to indicate the importer’s liability and make a recommendation accordingly.

(c) The District Director of Customs, within 3 days of the receipt of this recommendation, whether favorable or otherwise, shall notify the importer that, the legal period of 3 months for exportation or relabelling having expired, action will be taken within 30 days to enforce the terms of the bond.

PART 1240—CONTROL OF COMMUNICABLE DISEASES

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1240.10 Effective bactericidal treatment.

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1240.62 Turtles intrastate and interstate requirements.
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CROSS REFERENCES: For Department of Health and Human Services regulations relating to foreign quarantine, sanitation measures, and control of communicable diseases, see Centers for Disease Control’s requirements as set forth in 42 CFR parts 71 and 72.

SOURCE: 40 FR 5629, Feb. 6, 1975, unless otherwise noted.

Subpart A—General Provisions

§ 1240.3 General definitions.

As used in this part, terms shall have the following meaning:

(a) Bactericidal treatment. The application of a method or substance for the destruction of pathogens and other organisms as set forth in §1240.10.

(b) Communicable diseases. Illnesses due to infectious agents or their toxic products, which may be transmitted from a reservoir to a susceptible host either directly as from an infected person or animal or indirectly through the agency of an intermediate plant or animal host, vector, or the inanimate environment.

(c) Communicable period. The period or periods during which the etiologic agent may be transferred directly or indirectly from the body of the infected person or animal to the body of another.

(d) Contamination. The presence of a certain amount of undesirable substance or material, which may contain pathogenic microorganisms.

(e) Conveyance. Conveyance means any land or air carrier, or any vessel as defined in paragraph (n) of this section.

(f) Garbage. (1) The solid animal and vegetable waste, together with the natural moisture content, resulting from the handling, preparation, or consumption of foods in houses, restaurants, hotels, kitchens, and similar establishments, or (2) any other food waste containing pork.

(g) Incubation period. The period between the implanting of disease organisms in a susceptible person and the appearance of clinical manifestation of the disease.

(h) Interstate traffic. (1) The movement of any conveyance or the transportation of persons or property, including any portion of such movement or transportation which is entirely within a State or possession, (i) From a point of origin in any State or possession to a point of destination in any other State or possession, or (ii) Between a point of origin and a point of destination in the same State or possession but through any other State, possession, or contiguous foreign country.
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§ 1240.10 Effective bactericidal treatment.

Whenever, under the provisions of this part, bactericidal treatment is required, it shall be accomplished by one or more of the following methods:

(2) Interstate traffic does not include the following:

(i) The movement of any conveyance which is solely for the purpose of unloading persons or property transported from a foreign country, or loading persons or property for transportation to a foreign country.

(ii) The movement of any conveyance which is solely for the purpose of effecting its repair, reconstruction, rehabilitation, or storage.

(i) Milk. Milk is the product defined in §131.110 of this chapter.

(j) Milk products. Food products made exclusively or principally from the lacteal secretion obtained from one or more healthy milk-producing animals, e.g., cows, goats, sheep, and water buffalo, including, but not limited to, the following: lowfat milk, skim milk, cream, half and half, dry milk, nonfat dry milk, dry cream, condensed or concentrated milk products, cultured or acidified milk or milk products, kefir, eggnog, yogurt, butter, cheese (where not specifically exempted by regulation), whey, condensed or dry whey or whey products, ice cream, ice milk, other frozen dairy desserts and products obtained by modifying the chemical or physical characteristics of milk, cream, or whey by using enzymes, solvents, heat, pressure, cooling, vacuum, genetic engineering, fractionation, or other similar processes, and any such product made by the addition or subtraction of milkfat or the addition of safe and suitable optional ingredients for the protein, vitamin, or mineral fortification of the product.

(k) Minimum heat treatment. The causing of all particles in garbage to be heated to a boiling temperature and held at that temperature for a period of not less than 30 minutes.

(l) Possession. Any of the possessions of the United States, including Puerto Rico and the Virgin Islands.

(m) Potable water. Water which meets the standards prescribed in the Environmental Protection Agency’s Primary Drinking Water Regulations as set forth in 40 CFR part 141 and the Food and Drug Administration’s sanitation requirements as set forth in this part and part 1250 of this chapter.

(n) State. Any State, the District of Columbia, Puerto Rico and the Virgin Islands.

(o) Utensil. Includes any kitchenware, tableware, glassware, cutlery, containers, or equipment with which food or drink comes in contact during storage, preparation, or serving.

