is Required for Retail Food Handlers and Managers?

Food Safety Standard 3.2.2, Food Safety Practices and General Requirements says that food businesses in Australia must make sure that food handlers and people who supervise food handlers have skills and knowledge in food safety and food hygiene for the work they do.

This standard does not impose a mandatory training requirement – formal training is not required - but rather focuses on the skills and knowledge that are the outcome of proper training. To comply with the standard, food handlers do not have to attend food safety training courses to meet the skills and knowledge requirement. A food business can adopt the most appropriate approach, such as on-the-job training, prior experience, or can develop an in-house training course.

However, a food business may decide that formal training is the best approach where the skills and knowledge required are more complex. Examples are the manufacturing

sector or in high-risk businesses such as hospitals or nursing homes. This decision will be up to individual businesses to make.

Most of the Australian states maintain an accrediting body that registers training organizations. In Western Australia, for example, the Training Accreditation Council registers training organizations in all fields of study.

Are there Non-Governmental Audit Programs?

The use of third-party auditors is encouraged, and for certain high-risk food businesses, even required. In the discussions preceding the adoption of the ANZ Food Standards, the need for suitable, qualified auditors was raised. In response, the National Food Safety Auditor Framework Strategy was initiated in 2003 to improve the integrity of Australia's food safety auditors.

Approval of auditors is the responsibility of States and Territories who may maintain publicly available lists of approved auditors as part of their overall management of the audit process. The states and territories carry out the process of auditor approval in cooperation with the Quality Society of Australasia (QSA).

The audit system established by the QSA outlines three food safety auditor levels and appropriate criteria against which applicants are assessed. An audit process outlines the role and responsibilities of food safety auditors and describes an audit methodology based on an international standard.

Business Culture

It appears that Australia has made tremendous strides in developing and refining a rational system of food safety regulation over the course of the past 10 years. Judging from appearances, Australia seems to have a strong consumer movement, active involvement of industry representatives, and regulatory officials at both the state and national levels that are open to profound changes in food regulation policies.

The process of deliberation, discussion, investigation, and implementation seems transparent and relatively open to public scrutiny. As part of the openness critical documents are posted quickly to the internet. Particularly impressive is that the impact of changes in regulatory policy to the various constituents and stakeholders is assessed carefully before changes are undertaken.

An illustration of the degree to which food safety has penetrated the public consciousness is the recent development by FSANZ of a training program, Food Safety Matters, developed specifically for Australian secondary schools to promote the safe handling of food.

Food Safety Resources

FSANZ: Food Standards Australia New Zealand	www.foodstandards.gov.au/
Victoria Government Food Safety Unit	www.foodsafety.vic.gov.au/
New South Wales Dept. of Health	www.mhcs.health.nsw.gov.au/
Queensland Food Safety	www.dpi.qld.gov.au/thematiclists/5355.html
South Australia Food Safety Programs	www.dh.sa.gov.au/pehs/food-index.htm
Western Australia Food Safety Programs	www.doir.wa.gov.au/ccwa/
Tasmania Food Safety Programs	www.dhhs.tas.gov.au/publichealth/foodsafety
New Zealand Food Authority	www.nzfsa.gov.nz
Australian Food Safety Centre of Excellence	www.foodsafetycentre.com.au
Food Science Australia	www.foodscience.asfic.csiro.gov.au
Food Standards Australia New Zealand	www.foodstandards.gov.au
Australian Institute of Food Science	www.aifst.asn.au
Food Safety Matters Training	www.foodsafetymatters.gov.au
Australian Food & Grocery Council	www.afgc.org.au
Food Safety Information Council	www.safefood.net.au
Australian Food Industry Strategy	www.daff.gov.au

4.7 Mexico

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Who Regulates Food Safety in Retail Stores in Mexico?

Food Safety in Mexico is regulated at a National level. The primary agency that regulates Food Safety in retail stores is the “Secretaría de Salud Pública” (Health Department). This agency, usually called the “**Secretaría de Salud**” (or **SS**) enforces mandatory regulations that apply to all food establishments in all regions of Mexico.

In addition, the “**Secretaría de Turismo**” (Tourism Department), has an **optional** Food Safety program for Restaurants. Some of the retail food stores have a small restaurant within their premises, and some decide to comply with the requirements of the “Secretaría de Turismo” (**SECTUR**) in order to obtain the “**Distintivo H,**” a certification brand indicating that food is handled with good hygienic practices in that specific restaurant.

Both SS and SECTUR are branches of the national government, with complementary responsibilities, as follows:

Secretaría de Salud Pública (SS)	Secretaría de Turismo (SECTUR)
<i>Develops standards for food safety handling, processing and manipulation.</i>	<i>With SS designed the “Distintivo H Program,” a food safety program for restaurants.</i>
<i>Issues licenses for places that handle, prepare and process food.</i>	<i>Promotes the “Distintivo H” certification among tourists so that they feel confident when eating at a certified restaurant.</i>
<i>Conducts surprise food service and retail store audits to verify processes, conditions, hygiene and safety for both food and food handlers.</i>	<i>Provides Food Safety training for trainers.</i>
<i>Promotes personal hygiene by media spots, for all food handlers.</i>	<i>Provides charts, manuals and a video for certified food safety trainers.</i>
<i>Some state offices provide basic food safety training.</i>	

Are There Multiple Levels of Regulation of Food Safety in Retail Stores?

There are multiple levels of regulation only in the sense that more than one single agency of the national government is involved in regulation of food safety at the retail level in Mexico. There are two principal national laws that are enforced by SS. These two laws apply to all food service establishments, restaurants, and caterers, including any of these that are located within retail stores.

Both laws have general guidelines for places where food is prepared and processed, and do not conflict in their requirements. They are applicable for the food processing industry, food retail, food service, restaurants, etc.

The official titles of these basic Mexican regulations governing food safety in retail establishments are as follows:

1. English

Official Mexican Standard NOM-093-SSA1-1994, Goods and Services. Hygiene and Safety Practices in the Preparation of Food Offered in Permanent Establishments.

Spanish

Norma Oficial Mexicana NOM-093-SSA1-1994, Bienes y Servicios. Practicas de Higiene y Sanidad en la Preparation de Alimentos qe se Ofrecen en Establecimientos Fijos.

2. English

Official Mexican Standard NOM-120-SSA1-1994, Goods and Services. Hygienic and Sanitary Practices for the Processing of Foods, Alcoholic and Non-alcoholic Beverages.

Spanish

Norma Oficial Mexicana NOM-120-SSA1-1994, Bienes y Servicios. Practicas de Higiene y Sanidad Para el Proceso de Alimentos, Bebidas No Alcoholicas y Alcoholicas.

There is a third mandatory law from SS that applies to all establishments that manufacture or process dough and tortillas. Since some retail stores have bakeries and “tortillerias” (areas where tortillas are prepared), this law is applicable to them.

3. English

Official Mexican Standard NOM-187-SSA1/SCFI-2002, Goods and Services. Dough, tortillas, tostadas and prepared flours for their preparation in establishments where they are processed. Sanitary Specifications; Commercial Information; Methods of Analysis.

Spanish

Norma Oficial Mexicana NOM-187-SSA1/SCFI-2002, Productos y Servicios: Masa, Tortillas, Tostadas y Harinas Preparadas para su Elaboracion y Establecimientos Donde se Procesan. Especificaciones Sanitarias; Informacion Comercial; Metodos de Prueba.

All three of these laws are published on the Nation's Official Publication and can be found at web site: www.salud.gob.mx, under the heading "Normas."

The regulation that covers the optional "Distintivo H" program established by the Tourism Department (SECTUR) is titled: NMX-F-605-NORMEX-2000. As of December 2004, there has been an actualization of this regulation and the new law is titled: NMX-F-605-NORMEX-2004

Normex can be contacted at:

NORMEX, S.C.

Circuito Geógrafos No. 20

Ciudad Satélite, Edo. de México

Ph: (52-55) 5374-1402 , Fax: (52-55) 5374-2037

www.normex.com.mx

Is There Uniformity in the Food Safety Requirements for Retailers?

Food safety requirements for retailers are uniform across all regions, states, and cities within Mexico. The only legislation and regulations governing the food sector are those national laws already described. Local jurisdictions do not maintain any local requirements regarding food safety.

The SS requires college degrees as well as additional, job-specific training for all personnel involved in the enforcement of food safety regulations. That training helps insure that regulations are enforced with a uniform approach.

How are Food Safety Regulations Revised and Updated?

The first food safety regulations that applied to the retail food stores in Mexico were drafted in 1994. Both of the two principal regulations were the result of comments and discussion between different agencies of the national government and to a more limited extent, industry representatives.

For NOM-093-SSA1-1994 that discussion included:

- SECRETARIA DE SALUD
 - Dirección General de Control Sanitario de Bienes y Servicios.
 - Dirección General de Servicios de Salud Pública en el Distrito Federal.
 - Laboratorio Nacional de Salud Pública.

- SECRETARIA DE TURISMO
 - Coordinación de Asesores.
 - Dirección General de Coordinación Intersectorial.
- ASOCIACION DEL ACERO INOXIDABLE, A.C.

For NOM-120-SSA1- 1994, the discussion included more industry representation:

- SECRETARIA DE SALUD
 - Dirección General de Control Sanitario de Bienes y Servicios
- ASOCIACION NACIONAL DE TECNOLOGOS EN ALIMENTOS DE MEXICO
- CAMARA NACIONAL DE LA INDUSTRIA DE CONSERVAS ALIMENTICIAS
- CAMARA NACIONAL DE LA INDUSTRIA DE ACEITES, GRASAS Y JABONES
- CAMARA NACIONAL DE LA INDUSTRIA DE LA CERVEZA Y LA MALTA
- CAMARA NACIONAL DE LA INDUSTRIA DE LA TRANSFORMACION
- CONSEJO DIRECTIVO NACIONAL DE LA INDUSTRIA DE LA LECHE
- CONSEJO NACIONAL DE LA INDUSTRIA DE LA PASTEURIZACION LACTEA

As of 2004, no revisions or updates to either of these basic laws have been made. New or revised retail store food safety regulations have been discussed in the national press and in the legislature, but no projects to implement changes in the laws have been started.

Are Food Safety Regulations Risk-Based and Science-Based?

In Mexico, almost all retail operations have food prepared in-store, so they are all subject to the same type of inspection. Besides, the laws are applicable for all food handling establishments. Inspections are based on the checklist that comes in the Appendix A for NOM-093-SSA1-1994.

Each retail store is visited at the most once a year. However, the Secretaría de Salud (SS) program audits food-handling establishments according to the risk presented. This means that a processing plant will have two or three visits per year, while a retail store only one a year.

Food safety regulatory requirements in Mexico are quite specific for some areas of the food industry and more general in others. For example, regulations that govern the food processing industry are more strictly defined for some aspects such as food receiving, materials approved for food storage, maintaining sanitary premises, and personal hygiene. But when it comes to temperature control, specifications for temperatures are more generic for food products, and the requirement is less defined.

Is the Effectiveness of the Current Regulatory Model Evaluated?

As an overall assessment, the relationship in Mexico between the retail food industry and the regulatory agency enforcing food safety could best be described as a traditional police model, without the collaboration between industry and regulatory agency that is developing as the new model in the U.S. and the EU.

This relationship between industry and regulatory is not currently changing in Mexico, since food safety practices in retail stores are really new in Mexico. What has been changing is the degree of enforcement of the current, 10-year-old regulations. For the first 10 years, since 1994, food safety regulations were not really enforced among retailers. This has been changing, especially during the past three years.

No industry, government, or academic body maintains data on food safety trends for the retail industry, and there is no common database for statistical information regarding food safety. The ANTAD, Asociación Nacional de Tiendas de Autoservicio y Departamentales, (National Association for Retail and Department Stores) has a database with statistics regarding number of stores, sales, etc. but there is no information in that database regarding food safety, outbreaks, etc.

