**44:02:07:18.  Potentially hazardous food.** Potentially hazardous food is a food that may be natural or synthetic and is in a form capable of supporting the rapid and progressive growth of infectious or toxigenic microorganisms, the growth and toxin production of **Clostridium botulinum**, or eggs in the shell, the growth of **Salmonella enteritidis**.

Potentially hazardous food includes a food of animal origin that is raw or heat-treated, a food of plant origin that is heat-treated or consists of raw seed sprouts; cut melons; and garlic and oil mixtures. Potentially hazardous food does not include the following:

(1)  An air-cooled hard-boiled egg with shell intact;

(2)  A food with a water activity aw value of 0.85 or less;

(3)  A food with a hydrogen ion concentration pH level of 4.6 or below when measured at 24°C (75°F);

(4)  A food, in an unopened hermetically sealed container, that is commercially processed to achieve and maintain sterility under conditions of nonrefrigerated storage and distribution; or

(5)  A food for which a variance granted by the regulatory authority is based on laboratory evidence demonstrating that rapid and progressive growth of infectious and toxigenic microorganisms or the slower growth of **Clostridium botulinum** cannot occur.

**Source:** 23 SDR 195, effective May 26, 1997.

**General Authority:** SDCL 34-1-17, 34-18-22.

**Law Implemented:** SDCL 34-18-22, 34-18-25.