(p) Vessel. Any passenger-carrying, cargo, or towing vessel exclusive of:

(1) Fishing boats including those used for shell-fishing;

(2) Tugs which operate only locally in specific harbors and adjacent waters;

(3) Barges without means of self-propulsion;

(4) Construction-equipment boats and dredges; and

(5) Sand and gravel dredging and handling boats.

(q) Watering point. The specific place or water boat from which potable water is loaded on a conveyance.

(r) Molluscan shellfish. Any edible species of fresh or frozen oysters, clams, mussels, and scallops or edible portions thereof, except when the product consists entirely of the shucked adductor muscle.

(s) Certification number means a unique combination of letters and numbers assigned by a shellfish control authority to a molluscan shellfish processor.

(t) Shellfish control authority means a Federal, State, or foreign agency, or sovereign tribal government, legally responsible for the administration of a program that includes activities such as classification of molluscan shellfish growing areas, enforcement of molluscan shellfish harvesting controls, and certification of molluscan shellfish processors.

(u) Tag means a record of harvesting information attached to a container of shellstock by the harvester or processor.

§ 1240.20

(a) By immersion of the utensil or equipment for at least 2 minutes in clean hot water at a temperature of at least 170 °F or for one-half minute in boiling water;

(b) By immersion of the utensil or equipment for at least 2 minutes in a lukewarm chlorine bath containing at least 50 ppm of available chlorine if hypochlorites are used or a concentration of equal bactericidal strength if chloramines are used;

(c) By exposure of the utensil or equipment in a steam cabinet at a temperature of at least 170 °F for at least 15 minutes or at a temperature of 200 °F for at least 5 minutes;

(d) By exposure of the utensil or equipment in an oven or hot air cabinet at a temperature of at least 180 °F for at least 20 minutes;

(e) In the case of utensils or equipment so designed or installed as to make immersion or exposure impractical, the equipment may be treated for the prescribed periods of time either at the temperatures or with chlorine solutions as specified above, (1) with live steam from a hose if the steam can be confined, (2) with boiling rinse water, or (3) by spraying or swabbing with chlorine solution;

(f) Any other method determined by the Commissioner of Food and Drugs, upon application of an owner or operator of a conveyance, to be effective to prevent the spread of communicable disease.

[40 FR 5620, Feb. 6, 1975, as amended at 54 FR 24900, June 12, 1989]

Subpart B—Administrative Procedures

§ 1240.20 Issuance and posting of certificates following inspections.

The Commissioner of Food and Drugs may issue certificates based upon inspections provided for in this part and part 1250. Such certificates shall be prominently posted on conveyances.

[40 FR 5620, Feb. 6, 1975, as amended at 48 FR 11431, Mar. 18, 1983]

Subpart C [Reserved]

Subpart D—Specific Administrative Decisions Regarding Interstate Shipments

§ 1240.60 Molluscan shellfish.

(a) A person shall not offer for transportation, or transport, in interstate traffic any molluscan shellfish handled or stored in such an insanitary manner, or grown in an area so contaminated, as to render such molluscan shellfish likely to become agents in, and their transportation likely to contribute to the spread of communicable disease from one State or possession to another.

(b) All shellstock shall bear a tag that discloses the date and place they were harvested (by State and site), type and quantity of shellfish, and by whom they were harvested (i.e., the identification number assigned to the harvester by the shellfish control authority, where applicable or, if such identification numbers are not assigned, the name of the harvester or the name or registration number of the harvester’s vessel). In place of the tag,
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§ 1240.61 Mandatory pasteurization for all milk and milk products in final package form intended for direct human consumption.

(a) No person shall cause to be delivered into interstate commerce or shall sell, otherwise distribute, or hold for sale or other distribution after shipment in interstate commerce any milk or milk product in final package form for direct human consumption unless the product has been pasteurized or is made from dairy ingredients (milk or milk products) that have all been pasteurized, except where alternative procedures to pasteurization are provided for by regulation, such as in part 133 of this chapter for curing of certain cheese varieties.

(b) Except as provided in paragraphs (c) and (d) of this section, the term “pasteurization,” “pasteurized,” and similar terms shall mean the process of heating every particle of milk and milk product in properly designed and operated equipment to one of the temperatures given in the following table and held continuously at or above that temperature for at least the corresponding specified time:

<table>
<thead>
<tr>
<th>Temperature</th>
<th>Time</th>
</tr>
</thead>
<tbody>
<tr>
<td>145 °F (63 °C)</td>
<td>30 minutes.</td>
</tr>
<tr>
<td>161 °F (72 °C)</td>
<td>15 seconds.</td>
</tr>
<tr>
<td>191 °F (89 °C)</td>
<td>1 second</td>
</tr>
</tbody>
</table>

(c) All containers of shucked molluscan shellfish shall bear a label that identifies the name, address, and certification number of the packer or repacker of the molluscan shellfish.