Conversely, the INEGI, Instituto Nacional de Estadística, Geografía e Informática, (Statistics, Geography and Information Technology National Institute) has a database with statistics regarding gastrointestinal diseases, but they are not associated to a particular food establishment. It is solely the responsibility of the SS, the same national agency that determines the applicable laws, to evaluate the effectiveness of food safety regulation in Mexico.

Are the Provisions of Food Safety Regulations Considered “Best Practice” for Retailers?

Other than those developed by individual retailers, there are no retail guidelines or codes of practice that supplement the basic Mexican laws or regulations that are accepted or used in Mexico.

Some retailers, particularly those with a global scope of sales, follow a more strict international regulation such as World Health Organization standards or the Food Code of the U.S. FDA. In particular, U.S. standards most frequently adopted by Mexican retailers address the following measures:

- Refrigeration temperatures
- Food rotation
- Chemical sanitizers for food contact surfaces
- Use of fly traps

Retailers currently regard the Mexican national laws as representing “Best Practices”, but they are moving fast to comply with international standards. Several multi-national now well established in Mexico have already implemented the international regulations in their operation, in order to comply with the guidelines established by their corporate head offices in the U.S. and France.

Some of the small restaurants or kiosks within retail stores are individually certified under the “Distintivo H”, an optional food safety program for restaurants and more commonly spread among the restaurant industry

What Practices Are Most Emphasized by Food Safety Regulations?

Audits and inspections are conducted by the Health Department on a regular basis, and are not triggered primarily by problems or complaints. However, when a food safety related complaint is placed at the “Procuraduría Federal del Consumidor” (PROFECO) (Consumer Protection Agency), an inspection is triggered. The characteristics of a typical regulatory audit in Mexico are as follows:

Typical Audit Frequency:	Annual
Typical Inspection Length:	48 Hours
Number of Inspectors:	2
Written Report of Audit:	Yes
Audit Numerically Scored	No
Audit result posted for consumers	No

Regulatory audits in Mexico emphasize the following aspects of retail practices. A rating of 0 indicates a practice is not emphasized at all, 5 that it is strongly emphasized. *(The ratings cited below represent a consensus of the selected country experts responding to our survey.)*

	Not Emphasized	—————→					Strongly Emphasized
	0	1	2	3	4	5	
Facility Design	0	1	2	3	4	5	
Facility Maintenance	0	1	2	3	4	5	
Food handling Equipment Design	0	1	2	3	4	5	
Cleaning and Sanitation Practices	0	1	2	3	4	5	
Pest Control	0	1	2	3	4	5	
Time and Temperature Control	0	1	2	3	4	5	
Food Storage Conditions	0	1	2	3	4	5	
Employee Hygiene	0	1	2	3	4	5	
Employee Training	0	1	2	3	4	5	
Manager Training	0	1	2	3	4	5	

Routine laboratory testing of food samples (i.e. not in connection with an outbreak of foodborne illness or other possible emergency) is required by food safety regulations in Mexico. NOM-093-SSA1-1994 specifically requires lab testing of food samples; however, it does not state the frequency with which testing should be done.

To comply with this provision, some retailers send three or four food samples for verification each month from products prepared in the store. Also, whenever the Secretaría de Salud (SS) visits a store, it takes samples of food prepared and sliced within the store and also verifies that the store has the results of required testing on hand.

Retailers in Mexico are not required to have a formal recall program. However, even though the Health Department does not state in its regulations the need for a recall program, almost all retailers have one, usually managed by their legal and/or purchasing departments. Whenever there is a suspicion of a contaminated product or an outbreak of foodborne illness, the SS informs retailers, who then follow their own, internally managed product recall plans. Depending on the situation, the plan is implemented, and the SS then follows up on the recall and sends the proper information to the retailers.

Food safety regulations in Mexico do not require retailers to perform either internal audits or to sponsor independent third-party audits. However, more and more retailers rely on third-party audits and internal audits in order to comply with the regulations and to show the SS their commitment to food safety and customers' safety. As with food product sampling, laboratory testing or product recalls, each retailer must develop and maintain its own audit standards and procedures, as there are no formal industry standards or other non-governmental codes of practice to follow in Mexico.

Is HACCP a Required Element for Retailers?

Food safety regulations in Mexico do not require a HACCP program for retail stores that sell or serve foods. Even for most food processors, Mexican law does not require HACCP programs. The only sector with mandatory HACCP is the seafood industry.

However, most food-processing plants that export their products do have HACCP implemented. In addition, global companies that have manufacturing sites in Mexico have developed HACCP programs as part of their quality management programs. Among food processors that supply the retail industry, the development of HACCP programs is clearly on the increase in Mexico, particularly by medium and large food processors.

For retailers, there are several types of specific programs required of retailers that could be considered HACCP pre-requisites. Under NOM-093-SSA1-1994, mandatory Standard Operating Procedures (SOP's) are given for:

- Food receiving
- Cleaning and sanitizing practices

Under NOM-120-SSA1-1994, mandatory SOP's are given for:

- Personal hygiene
- Hygienic food handling

In Mexico, there is no retail industry association that encourages voluntary use of HACCP plans in retail stores or that provides model HACCP plans for industry use.

HACCP programs are often developed in Mexico by independent consultants who provide this service for a fee. Consequently, the implementation of HACCP programs is seen as an added cost that most small- to medium-sized Mexican retailers are currently not willing to pay particularly as there is no legal requirement for HACCP.

To What Extent Is the Retail Industry Actually in Compliance With Current Food Safety Regulations?

The country experts who responded to our survey reported their opinion that only a minority of retail stores in Mexico, perhaps as small as 20 percent, is actually in substantial compliance with food safety regulations. Both major and frequent minor violations, particularly in the areas of poor temperature control, pest management, and employee hygiene, result in up some type of punitive action from the health authority following as many as 50 percent of all regulatory audits. Punitive action can include any and all of the following:

- Follow up inspection
- Warning letter
- Threat of business interruption or suspension, including legal action
- Actual business interruption or suspension, including legal action
- Monetary penalties (fines)
- Withdrawal of product from marketplace (forced or voluntary)
- Closure / suspension or loss of license

Two causes of this lack of compliance were cited. First, the SS does not enforce existing regulations uniformly. Although regulations are written and maintained at the national level, they are enforced at the local level, and training among local inspectors is not always extensive. Second, most customers are not well educated in terms of food safety, and customers (either as individuals or as part of consumer organizations) have not demanded strong government action to enforce better food safety practices.

In the private sector, even if a retailer attempts to enforce strict standards for foods received from suppliers, many domestic suppliers cannot comply with the standards; and often, the store manager is forced to accept food products into inventory that do not comply with stated standards. To this extent, a strong focus on food safety is not part of the business culture of either the supplier or, to a lesser extent, the retailer.

In addressing the specific practices that give rise to the majority of regulatory non-compliances, the country experts offered the following discussion:

Time and Temperature Control – Hot, refrigerated, and frozen temperature requirements are hard to comply with in Mexico because in most cases, the equipment used to maintain food at required temperature is either too old, too underpowered, and/or too overloaded to maintain proper storage or holding temperatures.

Cross Contamination – Mainly because of human error, which is caused, in turn, by poor training, high staff turnover, and poor food handling habits that are hard to correct.

Pest Control – Poor cleaning and sanitizing practices; lack of air curtains, proper pest control devices, and inadequate standards.

Facility Design – Many stores were built without sanitary considerations, and many have poor drainage, equipment with rusted or corroded surfaces, wooden tables and utensils, or other equipment that was not designed so it could be easily cleaned and sanitized. New stores are being built and equipped with more attention to sanitary design.

There is no retail industry association in Mexico that supports retailers in complying with the regulations. The principal trade association representing the Mexican retail industry is known as ANTAD, Asociación Nacional de Tiendas de Autoservicio y Departamentales, (National Association for Retail and Department Stores) states basically trends on groceries, sales, exhibitions, etc. It serves as a link between suppliers and retailers in Mexico and abroad.

Currently the major chemical suppliers in Mexico rather than Government of industry associations are providing the most widely available technical support. Many retailers have important aspects of their Food Safety Management System provided by these companies and typically this includes:

- Food Safety training for managers and employees
- Training on cleaning and sanitizing for employees
- Audits of hygiene and sanitary practices, which may include environmental testing
- Technical support visits

What Training or Certification is required for Retail Food Handlers and Managers?

No special certification or registration in food safety is required for retail store employees or managers who handle or manage food sales. Training in food safety is required for food handlers and supervisors, but is not required for department managers or store managers.

Basic food safety training is provided by the Secretaría de Salud (SS) through its state representatives. However, this varies depending on the state and its corresponding budget. In addition, the SS publishes a booklet in which some food safety SOP's are suggested. This document is not available on the web and is mainly distributed by the Health Departments of the individual states. Again, its availability is subject to each state and budget.

The Health Departments of the individual Mexican States also train, in cooperation with SECTUR, (the Secretariat of Tourism) the private inspectors who enforce the voluntary standards of the "Distintivo H" program for foodservice establishments that was described previously.

The Labor Department (Secretaría de Trabajo) also requires a number of training hours per employee. However, this training is not related to a specific topic or subject. They just want to make sure you do something to train your employees. In Mexico, there is no retail industry trade association equivalent to the National Restaurant Association in the US that provides a standardized program of food safety training. There are external consultants who can provide training on a fee-for-service basis.

Are Internal and External Audits Commonly Utilized?

Internal Audits

In the opinion of the country experts responding to this survey, the practice of internal self-audits is starting to increase among food retailers in Mexico. Some chains, for example, now require their Fresh Products Manager to conduct internal audits weekly or bimonthly. Others chains require Department Supervisors to conduct daily audits of their departments, based on a brief checklist.

This growing reliance upon internal audits has been driven by the influence of large global retailers, particularly Wal-Mart, who has significantly increased its presence in the Mexican retail market within the past few years.

External Audits

The same concern has limited the reliance of the industry on external, independent third-party auditors. A large number of external third-party audits are by provided to retailers in Mexico by their suppliers of cleaning and sanitizer chemicals. This service

is an integral feature of the retail business landscape, at least in the Central American region.

Most of the auditors are college graduates, many with technical degrees, and, in general, the value of the audits they provide is well perceived by retailers. Most of the time, the results of non-governmental audits generally correlate well with the results of regulatory inspections or audits. In many cases, the external audit protocols or forms are based on the regulatory model.

As of now, there is only one retailer in Mexico that pays for third-party audits. A specialized company that performs HACCP-based food safety audits conducts these. There is no retail industry association that provides a model program for either internal or external audits, although there are many independent consultants that are registered by SECTUR to audit food safety according to the “Distintivo H” standards.

Business Culture

In the past, Food Safety for many food retailers in Mexico was not seen as an investment but rather as an expense. Today, the importance of Food Safety appears to be growing slowly but consistently within the retail business culture in Mexico. The business culture of many retailers is starting to include a commitment to food safety, although this commitment is still far from universal.

The factor that has driven this positive change is more competitive than cooperative, and is not a response to pressure from consumers or from government regulators. The increase in visibility of food safety programs within the retail industry in Mexico, particularly in the last four to five years, is attributed by many to the expanding influence of global retailers in the Mexican retail market. These international companies brought with them their Food Safety standards, pushing the rest of the retailers to improve their standards and start to meet or exceed the local regulations and some to comply with international standards.

For most food retailers in Mexico, a focus on food safety, while on the increase, is not considered a fundamental part of brand value. This perspective may derive, in part, from the fact that consumers in Mexico, unlike their counterparts in North America and in the EU, are not as empowered and lack the strong voice that consumer organizations have in other regions. That strong consumer voice can have a powerful impact on the retailers who vie for their business.

Part of the reason for the lack of aggressive consumer demand regarding food safety relates to the Mexican legal system. Lawsuits related to food safety are not common in Mexico. The Civil Code of Mexico does not have a counterpart to U.S. Tort Law, which would help Mexican jurists define "extra-contractual liability."¹ Consequently, the amount of indemnity due a claimant for damages and losses suffered is very difficult to determine under the Mexican legal system, and consumers have not, in

general, been successful in claiming such damages as a result of foodborne illness or injury.

Similarly, the Mexican government has not played the same activist role that national and regional government bodies have played in North America and Europe. Although regular audits of food retailers are consistently performed, there are no new initiatives in this industry that are being promoted by the Secretariat of Public Health. This agency spends proportionally more of its time and budget on regulation of the restaurant industry, strongly supported by the Tourism Department (SECTUR), because tourism brings desired foreign currency to Mexico, while regulation of food safety in a retail setting has only domestic effects.

In addition to concern with tourism and national revenue, the Mexican Secretaría de Salud (SS) has oversight responsibility for all health programs, including epidemic disease control, development of vaccines, child and infant nutrition, etc., and activity in these areas is considered to provide more important and tangible benefits to Mexican society than increased emphasis on retail food safety.

So the message regarding food safety within the retail industry in Mexico is strongly mixed. While most retailers are starting to develop food safety programs, the main impetus to do this does not derive from a vision of food safety as significant driver for brand value, but rather from narrower competitive concerns.

Food safety in Mexico appears to be viewed as a competitive issue, rather than as an occasion for collaboration with other retailers. As an industry, Mexican retailers have not pushed forward any type of cooperative industry-wide approach to food safety. Significantly, the principal trade association representing the retail industry ANTAD, Asociación Nacional de Tiendas de Autoservicio y Departamentales, (National Association for Retail and Department Stores), is mainly focused on issues other than food safety, and its brochures for food areas in retail stores are not widely distributed or promoted.

In the public sector, government regulation of food safety is more strongly emphasized today than in the past, but still takes a back seat behind other concerns and priorities. In Mexico today, in the opinion of one country expert responding to our survey,

“Food safety is not a specific topic that retailers, government, industry associations, academia, and others are really talking about between themselves. Most retailers are making an individual effort to improve their food safety standards, but they are not, for instance, pushing the industry or the regulatory authority towards having food safety certification or something similar.”

1. From citations in <http://www.mexlaw.com>: Civil Code of the Federal District (Mexico City), 39.1, Articles 1910-1934 (*Código Civil para el Distrito Federal en Materia Común y para toda la República en Materia Federal*), D.O. of May 26, 1928

4.8 The Netherlands

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Who Regulates Food Safety in Retail Stores?

In the Netherlands, food safety legislation for all areas of the food industry is enacted at the national level.

The Food and Consumer Product Safety Authority (VWA) is the regulatory agency responsible for enforcement of food safety laws and regulations. The VWA is an independent agency in the Ministry of Agriculture, Nature and Food Quality (LNV) but will also be a delivery agency for the Ministry of Health, Welfare and Sport (VWS).

The Authority is responsible for policy advising, coordination and supervision of inspection activities, coordination of training for food inspectors, risk assessment and coordination of research.

The VWA is a single independent Authority responsible for protecting the safety food and consumer products at all stages of the production chain

The VWA consists of a central co-ordinating unit and two delivery units: the Inspectorate for Health Protection and Veterinary Public Health (KvW) and the National Inspection Service for Livestock and Meat (RVV).

The National Institute for Public Health and the Environment belonging to the VWS plays a minor role in the enforcement of food safety legislation in that it provides specific advice in the event of new risks to public health.

Besides the central coordinating unit of the VWA in The Hague there are 5 regional inspectorates, enforcing foodstuff legislation throughout the country. Each of the regions has its own laboratory, carrying out the most common analysis necessary. In addition the regional inspectorates dedicate part of their capacity to a specific area of competence as follows:

- Region North-West: Primary Agricultural and horticultural products
- Region North: Non-food chemistry
- Region East: Veterinary products
- Region South: Composite food products
- Region South-West: Non-food product safety

Regional inspectorates have a common structure each divided into enforcement and research/monitoring departments.

Are There Multiple Levels of Regulation of Food Safety in Retail Stores?

The “Warenwet” forms the basis for food safety in the Netherlands and in addition there are specific laws relating to hygiene.

The three laws that are most pertinent are:

- Warenwet
- Warenwetregeling Hygiëne van levensmiddelen
- Warenwetbesluit bereiding en behandeling van levensmiddelen

These laws can be accessed via the website www.overheid.nl. The Warenwet is general in the food safety requirements and broadly describes principles rather than detailed practices. Specific detailed needs are then described in the additional hygiene regulations.

All of the regulations are applicable to the whole of the food industry of The Netherlands rather than being written for individual segments of the food chain.

Is There Uniformity in the Food Safety Requirements for Retailers?

The food safety requirements for retailers within the Netherlands in terms of legislation are consistent throughout the country, as is the enforcement agencies protocols for assessment of compliance.

The drafting of annual inspection plans is a coordinated activity between the 5 regional inspectorates. Cooperation between these 5 agencies is also exhibited in the generation of agreed inspection protocols.

Regional inspectorates are divided into enforcement and research/monitoring departments. There is further division in the enforcement departments whereby there are Food Teams (FT) and Veterinary/Technology Teams (VT). Inspectors in the Food Teams have in general a professional education on food technology or related professions. Inspectors of the VT teams are required to have a high professional education or relevant college degree and/or advanced further education. There are also bespoke training courses that are detailed for the role of auditing food safety and every new inspector undergoes a six-month period of “on-the-job” training.

One can therefore observe consistency in intent and application, rather than multiple levels of regulation and enforcement that is observed in some other countries.

How are Food Safety Regulations Revised and Up-Dated?

Legislation is revised as required, with many of the recent revisions derived from the introduction of EU directives that deal with food safety subjects. The most current versions of the food safety legislation can be found on the website at www.wetten.overheid.nl. This site lists the legislation, and details revisions and revocations as they are made, and provides links within a document to other regulations as necessary.

In The Netherlands, the practice is for regular stakeholder consultation on food safety laws. The industry, trade associations and non-government organisations, and Government representatives all participate at these meetings. The purpose of the meetings is not to develop the law, but to serve as a forum for discussion, and allow the various points of view in terms of implications for implementation to be raised. In this way industry, trade bodies and other interested parties can influence the legislation that is revised and up-dated.

Currently (August 2004), there are no specific new or revised food safety regulations for the retail industry under development or discussion.

Are Food Safety Regulations Science Based and Risk Based?

Some of the regulations are general in nature; however, in The Netherlands there is a hygiene code that is written for each of the specific areas of the food chain. Whilst the code is based on HACCP principles and is therefore predominantly risk based, there are many specific items in it that are science based.

The enforcement of regulations is currently one of routine compliance audits. The Food and Consumer Product Safety Authority (VWA) is developing a system of risk based audits but this has not yet been introduced in the inspection regime. One of the contributory factors for this is that the VWA is a relatively new agency with respect to food safety management in The Netherlands. The combining of all responsibilities for Food Safety under the auspices of one body was in response to the Foot and Mouth crises in Europe and is aimed at providing one consolidated organization for decision-making and coordination.

The compliance audits that take place currently are set at differing levels for the different types of retail store, thus stores selling pre-packed goods will be assessed differently from those selling foods prepared in-store.

Is the Effectiveness of the Current Regulatory Model Evaluated?

The Food and Consumer Product Safety Authority (VWA) maintains data on food safety trends within the food industry however this information is not publicly available. Whilst the VWA is an independent organization, it is part of a Government ministry and thus feedback on non-compliance issues, trends and results is available to Government to assess the effectiveness of the regulations. The data can be used to set priorities for future enforcement matters and regulations, and is thus also available for review by non-governmental organisations, trade and industry bodies.

During May 2004 an EC Food and Veterinary Office (FVO) inspection of the Official Foodstuffs Control System was undertaken in The Netherlands. This evaluation of the official control systems was extremely positive and there were no recommendations made to the competent authorities of The Netherlands with respect to improvements required. The following list highlights the key information gathered:

- All relevant community legislation is enforced in The Netherlands.
- The Local Authorities visited were well organized to carry out their functions for the official control of foodstuffs. Regarding the inspection visits evaluated during the mission, no major deficiencies were found. The level of enforcement was seen as adequate.
- The organization of official control is harmonized on a national level.
- The application of the HACCP concept is widespread, including numerous small businesses. The VWA data suggests the level of implementation of HACCP varies between 70 and 85%, depending on the nature of the operation.

Within the FVO report DG (SANCO)/7067/2004, inspection data was also presented as per the format required by Council Directive 89/397/EEC, Article 14. This data was extracted from the Dutch reporting system specifically for the FVO report and thus the official return prepared by the VWA may vary. Nevertheless, the data does provide an insight into compliance levels in Netherlands.

Official Returns Data for the Netherlands 2002

On the Spot Inspections	Manufacturers and Packers	Distributors and Transporters	Retailers	Market Vendors	Restaurant and other Caterers	Total
No of Establishments	3875	3599	35529	17268	76511	136782
No of Inspections	13224	5066	39039	8555	57690	123574
No. committing infringements (%)	3110 (80)	834 (23)	8444 (24)	1457 (8)	16528 (22)	30373 (22)

Official Returns Data for the Netherlands 2003

On the Spot Inspections	Manufacturers and Packers	Distributors and Transporters	Retailers	Market Vendors	Restaurant and other Caterers	Total
No of Establishments	3763	3308	32177	15919	69808	124975
No of Inspections	12865	4949	37496	8222	58834	122366
No. committing infringements %	2961 (79)	862 (26)	8914 (28)	1568 (10)	16860 (24)	31165 (25)

The data in the 2 charts above is interesting from the perspective that from year to year not only has the enforcement activity decreased in terms of number of inspections, but the actual number of establishments committing infringements has increased for all groups except Manufacturers and Packers. Unfortunately an explanation for this trend has not been provided within the report.

The relationship between the retail food industry and the regulatory agency is described, as a hybrid liaison with elements of both collaboration and confrontation and this is not anticipated to change in the near future. Industry experts believe that will always be a number of subject areas whereby the regulatory agencies and food industry bodies including retail representatives will have differences of opinion.

Are the Provisions of Food Safety Regulations Considered “Best Practice” for Retailers?

The Centraal Bureau Levensmiddelenhandel (CBL) Hygiene Code is a Code of Practice that all retailers must comply with and is classified as the Best Practice guideline for the industry. Every retailer has to work with the CBL-hygiene code.

What Practices Are Most Emphasised by Food Safety Regulations?

Food safety inspections by the enforcement authorities are normally conducted once a year and are known as “supervisory activities”. The typical time length of an inspection is only 4 hours by one inspector and a written audit report is completed.

Presently supervisory results are not available for public viewing however as part of the VWA’s “Vision for the Future 2004-2007” document, transparency in the supervisory process is a key initiative.

The VWA intends to develop a policy on the public presentation of the results of its supervisory activities and these results will be used to formulate VWA advice to the appropriate ministers.

For the retail industry the CBL – Hygiene Code is used as the basis for the supervisory activities and this food code is HACCP based. The VWA has identified core subjects in the hygiene code that need to be assessed and although this list has not been published, it is believed to contain subjects such as:

- Time/Temperature Controls
- Food Storage Conditions
- Cleaning & Sanitation

The VWA then performs inspections using the focused checklist. The VWA is currently evaluating effective approaches to food safety enforcement in order to target resources in areas where assistance is most needed. Through this project, it has been recognised that to meaningfully compare compliance levels, standardized methods of assessment must be in force.

Perhaps more importantly, there is also the recognition that the aim of regulation is to reduce risk; however, compliance alone may not actually demonstrate an effective level of risk reduction.

Therefore, it may also be a necessity to set a variety of compliance levels - to be achieved for the different specific situations that are found across the food industry - with the compliance levels set at the point that risk reduction is demonstrable. Figures

will then be comparable and priorities can be determined accordingly. This project has been designated as requiring several years' development.

Routine laboratory testing is a regulatory requirement of Dutch law. Microbiological target values are used within the Netherlands by both the enforcement agency and food industry companies as a mechanism for verification of process control. Some of the microbiological target values have already been incorporated into hygiene codes and more will be added in the future. The VWA has therefore indicated that random, systematic process monitoring via micro-biological testing will receive an increasing focus in the future.

The CBL – Hygiene code includes the use of audits to demonstrate compliance and management control of the implemented food safety system. These audits can be internal or externally provided.