(d) Any molluscan shellfish without such a tag, shipping document, or label, or with a tag, shipping document, or label that does not bear all the information required by paragraphs (b) and (c) of this section, shall be subject to seizure or refusal of entry, and destruction.

[40 FR 5620, Feb. 6, 1975, as amended at 60 FR 65202, Dec. 18, 1995]

§ 1240.62 Turtles intrastate and interstate requirements.

(a) Definition. As used in this section the term “turtles” includes all animals commonly known as turtles, tortoises, terrapins, and all other animals of the order Testudinata, class Reptilia, except marine species (families Dermachelidae and Cheloniidae).

(b) Sales; general prohibition. Except as otherwise provided in this section, viable turtle eggs and live turtles with a carapace length of less than 4 inches shall not be sold, held for sale, or offered for any other type of commercial or public distribution.

(c) Destruction of turtles or turtle eggs; criminal penalties. (1) Any viable turtle eggs or live turtles with a carapace length of less than 4 inches which are held for sale or offered for any other type of commercial or public distribution shall be subject to destruction in a humane manner by or under the supervision of an officer or employee of the Food and Drug Administration in accordance with the following procedures:

(i) Any District Office of the Food and Drug Administration, upon detecting viable turtle eggs or live turtles with a carapace length of less than 4 inches which are held for sale or offered for any other type of commercial

<table>
<thead>
<tr>
<th>Temperature</th>
<th>Time</th>
</tr>
</thead>
<tbody>
<tr>
<td>194 °F (83 °C)</td>
<td>0.5 second.</td>
</tr>
<tr>
<td>201 °F (94 °C)</td>
<td>0.1 second.</td>
</tr>
<tr>
<td>204 °F (96 °C)</td>
<td>0.05 second.</td>
</tr>
<tr>
<td>212 °F (100 °C)</td>
<td>0.01 second.</td>
</tr>
</tbody>
</table>

(d) Neither paragraph (b) nor (c) of this section shall be construed as barring any other pasteurization process that has been recognized by the Food and Drug Administration to be equally efficient in the destruction of microbial organisms of public health significance.

or public distribution, shall serve upon
the person in whose possession such
turtles or turtle eggs are found a writ-
ten demand that such turtles or turtle
eggs be destroyed in a humane manner
under the supervision of said District
Office, within 10 working days from the
date of promulgation of the demand.
The demand shall recite with particu-
larity the facts which justify the de-
mand. After service of the demand, the
person in possession of the turtles or
turtle eggs shall not sell, distribute, or
otherwise dispose of any of the turtles
or turtle eggs except to destroy them
under the supervision of the District
Office, unless and until the Director of
the Center for Veterinary Medicine
withdraws the demand for destruction
after an appeal pursuant to paragraph
(c)(1)(ii) of this section.

(ii) The person on whom the demand
for destruction is served may either
comply with the demand or, within 10
working days from the date of its pro-
mulgation, appeal the demand for de-
struction to the Director of the Center
for Veterinary Medicine, Food and
Drug Administration, 7519 Standish
Pl., Rockville, MD 20855. The demand
for destruction may also be appealed
within the same period of 10 working
days by any other person having a pe-
cuniary interest in such turtles or tur-
tle eggs. In the event of such an appeal,
the Center Director shall provide an
opportunity for hearing by written no-
tice to the appellant(s) specifying a
time and place for the hearing, to be
held within 14 days from the date of
the notice but not within less than 7
days unless by agreement with the ap-
pellant(s).

(iii) Appearance by any appellant at
the hearing may be by mail or in per-
son, with or without counsel. The hear-
ing shall be conducted by the Center
Director or his designee, and a written
summary of the proceedings shall be
prepared by the person presiding. Any
appellant shall have the right to hear
and to question the evidence on which
the demand for destruction is based, in-
cluding the right to cross-examine wit-
nesses, and he may present oral or
written evidence in response to the de-
mand.