Currently, there is no requirement by either regulations or the hygiene code for a formal recall system. However, as traceability becomes an EU requirement that becomes enforceable in January 2005, this will become a need that Netherlands authorities must consider in the imminent future.

Is HACCP a Required Element for Retailers?

HACCP is a requirement of food safety regulations and this is consistent across all segments of the food industry including retail. The Dutch authorities are, however, mindful of the difficulties that this requirement entails for small and medium sized industries. This concern is one of the reasons that they support the provision of hygiene codes and want to perform supervisory activities that are appropriate to the facility being inspected.

The CBL-Hygiene code has been specifically designed to simplify HACCP interpretation for the relevant industries, and this is why a single code for the retail industry is observed by all retailers in the country. The codes were defined by the sector and approved by the Minister for Health, Welfare and Sport.

All 7 steps as identified by Codex are required and the VWA perform enforcement inspections of HACCP.

To What Extent is the Retail Industry Actually in Compliance With Current Food Safety Regulations?

The VWA currently aims for a figure of 75% compliance of all companies across a sector in terms of HACCP implementation. However, the lack of availability of public information with respect to supervisory inspections means that the actual compliance level cannot be verified with any statistical confidence.

In 2003, 90,000 inspections were carried out across the retail and catering industries of the Netherlands of which approx 34,000 were in the retail sector. In total, 20% of the total inspections resulted in written warnings, and 5% resulted in administrative penalty orders. This data has been obtained from the VWA Annual Report 2003; however, it is not clear if the level of non-compliance was evenly distributed between retail and catering, or if there is a bias in either direction.

An expert working within the retail industry has indicated that time and temperature control is perceived to be area where there is the greatest risk to food safety, followed by cross contamination and cleaning and disinfecting. These correlate well with the information that the practices identified as most likely to result in enforcement action are:

- Inappropriate Time & Temperature controls,
- Inappropriate Food Storage conditions, and
- Inappropriate Cleaning and Disinfecting procedures or practical techniques.

Two other areas of concern were also cited as being significant compliance issues:

- Pest Control, and
- Employee training.

It therefore appears that inspections are focused on those areas of retail that pose the greatest food safety risk and non-conformance results in regulatory action.

Nevertheless, retail experts consulted for this study are of the opinion that in the Netherlands, approximately 90% of retailers are in substantial compliance with food safety regulations covering in-store practices, and that non-conformances are best described as occasional minor violations.

When enquiries were made with respect to which areas of the regulations that retailers had the most difficulty with, the CBL cited:

- Temperature control
- Cross contamination
- Training and certification and
- Microbiological, chemical and / or physical standards of food.

The CBL are well placed to defend this opinion, as they are the industry association that provides support systems for the retail industry of the Netherlands in the form of the hygiene code and food safety advice for members. The CBL has a membership

composed of the major retailers of the country including supermarkets, discounters, and other retailers large and small.

What Training or Certification Is Required for Retail Food Handlers and Managers?

In the Netherlands, there is no special certification, registration or training required for anybody working within the food industry, except that regulations in the Netherlands comply with the current EU directive that states that food safety training should be commensurate with the job activity.

The enforcement agencies do not act as training providers, and consultants are the primary source of training needs if external resources are required.

Are Internal and External Audits Utilized?

Internal audits and self-control is the accepted approach for most food retailers in the Netherlands. External inspections are carried out by the enforcement agencies for compliance purposes, and some retailers are using independent 3rd party audits.

As there is only a very little published data on governmental food safety inspections, it is impossible to compare regulatory audit results with internal inspection schemes. The VWA, however, promotes the EU regulatory philosophy that the responsibility for ensuring food safety primarily rests within the food business. As part of their vision of the future, the VWA wants to measure consumer trust in food safety and issue reports on its findings.

For this purpose, the consumer monitor was developed in 2002 and 2003. The monitor is designed to measure and publish at regular intervals the levels of public trust - overall trust in general, trust in various product groups, and trust in the parties involved along the supply chain. This unique monitoring program should provide some interesting reports in the future.

Are There Non-Governmental Programs or Codes of Food Safety?

As described throughout various sections of this report, the CBL-Hygiene code is the best practice guidance document on the standards to be adhered to ensure compliance with food safety regulations. Whilst this code is not a legislative document, it has been endorsed by Government authorities as an official working guideline for good practice in the retail industry, and is thus used by the enforcement agencies.

Further information on the CBL-Hygiene Code can be obtained via contact with the CBL at www.cbl.nl

In addition to the Hygiene code, there are a number of Codes of Food Safety that are used by food retailers to provide guidance on in-store food safety practices. These include the CBL-BRC technical standard that is used to assess suppliers to the retail industry. The CBL-BRC code is not intended to replace any legal rules and regulations, but is linked to the obligation for retailers to take every possible precaution to prevent problems with food safety.

Eurep-GAP is also a standard familiar to Dutch retailers and is applicable to horticultural companies supplying retailers in a number of European countries.

Professional and Trade Associations / Food Safety Resources

As the CBL is the main industry body representing retailers in The Netherlands, this organization should be referenced as the main point of contact for enquiries about food safety resources in the country. The website is www.cbl.nl. There is a full database of relevant food safety links and additional information pertinent to food safety in Dutch; however, English language information is limited and brief.

Information relevant to legislation and Government organization can be accessed via www.overheid.nl, and this site has a more extensive availability of information in English, although the majority of this is not food safety related. Access to Food Safety information in English can be made by entering as a Guest and choosing English as a language. Various Menu options are then presented and under Ministries one can select either agriculture, Nature and Food Quality, or Health Welfare and Sport.

The enforcement agency can be located at www.vwa.nl

4.9 Ireland

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Who Regulates Food Safety in Retail Stores in Ireland?

Food Law in Ireland dates back to the early 1800's, and has been continually augmented and amended over the years.

Legislation is generated at a national level and it is the Oireachtas (Parliament) that creates new legislation in the form of "Acts". Proposed laws are introduced as "bills" and are debated between the two "houses" of the Oireachtas until a final agreement by is achieved. The bill becomes legislation when the Oireachtas President signs the Act and it becomes law on the day of signature.

Generally there is the provision within most "Acts" for Ministers of the Government to make secondary laws, which are known as Statutory Instruments (S.I.)

S.I.'s can be written in the form of "Regulations" or "Orders" and are for the purpose of detailing more specific rules and give enforcement powers to a particular authority. In this respect the "Health Act 1947 Part V", gives powers to the Minister for Health and Children to make regulations on Food and Drink.

Most, if not all of Ireland's national food legislation currently derives from Ireland's membership of the European Union. EU Regulations are directly applicable and binding in all EU member states without the need for any national implementing legislation. However EU directives, whilst binding on all Member States as to the objectives to be achieved within a certain time limit, do allow for national authorities to decide on the manner and mechanism in which these objectives are met. National authorities therefore have the responsibility of introducing legislation within a reasonable time frame. In this respect, Ireland introduces applicable EC directives as Statutory Instruments, linking the name of the S.I. directly to the European Union document.

Evaluation of the appropriateness and applicability of EU directives, creation of proposed bills and the introduction of legislation via Statutory Instruments, is principally the responsibility of four Government departments. These are the Department of Health and Children (DoHC), the Department of Agriculture and Food (DAF), the Department of Enterprise, Trade and Employment (DETE) and the Department of Communications, Marine and Natural Resources (DCMNR).

One of the most significant pieces of legislation to be introduced in Ireland over the last 6 years was the Food Safety Authority of Ireland Act, 1998. This Act established the Food Safety Authority of Ireland (FSAI), which is the single regulatory body with the responsibility for the enforcement of food safety legislation in Ireland. The authority is a statutory, independent and science based body and delivers food safety enforcement via the setting of service contracts with a number of official agencies.

In 2002 there were 48 agencies across the country delivering food safety enforcement activities, however only 10 of these, the regional “Health Boards” have responsibility for the control of hygiene and food safety in the retail sector. Health Board inspectors are called Environmental Health Officers and in addition to the determination of compliance with food legislation via inspection, approval and registration services, each Health Board agency has a role in:

- The inspection, and sampling of food, including food ingredients, in accordance with the National Sampling plan and the E.U. coordinated programme
- The provision of food safety and food hygiene education to producers, manufacturers, distributors, retailers and caterers
- Participation in the implementation of the National HACCP strategy
- The investigation of outbreaks of foodborne illness
- The investigation of food complaints and
- The management in accordance with agreed protocols of Rapid Alerts, Certification for export, import control and outdoor events

Are There Multiple Levels of Regulation of Food Safety in Retail Stores?

General hygiene and food safety legislation in Ireland is applicable to the whole of the food industry, i.e. horizontal legislation, and is not specific for the retail industry alone. As such, there are a number of regulations that may be applicable to retail stores depending on the range of products stocked and sold. However, the core legislative document that defines all of the applicable food law across the whole of the food industry is the:

Food Safety Authority of Ireland Act, 1998 (No.29 of 1998).

The first schedule of this act lists all of the food legislation that the FSAI has the responsibility for enforcing and is therefore a good referencing guide to the current legislation. As a consequence this Act is reviewed regularly to ensure that it is up to date with respect to identifying the status of national legislation that has been introduced or revoked.

Two of the key documents of national legislation that can be found listed within the FSAI Act and introduced to meet EU directives on control of foodstuffs and hygiene of foodstuffs are:

- EC (Official control of Foodstuffs) Regulations, 1998 (SI No.85 of 1998). These regulations give full effect to Council Directive 89/397/EEC of the 14th June 1989 on the official control of foodstuffs.
- EC (Hygiene of Foodstuffs) Regulations, 2000 (SI No.165 of 2000). These regulations give effect to Council Directive 93/43/EEC of the 14th June 1993 on the hygiene of foodstuffs.

Supporting national legislation to the above and pre-dating the EU directives include:

- Food Hygiene Regulations, 1950 (S.I. No. 205 of 1950) + amendments
- Sale of Food & Drugs Act, 1875 – 1936 + amendments
- The Health Act, 1947 (No. 28 of 1947) + amendments

Copies of the majority of Ireland's National legislation can be downloaded from the net via access to the Food Safety Authority Web-site: www.fsai.ie. Copies are also available as official hard copy via The Stationary Office.

The legislation that is applicable to retail is predominantly “broad” in nature for example; “Food Premises must be kept clean and maintained in good repair”. More detailed and specific requirements can be found in vertical legislation, which is product specific or sector specific but this is largely not applicable to retail establishments.

Is There Uniformity in the Food Safety Requirements for Retailers?

The fact that the legislation for Ireland is on a national basis and enforcement responsibility is designated to the single Food Safety authority does create a level platform in terms of requirements for the retail industry across the country. Whilst the enforcement activity for food safety is then delegated to the 10 regional Health Boards in Ireland, each service contract is set up consistently across the country and clearly states the specifications and standards that are required. This includes the number and qualification levels of staff that must be available for food inspection and control, laboratory services to be provided, the public health medical service to be provided and the data collection and reporting that must be submitted back to the FSAI. The service contracts are posted on the FSAI website.

Environmental health officers of the regional Health Boards have as a minimum, a degree level education (or equivalent if non-national qualifications are being considered) and continuous training and professional development is provided and is a further measure that is reported back to the FSAI on an annual basis.

Ireland's Environmental Health Officers Association www.ehoa.ie provides additional information on the subject of qualifications and careers and this organization is a member of the International Federation of Environmental Health www.ifeh.org

How are Food Safety Regulations Revised and Updated?

The most recent introductions to Ireland's national legislation are based on European Union directives and recommendations, and there is a significant consultation process at both the European level and the national level.

Whilst the legal basis for consultation for EU law is complex, it is sufficient to explain that it is the Food Safety Authority of Ireland who collect comments and views from industry and interested parties and provide consultation comments on proposals via expert committees.

Both EU and National legislative proposals that are open for consultation can be accessed via the FSAI web site at www.fsai.ie/consultations

The extensive nature of the consultative process for legislation helps to form the opinion that whatever the nature of the regulations there is a platform for representatives from the industry to identify the impact and table amendments if appropriate. Obviously, suggested amendments may not be successful but if the requested change is centred on scientific principles or sensible logic then it would seem reasonable and meaningful for comments to be accepted.