(iv) If, based on the evidence pre-
sent at the hearing, the Center Di-
rector finds that the turtles or turtle
eggs were held for sale or offered for
any other type of commercial or public
distribution in violation of this sec-
tion, he shall affirm the demand that
they be destroyed under the super-
vision of an officer or employee of the
Food and Drug Administration; other-
wise, the Center Director shall issue a
written notice that the prior demand
by the District Office is withdrawn. If
the Center Director affirms the demand
for destruction he shall order that the
destruction be accomplished in a hu-
mane manner within 10 working days
from the date of the promulgation of
his decision. The Center Director’s de-
cision shall be accompanied by a state-
ment of the reasons for the decision.
The decision of the Center Director
shall constitute final agency action, re-
viewable in the courts.

(v) If there is no appeal to the Direc-
tor of the Center for Veterinary Medi-
cine from the demand by the Food and
Drug Administration District Office
and the person in possession of the tur-

tles or turtle eggs fails to destroy them
within 10 working days, or if the de-
mand is affirmed by the Director of the
Center for Veterinary Medicine after
an appeal and the person in possession
of the turtles or turtle eggs fails to de-
stroy them within 10 working days, the
District Office shall designate an offi-
cer or employee to destroy the turtles
or turtle eggs. It shall be unlawful to
prevent or to attempt to prevent such
destruction of turtles or turtle eggs by
the officer or employee designated by
the District Office. Such destruction
will be stayed if so ordered by a court
pursuant to an action for review in the
courts as provided in paragraph
(c)(1)(iv) of this section.

(2) Any person who violates any pro-
vision of this section, including but not
limited to any person who sells, offers
for sale, or offers for any other type of
commercial or public distribution via-
ble turtle eggs or live turtles with a
carapace length of less than 4 inches,
or who refuses to comply with a valid
final demand for destruction of turtles
or turtle eggs (either an unappealed de-


§ 1240.80 General requirements for water for drinking and culinary purposes.

Only potable water shall be provided for drinking and culinary purposes by any operator of a conveyance engaged in interstate traffic, except as provided in §1250.84(b) of this chapter. Such water shall either have been obtained from watering points approved by the Commissioner of Food and Drugs, or, if treated aboard a conveyance, shall

VerDate Mar<15>2010 19:45 May 02, 2013 Jkt 229075 PO 00000 Frm 00727 Fmt 8010 Sfmt 8010 Q:\21\21V8.TXT ofr150 PsN: PC150
§ 1240.83 Approval of watering points.

(a) The Commissioner of Food and Drugs shall approve any watering point if (1) the water supply thereof meets the standards prescribed in the Environmental Protection Agency’s Primary Drinking Water Regulations as set forth in 40 CFR part 141, and (2) the methods of and facilities for delivery of such water to the conveyance and the sanitary conditions surrounding such delivery prevent the introduction, transmission, or spread of communicable diseases.

(b) The Commissioner of Food and Drugs may base his approval or disapproval of a watering point upon investigations made by representatives of State departments of health or of the health authorities of contiguous foreign nations.

(c) If a watering point has not been approved, the Commissioner of Food and Drugs may permit its temporary use under such conditions as, in his judgment, are necessary to prevent the introduction, transmission, or spread of communicable diseases.

(d) Upon request of the Commissioner of Food and Drugs, operators of conveyances shall provide information as to watering points used by them.

[40 FR 5620, Feb. 6, 1975, as amended at 48 FR 11431, Mar. 18, 1983]

§ 1240.86 Protection of pier water system.

No vessel engaged in interstate traffic shall make a connection between its nonpotable water system and any pier potable water system unless provisions are made to prevent backflow from the vessel to the pier.

[40 FR 5620, Feb. 6, 1975, as amended at 48 FR 11431, Mar. 18, 1983]

§ 1240.90 Approval of treatment aboard conveyances.

(a) The treatment of water aboard conveyances shall be approved by the Commissioner of Food and Drugs if the apparatus used is of such design and is so operated as to be capable of producing and in fact does produce, potable water.

(b) The Commissioner of Food and Drugs may base his approval or disapproval of the treatment of water upon investigations made by representatives of State departments of health or of the health authorities of contiguous foreign nations.

(c) Overboard water treated on vessels shall be from areas relatively free of contamination and pollution.

[40 FR 5620, Feb. 6, 1975, as amended at 48 FR 11431, Mar. 18, 1983]

PART 1250—INTERSTATE CONVEYANCE SANITATION

Subpart A—General Provisions

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Subpart B—Food Service Sanitation on Land and Air Conveyances, and Vessels

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1250.21 Inspection.
1250.22 General requirements.
1250.25 Source identification and inspection of food and drink.
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1250.33 Utensils and equipment.
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Subpart C—Equipment and Operation of Land and Air Conveyances

1250.40 Applicability.

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