Are Food Safety Regulations Science Based?

The legislation in Ireland, being largely generic in nature across the food industry, does have "science based roots" however the parts applicable to retail are largely non-specific and thus identifying the scientific basis for the requirement is not always easily visible. This can be exemplified by a requirement as listed in EC (Hygiene of Foodstuffs) Regulations, 2000 (S.I. No. 165 of 2000)

“ Every person working in a food handling area shall maintain a high degree of personal cleanliness and shall wear suitable, clean and where appropriate, protective clothing.”

This very generic statement is included for sound scientific reasons however it is not prescriptive and would generally be classified as a risk based regulation.

Are Food Safety Regulations Risk Based?

The Irish regulations are risk based, as are the enforcement activities that check compliance with the legislation. Again as part of the EU, Ireland has had Hazard analysis and critical control point identification as a core element of legislation for a number of years. Whilst this legislation does not currently include all seven elements of HACCP as per Codex Alimentarius, this will be changing imminently via new EU regulations that have been published and come into force on the 1st January 2006. HACCP as required currently is restricted to:

- Analysing the potential food hazards
- Identifying the points in the operation where food hazards may occur
- Deciding which of the points are critical
- Identifying and implementing effective control and monitoring procedures at the critical points
- Reviewing the analysis to ensure that it is kept up to date.

Enforcement activities are centred around inspections that are carried out using a risk based approach that determine the nature, frequency and type of inspection based on the nature of the risk presented by the business.

In terms of categorisation of business, these are divided into the same broad categories as used for the annual statistical returns to the European Commission. Retailers are one of these categories.

- High-risk businesses are defined as: businesses where the potential exists to put vulnerable groups or large numbers of consumers at risk due to the following:
 - The nature of the food
 - The manner of the food preparation
 - The facilities provided
 - The control system in place
- Medium risk businesses are those where high risk ready-to-eat foods are not prepared, but the scale of the business is large
- Low risk businesses are those where the potential to cause harm to the consumers is low.

The chart below shows the Risk categorisation for Retailers, as given in the Code of Practice on the Risk Categorisation of Food Businesses to determine Priority for Inspection. Code of Practice No 1. 2000

Retailers

Business Type	Extra Details	High	Medium	Low
Bread Shop				✓
Cake Shop			✓	
Delicatessen		✓		
Fishmonger I	Raw Only		✓	
Fishmonger II	Mixed Products	✓		
Greengrocer				✓
Grocery				✓
Health Food Shop			✓	
Newsagent / Sweet Shop				✓
Off Licence				✓
Soft Ice Cream		✓		
Supermarket		✓		
Vending Machine I	High Risk Foods	✓		
Vending Machine II	Non High Risk Foods			✓

The inspection frequency for a fully operational Health Board is designated as:

High-Risk Business: Three times a year

Medium-Risk Business: Twice a year

Low-risk Business: Once a year

This Code of Practice document provides well defined guidelines for enforcement bodies in terms of categorisation, frequency of inspection etc, and there are also additional notes which assist the decision making process. For example, if a single business falls into more than one category or if the results of inspections move towards a change in risk category rating.

Is the Effectiveness of the Current Regulatory Model Evaluated?

The Food Safety Authority of Ireland collects and publishes data on a number of areas related to food safety and food borne illness. This data is largely supplied by the official agencies that are involved in food safety control activities and an overview of various statistics is published via the FSAI annual report, and FSAI newsletters. Trending of this data enables an evaluation of the non-compliance with regulations and this when coupled with official statistics on subjects such as food borne illness levels can be used to demonstrate if the regulations that are in place are effective at managing food safety.

Currently the trends are fairly difficult to interpret and this can probably be attributed to the relative infancy of the current regulatory / enforcement system.

The current round of service contracts between the FSAI and the 48 official agencies enforcing the regulations came into effect on the 1st January 2003 and are valid for 3 years.

Within the service contracts between the official agencies and the FSAI, there is a requirement for liaison meetings between the two parties to take place 3 times a year to review the efficacy of the food control services that are being provided. Formal audits by the FSAI of the systems in place at the official agencies are not currently part of the contract however the FSAI have a planned audit programme during the second half of 2004. This is to assess adherence to the terms and conditions of the service contacts as a preparatory step for the next round of contract negotiations that will take place at the end of 2005. As the results are not available for this report, one of the possible variables in terms of assessing food industry adherence to legislation, consistency of enforcement approach, has not been verified.

There is an obligation for the official agency to provide details of external audits to the FSAI. These external audits would include European Commission Food and Veterinary Office Missions that may take place in Ireland. In 2002, two such missions were undertaken; Traceability of beef and beef products and egg and egg products. Non-conformances and recommendations identified during these audits with respect to the food safety control procedures practised by the official agencies have been subjected to a corrective action programme as a means of continuous improvement.

In addition to the official figures on food safety controls that are reported to the EU, which act as a measure of efficiency of the Health Board activities in the area of

Retail, the FSAI may also undertake specific audits of compliance with legislation. These may involve the use of Health Boards or the other official agencies involved in food safety control in Ireland. For example during Qtr 4 2003/ Qtr 1 2004 a FSAI audit of traceability and product recall procedures for Irish beef, fish and poultry industries was undertaken.

Some statistics for demonstrating the retail compliance levels with legislation are presented later in the report.

Are the Provisions of Food Safety Regulations Considered “Best Practice” for Retailers?

As the food safety regulations within Ireland are primarily generic across the whole of the food industry, by necessity these are very non-specific in terms of detailed requirements. As such, the terms “adequate” and “appropriate” are frequently used in the legislation and terms such as these are open to interpretation. This approach may in itself be a “best practice” because it does allow for freedom of interpretation, however it can also be a source of inconsistency in the standards applied. It is also generally more resource intensive with lots of organisations deliberating on the same subject and arriving at the same or perhaps slightly different conclusions.

As previously highlighted the consultation process for both EU legislation and Ireland’s national legislation is extensive and does allow interested parties to assess the impact of proposed regulations. This may confer changes or amendments that suit a particular industry body such as the retail industry however it also allows for meaningful debate between like-minded groups and deliberation of how regulations should/can be interpreted to create a level platform of best practice standards. In Ireland the FSAI plays a key role in co-ordinating the consultation process and facilitating and encouraging best practice.

In 2001, the FSAI established a Retail Forum comprising of representatives from the retail sector to advance and address food safety issues of relevance. The forum provides a platform for retailers to discuss mutual issues and standards, as well as an opportunity for interaction with representatives of the agencies providing enforcement services. The FSAI acknowledge that retailers have a tremendous influence in raising standards throughout the food chain by seeking best food safety standards from suppliers and thus retailers are seen as key players in food safety matters in Ireland.

In addition to establishing the Retail Forum the Food Safety Authority of Ireland is extremely proactive in the development of Codes of Practice and Guidance Note documents to be used by both the Enforcement Agencies and the Food industry. The purpose of developing Guidance Notes is to help the food industry to achieve a higher degree of compliance with regulations and accepted good practice. In the regulatory area, the aim has been to provide guidance that will assist in the uniformity and consistency in enforcement and the application of regulatory controls thus providing the food industry with a clear, open indication of what should be expected. A full list

of Codes of Practice and Guidance Note documents is provided under the section Food Safety Resources however the documents that are particularly relevant to the Retail industry are:

- Code of Practice No.1
Risk Categorisation of Food Business to Determine Priority for Inspection
- Guidance Note No.1
Inspection of a Food Business
- Guidance Note No.10
Product Recall and Traceability
- Guidance Note No.11
Compliance with Regulation 4.2 of the European Communities (Hygiene of Foodstuffs) Regulations, 2000 (S.I. No 165 of 2000)
- Guidance Note No. 12
The Inspection of Food Safety Training and Competence

The guideline documents generated by the FSAI are a valuable tool in assisting the food industry of Ireland in a greater understanding of the requirements of regulations and how they will be enforced within the country. These can therefore be described as “best practice” documents for achieving these aims.

However, in terms of “best practice” of actual specifications to be achieved for hygiene, the critical standard for the Retail industry is:

Hygiene in Food Retailing and Wholesaling I.S.341: 1998

This standard was generated as a guide to good hygiene practice to meet the requirements of the EU Council Directive 93/43/EEC which was enacted as national legislation as SI No.86 of 1998. The latter national legislation has now been revoked and replaced with S.I. No. 165 of 2000 however much of the information and specifications given in the standard is accepted good practice and is still valid. The standard is a formal document generated under the auspices of the National Standards Authority of Ireland and a working group was used to generate the standard. Whilst IS 341 is described as a guide to good hygiene practice which may be used voluntarily, it is cited in the FSAI guidance note No.1 as a guidance document for enforcement agencies to use when inspecting a food business.

What Practices are Most Emphasised by Food Safety Regulations?

Obviously, each food safety regulation has an individual set of objectives in terms of issues to be defined and controlled. However in terms of the core legislation, the main theme of the regulations is the understanding and identification of food safety risks and provision of demonstrable evidence that the risks are being managed.

Thus, the use of hazard analysis is a regulatory requirement, as is the training / supervision of food operators in matters of food safety

Identification of food safety risks with respect to hygiene such as premises and structure, cleaning and sanitation, pest control and personal hygiene etc and management of these risks is not defined explicitly in regulations but is an expected outcome of compliance with the regulations. For example, the following statement:

“The layout, design, construction and size of a food premises shall:

- (a) permit adequate cleaning and/or disinfection,”

is not an explicit demand to have a pre-requisite hygiene programme that ensures all of these aspects are managed, but it is probably the best way to manage this subject.

Supplier control to ensure traceability is a further key aspect of the regulations. There are also regulations on specific subjects such as labelling and additives that may be applicable to the larger retailers that prepare food in store.

In summary, the regulations that the food industry must comply with are designed to ensure that individual businesses take responsibility for food safety via: understanding, identification, control, corrective action and review. The Food Safety Authority of Ireland Act, 1998 aims to support industry with compliance via the provision of an organization that not only enforces the regulations but works with industry to achieve compliance.

The enforcement procedures used to evaluate compliance with regulations are broadly defined within the FSAI Guidance Note 1. This document outlines how an inspection should be undertaken with a focus on:

- Hygiene Pre-requisite programs (Premises, Equipment, Cleaning, Personal Hygiene etc)
- Supplier Control (Supplier Approval, Purchase/Delivery controls etc)
- Process Control (HACCP)

- Management Procedures (Training, Product Recall, Food Safety Policy, Internal Audit etc)
- Labelling and/or (Ingredients, Durability, Instructions for use etc)
- Additives (Type, quantity, declaration etc)

Not all of the above will be applicable to all retailers and thus a key aspect of any inspection will be to determine the business scope and the relevant legislative controls that apply to it.

Is HACCP a Required Element for Retailers?

HACCP is a requirement for retailers. Council Directive 93/43/EEC laid the framework for EU member states to introduce national legislation for the use of HACCP as a means of managing food safety. The Irish legislation that gave effect to this Council Directive was S.I. No.86 of 1998 however this has now been replaced by EC (Hygiene of Foodstuffs) Regulations, 2000 (SI No.165 of 2000). With respect to the HACCP element of S.I. No. 165, the requirements are consistent with the original Council Directive, the following steps being compulsory.

- Analysing the potential food hazards in a food business operation,
- Identifying the points in those operations where food hazards may occur,
- Deciding which of the points identified are critical to food safety
- Identifying and implementing effective control and monitoring procedures at the critical points,
- Reviewing the analysis of food hazards, the critical control points and the control and monitoring procedures periodically and whenever the food business operations change

The National Standards Authority of Ireland's (NSAI) guide I.S. 341: 1998 – Hygiene in Food Retailing and Wholesaling is written in a manner that effectively carries out steps 1 - 3 above on behalf of the retail industry.

The potential food hazards that can occur within the sector and the steps in food retailing and wholesaling where they occur have been identified. This is the basis for the formation of the flow diagram through retail. Then at each point in the flow diagram specific requirements that will act as control measures for the critical control points have been defined. There are also recommendations that are suggested as not compulsory to assure food safety but are advisable as good practice. I.S. 341 can

therefore be viewed as a very practical document for assisting retailers in compliance of the regulations.

In addition to the NSAI's publication, the Food Safety Authority of Ireland have written Guidance Note No.11 – Compliance with Regulation 4.2 of the European Communities (Hygiene of Foodstuffs) Regulations 2000 (S.I. No. 165 of 2000). The FSAI document is aimed to help the whole of the food industry rather than just retail but is another useful reference guide for compliance with legislation.

To What Extent is the Retail Industry Actually in Compliance With Current Food Safety Regulations?

Data from the FSAI annual report 2002 shows the following results of Health Board inspections, which are the official agencies responsible for retail.

Business Type	No of Establishments	No. of Establishments Inspected	No of Inspections	No. of Establishments Committing Infringements
Primary Producers	36	21	28	5
Manufacturers and Packers	1,438	913	1,591	337
Distributors and Transporters	988	491	745	156
Retailers	8,037	5,327	8,632	2,060
Service Sector	27,475	17,951	29,491	8,575
Manufacturers selling primarily at Retail Level	1,901	1,473	2,476	702
TOTAL	39,875	26,176	42,963	11,835

(The statistics are presented in accordance with the requirements of "The Official Control of Foodstuffs Directive 89/397.")

For retail the figures show that in 2002, 38.7% of establishments inspected resulted in infringements being identified. This is a distinct improvement over the Year 2001 figures whereby, 52.4% of the Establishments inspected resulted in infringements being identified (2001 Figures: 5,243 Establishments inspected, and 2,747 infringements).

These figures would suggest that improvements in food safety within the retail industry have been achieved.

Evaluating microbiological results of official sampling regimes is also a useful indicator of compliance with food safety legislation. The March / April 2004 FSAI newsletter has reported that in 2003, nearly 90% of the foods sampled under the official food control programme were “Ready to Eat” Foods, of which 24% were sampled from Retail.

Data comparisons for 2002 and 2003 are shown below:

Year	No of test results Classified	% Results Satisfactory	% Results Acceptable	% Results Unsatisfactory	% Results Unacceptable
2002	71,451	86.94	5.05	7.93	0.08
2003	81,734	87.91	5.08	6.94	0.07

The margin of progress is small, but there is an observable year-to-year improvement. In 2002, The Food Safety Consultative Council of the FSAI commissioned a comprehensive survey of industry attitudes to food safety in Ireland. The data to a variety of food safety issues has been published and significant to this report are the following statistics:

- 81% of retailers believe that food safety had improved over the previous 10 years;
- 31% of industry representatives as a whole were worried about the safety of food sold in shops and supermarkets. The corresponding figure for restaurants, cafes or hotels was 48%;
- Only 28% of the food industry representatives questioned with a promoted list of general industry issues felt that the safety of food produced by Irish industry was of concern. The cost of labour, threat of cheap imports, staff/labour shortages, increasing competition and workplace theft were all ranked as a bigger concern;
- 76% of industry are confident in food safety measures across the entire food chain;

- 89% of retailers were confident in food safety measures within their industry;
- 46% of industry felt that the level of food safety regulation for Ireland was appropriate whilst 36% felt it was too much;
- 40% of industry felt the level of food safety enforcement was sufficient whereas 33% felt there was too little; and
- The degree of paperwork required as part of the record-keeping component of HACCP was identified as onerous across all sectors of industry.

Whilst some of the statistics above are food industry responses as opposed to retailer specific responses, the data does seem to demonstrate that the Irish food industry feels fairly comfortable with the level of setting and enforcement of regulations and retailers are comfortable with their level of achievement and compliance.

These figures can be contrasted with a similar survey that was conducted amongst Irish consumers of which key pertinent data is as follows:

- 52% of consumers expressed concerns on safety of food in relation to prompted food related issues. This was the highest concern followed by Fat content of foods at 44%
- From a prompted list of specific food safety concerns Food Poisoning was 3rd on the list at 65% of consumers expressing concerns. (70% for pesticide and herbicide residues and 67% for BSE)
- 37% of consumers are concerned about food safety in shops and supermarkets as opposed to 45% who are not concerned about food safety in retail.
- Consumer concerns about food safety in shops and supermarkets are:
 - 21% Sell by Date/Freshness
 - 19% Where food comes from
 - 18% Hygiene
 - 14% Processed food/additives/chemicals
 - 12% Pesticides/sprays
 - 8% How food is prepared/produced

This data is interesting because many of the categories listed do not actually relate to deficiencies of in-store food safety however they do show that consumers perceive that retailers have some responsibilities for these food safety issues.

- 53% of consumers feel that food is safer now (2002) than it was 10 years previously and some of the reasons cited for this are:
- Public awareness is much higher
- Scientific advances allow much greater hygiene
- Regulation and policing have much improved
- Safety is increasingly an economic imperative

One further piece of data to analyse regarding compliance with legislation is Enforcement orders and these are published in a monthly press release on the FSAI database. Analysis of this information shows that retailers receiving Enforcement orders, Closure orders, Improvement orders, or Prohibition orders, are an exception rather than the norm. In 2003, the data suggests that only 5% of enforcement orders were served on retail outlets; however, for 2004 this figure seems to have increased to approximately 15%. The majority of retailers cited are small independent stores and the food safety deficiencies are of the nature of:

- Dirty premises and unhygienic practices which lead to contamination of food
- Contaminated products
- Cross-contamination Risks between Raw and Cooked Foods
- Improper Refrigeration and
- Pest Control

What Training or Certification Is Required for Retail Food Handlers and Managers?

Ireland's National legislation for food safety training standards (S.I. No.165 of 2000) is adopted from the EU legislation, and states:

“Food business operators shall ensure that food handlers are supervised and instructed and/or trained in food hygiene matters commensurate with their work activity.”

In addition, there is a statement within the Food Safety Authority of Ireland Act, 1998 (S.I. No.29 of 1998) Section 2 (1) that refers specifically to training:

Through inspections we will ascertain whether the food industry is ensuring that *“the skills, training and competence of people handling or otherwise dealing with food in premises complies with food legislation aimed at preventing risks to public health”*

These statements are very open to interpretation in terms of what training is actually required and thus to provide assistance to both industry and enforcement agencies the FSAI have documented three levels of requirements for training. These documents are called Training Guides and have been written in consultation with the FSAI's Food Safety Training Council. They aim to provide a user-friendly breakdown of the skills that an employee should be able to demonstrate following a training programme, hence the subjects that must be covered during training. The skills listed are the generic skills required of personnel working within the Retail, Food Service and Manufacturing Sectors. The three levels of training outlined are:

Guide to Good Safety Training – Level 1: Induction Skills

Guide to Good Safety Training – Level 2: Additional Skills

Guide to Good Safety Training – Level 3: Food Safety Skills for Managers

There is also a Guidance Note document that has been published by the FSAI that is primarily aimed at regulatory officers on how to audit training skills but serves a dual purpose of advising industry what to expect via an enforcement audit. The document is:

- Guidance Note No. 12 - The Inspection of Food Safety Training and Competence.

Whilst it would be inappropriate to comment as part of this report on the technical quality of the standards defined within these four documents, the FSAI in consultation with industry and technical representatives have clearly demonstrated best practice through the provision of such publications. A legal requirement with the potential for

a multiplicity of solutions for delivery and implementation has been clearly defined in terms what standards are required, when and by whom and this has been supplemented with how to check for compliance.

The FSAI as an organization does not actually provide training in food safety, however as a service to the food industry it does maintain a database of training providers. Entry onto the database does not provide an FSAI endorsement or recommendation of the training courses listed and it is purely for the purpose of providing a resource library. Currently there are 159 courses listed under the category of food safety and hygiene training and these can be viewed via accessing the FSAI website at www.fsai.ie and then entering Industry Information and then Training. Although certification is not a legal requirement, many of the courses that are being provided by training bodies do have a formal certificate award.

The National Standards Authority of Ireland document I.S.341:1998 Hygiene in Food Retailing and Wholesaling which is the Irish retail industry acknowledged “Best practice” standard for all elements of managing and implementing food safety systems has training as part of the requirements of this standard. There are some specifications for the subject matter to be trained to Managers and Supervisors; however, the text is not as detailed as the FSAI standards on this subject.

Are Internal and External Audits Commonly Utilized?

The monitoring and control of critical control points identified during hazard analysis, verification, and review stages of HACCP are a legal requirement, and as such, all of the retail industry of Ireland should be performing internal audits of parts of their Food Safety Management systems to comply. However, industry representatives have indicated that the degree of paperwork required as part of the record-keeping component of HACCP is onerous and this is an area that is likely to be found to be deficient via both internal and external audits.

The voluntary standard I.S. 341: 1998 Hygiene in Food Retailing and Wholesaling requires internal audits every 6 months of the specific requirements of the Standard. As part of the standard, a checklist is provided with questions to be used and subject areas to be evaluated as part of the food safety audit of a store’s food safety management system. Irish legislation and best practice standards therefore both require an element of internal auditing as a means of verifying compliance of food safety practices.

Regulatory external audits of the retail industry are performed as described in various sections of this report by the environmental health officers of the regional Health Boards. An industry survey conducted in 2002 identified that 40% of industry representatives felt the level of enforcement audits was appropriate, whilst 33% of industry thought that more external auditing would be of benefit. A further 24% thought that there was too much auditing by enforcement agencies.

A further source of external audits in Ireland is via an organization titled Excellence Ireland Quality Association (EIQA). Excellence Ireland is the independent organization for quality in Ireland and operates a number of programs to enable Irish organisations to improve their performance. These programs are not all food safety based, however in 1978 a Hygiene Mark programme was established with the aim of encouraging and fostering excellent hygiene and food safety standards. The hygiene mark scheme is a voluntary scheme and whilst EIQA are a non-profit making organization the approval and auditing is not free.

Annual membership and annual audit fees are tiered dependant on numbers of employees and size of premises to be audited. This approach to fees means that the cost of seeking approval is not prohibitively expensive to the smaller retailers, and appears to be a good approach to making the scheme accessible to all. As there is a cost to achieving approval, the companies who have sought hygiene mark status are demonstrating a level of commitment to the implementation and maintenance of good hygiene and food safety standards. Many retailers, both small independent and multiple chains, have achieved the Hygiene mark and have surveillance visits on an annual basis to retain the approval.

The EIQA auditing standard for retail is based on I.S. 341 however auditing can also be provided for company own schemes that may include the evaluation of areas outside of the hygiene and food safety arena. Further details of EIQA and the programs that are operated by this organization can be found at www.eiqa.ie

Are there Non-Governmental Programs or Codes of Food Safety Practice for the Retail Industry?

The National Standards Authority of Ireland (NSAI) operates under the National Standards Authority of Ireland Act, 1996, on behalf of the Minister for Enterprise, Trade and Employment for the publication of national standards. Government therefore supports the organization, but the majority of the standards that are generated under the auspices of this executive are Non-Governmental codes of Practice. Some standards are compulsory, but these are mainly related to Health and Safety subjects. Food Safety, Food Hygiene and Quality Management System standards are voluntary codes of practice.

I.S.341: 1998 has been raised in several sections of this report and is the leading best practice document for retailers in terms of provision of standards and specification that must be managed to meet in-store food safety legislative requirements and best practice.

The I.S.341: 1998 Hygiene in Retailing and Wholesaling standard, is therefore a core reference document that is used by the Excellence Ireland Quality Association when approving retailers and awarding the Hygiene Mark. This award has been discussed in more detail earlier in this report.

Further details on the role of the NSAI and can be found at www.n sai.ie

Professional and Trade Associations / Food Safety Resources

There are a number of professional bodies and organisations that provide assistance to the food industry of Ireland in matters connected to food safety and food hygiene. The list below attempts to identify organisations that may be of use but is not intended to be a definitive resource catalogue nor does inclusion on the list endorse the information that is supplied by the organization in question.

Irish Government Links

Food Safety Authority of Ireland (FSAI)	www.fsai.ie Food Safety Authority of Ireland Abbey Court Lower Abbey Street Dublin 1 Tel:00353 1 817 1300 Fax:00353 1 817 1301
Department of Agriculture and Food	www.irlgov.ie/daff
Department of Health and Children	www.doh.ie/welcome.htm
Department of Enterprise, Trade and Employment	www.entemp.ie
Department of the Environment and Local Government	www.environ.ie
Department of Communications, Marine and Natural Resources	www.marine.gov.ie

Industry, Consumer Groups and Irish Sites of Interest

Bord Bia – The Irish Food Board	www.bordbia.ie
Bord Glas - Horticulture	www.bordglas.ie
Bord Iascaigh Mhara – Irish Sea Fisheries Board	www.bim.ie
EAN Ireland - Traceability	www.ean.ie
European Consumer Centre	www.ecic.ie
The Environmental Information Service – ENFO	www.enfo.ie
Environmental Protection Agency (EPA)	www.epa.ie
Excellence Ireland Quality Association	www.eiqa.ie
Faculty of Food Science and Technology, University College Cork	www.ucc.ie/ucc/faculties/foodsci
Food Communications Information Services, University College Cork	www.ucc.ie/fcis
Irish Nutrition and Dietetic Institute	www.indi.ie
Irish Veterinary Association	www.gaire.com/Ireland/12563.asp
National Disease Surveillance Centre	www.ndsc.ie
National Hygiene Partnership	www.nhp.ie
National Standards Association of Ireland	www.nsai.ie
Relay – Research for the Food Industry	www.relayresearch.ie
Safefood: Food Safety Promotion Board	www.safefoodonline.com
Teagasc – Irish Agriculture & Food Development Authority	www.teagasc.ie
The Hygiene Mark – National Hygiene Programme	www.hygienemark.com

Health Boards – Enforcement Agencies

Eastern Region Health Board – 3 Area Boards <ul style="list-style-type: none">• East Coast Area Health Board• Northern Area Health Board• South Western Area Health Board	www.erha.ie
Midland Health Board	www.mhb.ie
Mid Western Health Board	www.mwhb.ie
North Eastern Health Board	www.nehb.ie
North Western Health Board	www.nwhb.ie
South Eastern Health Board	www.sehb.ie
Southern Health Board	www.shb.ie
Western Health Board	www.whb.ie

Food Safety Resources

The following list is taken from a catalogue of publications that are available via the Food Safety Authority of Ireland (FSAI) website. The majority of the documents can be downloaded directly in a pdf format, free of charge and thus are accessible to all.

Codes of Practice

No. 1 Risk Categorisation of Food Business to Determine Priority for Inspection, (2000)

No. 2 Inspection of Food Operations run by Health Boards (2000)

No. 3 Risk Categorisation, Inspection & Sampling Frequencies of Meat Manufacturing Premises producing solely for the Domestic Market. (2000)

No. 4 Food Safety in the Fresh Produce Supply Chain in Ireland (2001)

Guidance Notes

- No. 1 Inspection of a Food Business (2004)
- No. 2 Classification of Food (2001)
- No. 3 Interpretation of Results of Microbiological Analysis of Ready to Eat Foods Sampled at Point of Sale (2001)
- No. 4 Approval and Operation of Independent Meat Production units under EC Meat Legislation, Meat Products, Minced Meat and Meat Preparations (2001)
- No. 5 Approval and Operation of Independent Meat Production units under EC Fresh Meat Legislation (2001)
- No. 6 Implementation of European Communities (Infant Formulae and Follow-on Formulae) Regulations 1998 – 2000 (2001)
- No. 7 Labelling of Fish and Aquaculture Products according to Council Regulation (EC) No 104/2000 and Commission Regulation (EC) No 2065/2001 (Revision 1) (2003)
- No. 8 Implementation of Food Safety Management Systems in Beef and Lamb Slaughter Plants based on HACCP principles (2002)
- No. 9 Flavourings Legislation in Ireland (2002)
- No. 10 Product Recall and Traceability (2002)
- No. 11 Compliance with Regulation 4.2 of the European Communities (Hygiene of Foodstuffs) Regulations (S.I. No 165 of 2000) (2002)
- No.12 The Inspection of Food Safety Training and Competence (2003)
- No. 13 Use of Enforcement Powers under the Food Safety Authority of Ireland Act, 1998 (2003)
- No.14 Application of Commission Directive 2001/101/EC as Amended by Commission Directive 2002/86/EC on the Definition of Meat (2003)

Training Guides

- Guide to Food Safety Training – Level 1: Induction Skills
- Guide to Food Safety Training – Level 2: Additional Skills
- Guide to Food Safety Training – Level 1: Food Safety Skills for Managers

Reports and Other Publications

A Compendium of Food Law in Ireland (2003)

Who does What in Food Safety

What is HACCP

HACCP Terminology Explained

How to select an External HACCP Consultant

Food Safety Management System based on the Principles of HACCP

Ensuring that the best food safety and hygiene practices are observed in Ireland.

Safe Food to Go

The Labelling of Food in Ireland 2002

5.0 Brief Commentary on EU Legislation for Food Safety

Throughout the individual country reports, industry experts have commented on the strong influence on national legislation that membership of the EU confers.

Traditionally, the European Commission has provided objectives in the subjects of food safety and food hygiene via the introduction of Directives. Individual Member States then implement these objectives via the establishment of National legislation that is an interpretation of the EC aims and goals.

Whilst this process seeks to establish a common purpose and a level “playing field” across all countries in the EU, the flexibility and interpretation of the Directives at individual country level has not necessarily achieved these aims. The Food and Veterinary Office inspections conducted by the European Commission have often highlighted deficiencies in terms of Member States achievements.

In 2000, a major initiative of reform and improvement for food safety and food hygiene was started via the publication of the:

White Paper on Food Safety 12th January 2000 COM (1999) 719

This document states that:

“Assuring the EU has the highest standards of food safety is a key policy priority for the Commission.”

The White Paper sets out over 80 separate actions that are designed to enable Food Safety to be organized in a more coordinated and integrated manner.

Many of the actions proposed by the White Paper have now been completed with the result that new legislation has been introduced over the past 5 years and enforcement dates have arrived or are imminent.

Regulation (EC) No 178/2002 – The General Food Law Regulation – came into force on 21st February 2002, but certain articles are applicable only from 1st January 2005.

- The main aim of this General Food Law is to establish food safety as the primary objective of EU food law by laying down common principles underlying food legislation to improve the transparency, consistency and legal security. This includes:
 - The scientific basis of food safety subjects,
 - The responsibility of food producers and suppliers,
 - Traceability,
 - Effective controls and enforcement

The Articles that come into force in January 2005 are:

- Article 14 – Food Safety Requirements.

This prohibits food being placed on the market if it is unsafe, and specifies what this means.

- Article 16 – Presentation.
This stipulates that the labeling, advertising and presentation of food shall not mislead consumers.
- Article 18 – Traceability
This requires food businesses to keep records of their suppliers and businesses they supply to and to make such records available to competent authorities on demand.
- Article 19 – Product Recall / Withdrawal
This places obligations on food businesses to recall and /or withdraw food from the market if it is not in compliance with food safety requirements and to notify competent authorities.

New EU hygiene regulations were also published in 2004 and enforcement of these will be from 1st January 2006.

There are 3 primary regulations generated as a consolidation and updating exercise of all European Hygiene Directives.

- A Regulation of the European Parliament and of the Council on the hygiene of foodstuffs (EC 852/2004); H1
- A Regulation of the European Parliament and of the Council laying down specific hygiene rules for food of animal origin (EC 853/2004); H2
- A Regulation of the European Parliament and of the Council laying down detailed rules for the organization of official controls on products of animal origin intended for human consumption (EC 854/2004); H3

The main impact of these regulations will be:

- There will be new controls in primary production, in some sectors this will be for the first time.
- The principles of Hazard Analysis Critical Control Points will be applied at all points in the distribution chain after primary production, to provide food safety assurances through the identification and control of hazards in food production.
- The system of Industry Guides to good practice will be extended to all sectors
- Imports will have to comply with Community provisions

The purpose of raising the above information on EU legislation is not to provide expert analysis on the new regulations nor does it provide a complete guide of the changes. However the information as given may help to understand the potential change that is being, and will be made, within EU member states, with regards to regulations, enforcement and the standards to be achieved.

What is consistent to all of the EU countries as the result of the legislative changes, is the need to evaluate the impact of the regulations and their content on:

- Existing National Legislation
- Existing Enforcement Practices
- Current Market Practices and achievements, hence Resource needs for the Future.

Some of the requirements clearly impact on the Retail industry and many companies will already actively be introducing systems to ensure compliance, however it is traditionally the small and medium sized businesses that have difficulties in interpretation and implementation.

A period of review, amendment and change to existing practices, documentation and procedures is therefore inevitable and support from Government, Industry Bodies and “Best Practice Retailers” will be required.

Appendix A - Desktop Research Questionnaire used to gather data for In-Store Food Safety Practices from Country Experts

A. Who Regulates Food Safety in Retail Stores in Your Country?

1. Is Food Safety in retail stores in your country regulated at the national level or at the local level (city, region, province, etc.)?
>>
2. Please list all regulatory agency agencies that enforce food safety laws and regulations for retail food stores.
>>
3. Is the agency or agencies that enforce the regulations a branch of the national government or of local government?
>>
4. Please describe in general the activities of the regulatory agencies in your country (foodservice audits, retail store audits, issuing of licenses, training of food handlers, etc.).
>>

B. Are There Multiple Levels of Regulation of Food Safety in Retail Stores?

5. Are there one or more national laws that form the basis for food safety requirements for retail food stores?
>>
6. If yes, please give the name(s) of the laws, their legal reference(s), and cite the place where these laws are published (website or publication office).
>>
7. If no, are there laws that regulate food safety in retail stores at the local level?
>>
8. Does the law (or laws) itself contain detailed requirements for the industry, or is the law more general in its requirements?
>>
9. If there are regulations in addition to laws, please give the name(s) of the regulations, their legal reference(s), and cite the

place where these regulations are published (website or publication office).

>>

10. Do these laws and regulations apply only to retail food store operations? If no, please list what other segments of the food industry (food service, manufacturing, etc.) are governed by the same laws and regulations.

>>

11. Does the enforcing agency perform regular scheduled inspections or audits of retail locations?

>>

C. Is There Uniformity in the Food Safety Requirements for Retailers in Your Country?

12. Do food safety requirements for retailers vary depending on the specific region, state, province, or location within your country?

>>

13. Do the actual enforcement practices of regulatory agencies differ from region to region or are they uniform across the country?

>>

14. Does the agency enforcing food safety regulations in your country require special certification, registration, or training for their inspectors or auditors? *Enter Y or N for each*

- a. College degree
- b. Advanced degree
- c. Training course(s)
- d. Certification

15. If food safety regulations or enforcement practices vary from region to region in your country, is progress being made towards a more uniform set of policies and procedures?

>>

D. How are Food Safety Regulations Revised and Updated?

16. Please list the date of the first food safety regulations that applied to the retail food store?

>>

17. Did any trade organizations, professional associations, or other industry body participate in developing food safety laws and regulations in your country? If yes, please describe the type of participation by industry.
>>
18. Have they been revised or updated by the regulatory agency? If yes, when were the most current revisions made?
>>
19. Are revisions made in the regulations on a regular basis? If so, how often are revisions made?
>>
20. Were any trade or professional associations involved in the revision? If so, please explain the participation.
>>
21. Are new or revised retail store food safety regulations currently under development or discussion?
>>
22. If yes, please briefly describe the probable content and most likely implementation date.
>>

E. Are Food Safety Regulations in Your Country Science-Based and Risk-Based?

23. Do retail operations that prepare foods in-store have a different level of inspection than a facility that sells packaged foods only?
>>
24. Does the agency perform risk-based audits, for example HACCP audits, in addition to or instead of routine compliance audits?
>>
25. Please describe how specifically the regulatory requirements in your country are worded. Do they itemize specific practices, or are they more general in their requirements? For example, would they be:

Less defined: "Hold under appropriate conditions for time and temperature", or

More defined: "Hold refrigerated at 4°C (40 F) or less for a period not to exceed 7 days"

>>

F. Is the Effectiveness of the Current Regulatory Model Evaluated?

26. Is there any industry, government or academic body that maintains data on food safety trends for the retail industry?

>>

27. Is there a common data base for statistical information?

>>

28. Is there an independent body of any type (industry, academic, governmental, or a joint cooperation) that evaluates the effectiveness of food safety regulation in your country?

>>

29. As an overall assessment, how would you describe the relationship between the retail food industry and the regulatory agency enforcing food safety requirements? As a traditional police model, as a joint industry-regulatory agency partnership (collaborative), or as a hybrid relationship with elements of both collaboration and confrontation?

>>

30. Is this relationship between industry and regulatory changing? In what way is it changing?

>>

G. Are the Provisions of Food Safety Regulations in Your Country Considered "Best Practice" for Retailers?

31. Please give the names of any guidelines or codes of practice other than the basic law or regulations that retail food store must comply with.

>>

32. Do retailers in your country have any industry standards for managing food safety?

>>

33. Are there food safety guidelines or standards from outside the country that are used by the retail industry as Best Practices.

>>

H. What Practices are Most Emphasized by Food Safety Regulations?

34. Are inspections or audits by government regulators only triggered by problems or complaints?

>>

35. Does the enforcing agency require retailers to perform internal audits or have third party audits performed? Please explain.

>>

36. If routine inspections are carried out by the enforcing agency, what are the characteristics of their audits?

- a. Frequency: ___ times per year
- b. Typical inspection length (time): ___ hours
- c. # of inspectors: _____
- d. Is a written report completed at end of audit? Y / N
- e. Is the inspection numerically scored? Y / N
- f. Is the inspection result posted for consumers? Y / N

37. Please describe how strongly the following categories are emphasized during the inspection. 0 indicates it is not emphasized at all, 5 that it is strongly emphasized.

a. Facility Design	0	1	2	3	4	5
b. Facility Maintenance	0	1	2	3	4	5
c. Food handling Equipment Design	0	1	2	3	4	5
d. Cleaning and Sanitation Practices	0	1	2	3	4	5
e. Pest Control	0	1	2	3	4	5
f. Time and Temperature Control	0	1	2	3	4	5
g. Food Storage Conditions	0	1	2	3	4	5
h. Employee Hygiene	0	1	2	3	4	5
i. Employee Training	0	1	2	3	4	5
j. Manager Training	0	1	2	3	4	5

38. Is routine laboratory testing (i.e. not in connection with an outbreak of foodborne illness or other possible emergency) of food samples required by regulations or regulatory policies? If yes Please describe the program.

>>

39. Does the regulatory agency require retailers to have a formal recall program? What specific features are required of this plan?

>>

40. If no, does the government agency itself initiate and administer product recalls? Please explain.

>>

41. Is there an industry association with programs to support sampling, product testing or recalls?

>>

I. Is HACCP a Required Element for Retailers?

42. Do regulations require a HACCP program for retail stores that sell or serve foods?

>>

43. If no, please explain any requirements for policies and procedures (SOP's etc.)

>>

44. If yes, are all of the seven HACCP Steps identified by the CODEX required for retailers? If no, please indicate which HACCP Steps are required.

PRINCIPLE 1 Conduct a hazard analysis.

PRINCIPLE 2 Determine the Critical Control Points (CCPs).

PRINCIPLE 3 Establish critical limit(s).

PRINCIPLE 4 Establish a system to monitor control of the CCPs.

PRINCIPLE 5 Establish corrective actions.

PRINCIPLE 6 Establish verification procedures.

PRINCIPLE 7 Establish documentation of monitoring and corrective actions.

45. Is this HACCP requirement enforced now? Is there a future compliance date for enforcement?

>>

46. Is HACCP required for other industry segments (food service, food manufacturers, etc.)?

>>

47. For the other industry segments, are all 7 HACCP steps required?

>>

48. Is this enforced?

>>

49. Is there an industry association that encourages voluntary use of HACCP plans in retail stores? Please describe briefly.

>>

J. Is the Retail Industry in Your Country Actually in Compliance With Current Food Safety Regulations?

50. Is there an industry association supporting retailers helping them with programs to simplify regulatory compliance? If yes, please describe briefly.

>>

51. What do you feel are the three greatest risks to food safety within retail stores that sell or serve food? Please give each factor a-i a rating of 1, 2, or 3. Apply a rating of 3 for the greatest risks, 2 for moderate risks, and 3 for slight food safety risks.

- _____ a. Employee personal hygiene
 - _____ b. Time and temperature control
 - _____ c. Cross contamination
 - _____ d. Pest control
 - _____ e. Facility design and maintenance
 - _____ f. Contaminated product from suppliers
 - _____ g. Cleaning and disinfecting/sanitizing
 - _____ h. Inadequate training of employees and managers
 - _____ i. Customer behavior
 - _____ j. Other
-

52. Please rate the following categories of food safety practices for the degree to which result in either regulatory action or the potential for foodborne illness in retail stores in your country: Use bold and underline to indicate your selection.

a. Facility Design	0	1	2	3	4	5
b. Facility Maintenance	0	1	2	3	4	5
c. Food handling Equipment Design	0	1	2	3	4	5
d. Cleaning and Sanitation Practices	0	1	2	3	4	5
e. Pest Control	0	1	2	3	4	5
f. Time and Temperature Control	0	1	2	3	4	5
g. Food Storage Conditions	0	1	2	3	4	5
h. Employee Hygiene	0	1	2	3	4	5
i. Employee Training	0	1	2	3	4	5
j. Manager Training	0	1	2	3	4	5
k. Auditing	0	1	2	3	4	5
l. Other _____	0	1	2	3	4	5
m. Other _____	0	1	2	3	4	5

53. Which part of the regulation do you believe is most difficult for retail stores to comply with? 0 indicates it is very easy, 5 that it is

very difficult or impossible. Use bold and underline to indicate your selection.

a. Employee Hygiene	0	1	2	3	4	5
b. Time and Temperature control	0	1	2	3	4	5
c. Cross Contamination	0	1	2	3	4	5
d. Pest Control	0	1	2	3	4	5
e. Facility design and maintenance	0	1	2	3	4	5
f. Product supply	0	1	2	3	4	5
g. Cleaning and disinfecting (sanitizing)	0	1	2	3	4	5
h. Training and Certification	0	1	2	3	4	5
i. Microbiological, chemical, and/or physical standards	0	1	2	3	4	5
k. Other _____	0	1	2	3	4	5

54. For the food safety practices that you ranked highest (most difficult to comply with), please explain why you think they are difficult to comply with?

>>

55. Do you believe that the retail stores in your country that sell or serve food industry are generally in compliance with the regulations and laws? Don't limit your assessment of this question to official regulatory inspections or reports only.

>>

56. Approximately what percentage of the time are in-store practices truly in compliance with regulations, in your opinion?

- a. 10%
- b. 25%
- c. 50%
- d. 75%
- e. 100%
- f. Other _____

57. Select the description below that you believe most accurately describes the pattern of compliance in your country by retailers selling or serving food with food safety regulations and laws. The goal of this question is to determine actual compliance; this may or may not be reflected in regulatory inspections or reports.

- a. Frequent major violations
- b. Occasional major violations
- c. No major violations
- d. Frequent minor violations
- e. Occasional minor violations
- f. No minor violations

58. Does the regulatory agency have punitive powers? Y / N
59. What are the consequences if a food safety problem or violation is found by the inspector?
- a. No consequences
 - b. Follow up inspection
 - c. Warning letter
 - d. Threat of business interruption or suspension, including legal action
 - e. Actual business interruption or suspension, including legal action
 - f. Withdrawal of product from marketplace (forced or voluntary)
 - g. Closure / suspension or loss of license
 - h. Other: (please describe)
60. Please estimate the percentage of regulatory compliance inspections that result in any of the enforcement actions described above (b through g).
- a. 0 - 5%
 - b. 5 - 10%
 - c. 10 - 25%
 - d. 25 - 50%
 - e. 50% or greater
61. Is there an industry association that supports retailers in complying with the regulations? If yes, please provide the name and contact information.
62. Please describe briefly the support systems provided by retail trade associations.

>>

K. What Training is Required for Retail Food Handlers and Managers?

63. Does the agency require special certification, registration, or training for retail store employees who handle or manage food sales?

Certification Required for:

- a. Store Manager
- b. Food Department Manager
- c. Supervisors/executives/buyers
- d. Food Handler/Employee/Associate
- e. Other Employees (cashiers, carry out, etc.)

Registration Required for:

- a. Store Manager
- b. Food Department Manager
- c. Supervisors/executives/buyers
- d. Food Handler/Employee/Associate
- e. Other Employees (cashiers, carry out, etc.)

Training Required for:

- a. Store Manager
- b. Food Department Manager
- c. Supervisors/executives/buyers
- d. Food Handler/Employee/Associate
- e. Other Employees (cashiers, carry out, etc.)

64. If you answered yes in the question above for any class of retail employee, please describe briefly the type of certification, registration, or training required.

Certification: >>

Registration: >>

Training: >>

65. Does the enforcing agency or other regulatory agency provide training for any of the following groups? Please briefly describe all programs.

- a. Retail Employees >>
- b. Retail Managers >>
- c. Consumers >>
- d. Inspectors/Auditors (non regulatory) >>

66. Does the enforcing agency or any other regulatory agency make food safety resources available to retailers?

>>

67. If yes, what types of resources?

- a. Guidance documents
- b. Model Food Safety programs for retail stores
- c. Technical advice to the retail industry
- d. Internet sites
- e. Publications – including training materials
- f. Other resources (please describe) >>

68. Is there an industry association that supports or provides training and certification? If so, please describe briefly.

>>

L. Non-Governmental Audits

69. How do you think that the value of self-audits is perceived by the retail food store industry?
70. How do you think that the value of third-party audits is perceived by the retail food store industry?
71. Do the results of non-governmental audits generally correlate well with the results of regulatory inspections or audits?
72. Is there an industry association that supports or provides auditing services and programs at retail? If yes, please describe briefly.

M. Are There Non-Governmental Programs or Codes of Food Safety Practice for the Retail Industry?

73. Is there a trade or professional association that defines or creates standards for retail food safety?
>>
74. If so, please provide the name of the association, name of the documents if possible, and contact information.
>>
75. Please provide a list of professional and trade associations that provide any type of food safety resources for the retail industry in your country.
>>

N. Business Culture of Retail Organizations

76. Do you consider that the importance of Food Safety is well understood and communicated within retail organizations in this country?
>>
77. Do you consider that the retail industry is leading or following the major trends in Food Safety?
>>
78. Do you see clear evidence of commitment to food safety programs on the part of senior management of retail organizations in your country?

>>

79. How effective is communication regarding food safety in retail stores?

- a. Within retail organizations
- b. Between government and industry
- c. Between retailers and consumers
- d. Between government and consumers
- e. By industry associations

80. Do you consider that the Regulatory agency is spending enough energy and resources to effectively manage food safety in the retail industry?

>>

81. Is there a common Food Safety Vision or Perspective for the future? Who supports the Vision / Perspective?

>>

82. Which of the following retail industry segments are best positioned to support food safety in your country? Please number with 1 being the best

- _____ a. Industry associations
- _____ b. Regulatory agency
- _____ c. Professional Associations
- _____ d. Consultants
- _____ e. Other trading partners and suppliers
- _____ f. Other: *please specify* _____
- _____

83. If there is an industry association, please explain how they are supporting the retail food industry implement and maintain food safety programs.

>>

84. Please describe any systems that have been used to improve food safety – implementation, maintenance, and progress. For example are there special workshops or conferences, industry standards by trade associations, brainstorming sessions, legal actions, regulatory monitoring of food borne illness, mandatory reporting of foodborne illness etc.