

**RULES
OF
GEORGIA DEPARTMENT OF AGRICULTURE**

**CHAPTER 40-7-1
GENERAL RULES REPEALED**

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40-7-1-.01 Scope of Regulations. Repealed

The following regulations shall apply to all buildings, rooms, areas or places of business as defined in 40-7-1-.02 as a "Food Sales Establishment," wherein food is commercially processed, stored, sold or held for sale. These regulations shall be liberally construed and applied to promote their underlying purpose of protecting the public health.

40-7-1-.02 Definitions. Repealed

The following definitions shall apply in the interpretation and enforcement of this Chapter.

~~(1) **Accredited program.**~~

~~(a) "**Accredited program**" means a food protection manager certification program that has been evaluated and listed by an accrediting agency as conforming to national standards for organizations that certify individuals.~~

~~(b) "**Accredited program**" refers to the certification process and is a designation based upon an independent evaluation of factors such as the sponsor's mission; organizational structure; staff resources; revenue sources; policies; public information regarding program scope, eligibility requirements, re-certification, discipline and grievance procedures; and test development and administration.~~

~~(c) "**Accredited program**" does not refer to training functions or educational programs.~~

~~(2) **Additive.**~~

~~(a) "**Food Additive**" has the meaning stated in the Federal Food, Drug and Cosmetic Act, paragraph 201(s) and 21 CFR 170.~~

~~(b) "**Color Additive**" has the meaning stated in the Federal Food, Drug, and Cosmetic Act, paragraph 201(t) and 21 CFR 70.~~

~~(3) "**Adulterated**" as defined in Georgia Food Code Section 26-2-26.~~

~~(4) "**Approved**" means acceptable to the Department based on a determination of conformity with principles, practices, and generally recognized standards that protect public health.~~

~~(5) "**Aw**" means water activity.~~

~~(6) "**Bulk Food**" means processed or unprocessed food in aggregate containers from which quantities desired by the consumer are withdrawn.~~

~~(7) "**Beverage**" means a liquid for drinking, including water.~~

~~(8) "**Bottled drinking water**" means water that is SEALED in bottles, packages, or other containers and offered for sale for human consumption, including bottled mineral water.~~

~~(9) "**Casing**" means a tubular container for sausage products made of either natural or artificial (synthetic) material.~~

~~(10) "**Certification number**" means a unique combination of letters and numbers assigned by a SHELLFISH CONTROL AUTHORITY to a MOLLUSCAN SHELLFISH dealer according to the provisions of the National Shellfish Sanitation Program.~~

~~(11) "**CFR**" means Code of Federal Regulations.~~

~~(12) **CIP.**~~

~~(a) "**CIP**" means cleaned in place by the circulation or flowing by mechanical means through a piping system of a detergent solution, water rinse, and sanitizing solution onto or over equipment surfaces that require cleaning such as the method used, in part, to~~

~~clean and sanitize a frozen dessert machine.~~

~~(b) "CIP" does not include the cleaning of equipment such as band saws, slicers, or mixers that are subjected to in-place manual cleaning without use of a CIP system.~~

~~(13) "Code of Federal Regulations" means the compilation of the general and permanent rules published in the Federal Register by the executive departments and agencies of the federal government.~~

~~(14) "Commingle" means:~~

~~(a) To combine SHELLSTOCK harvested on different days or from different growing areas as identified on the tag or label, or~~

~~(b) To combine SHUCKED SHELLFISH from containers with different container codes or different shucking dates.~~

~~(15) Comminuted.~~

~~(a) "Comminuted" means reduced in size by methods including chopping, flaking, grinding, or mincing.~~

~~(b) "Comminuted" includes FISH or MEAT products that are reduced in size and restructured or reformulated such as gefilte FISH, gyros, ground beef, and sausage; and a mixture of 2 or more types of MEAT that have been reduced in size and combined, such as sausages made from 2 or more MEATS.~~

~~(16) "Confirmed disease outbreak" means a FOODBORNE DISEASE OUTBREAK in which laboratory analysis of appropriate specimens identifies a causative agent and epidemiological analysis implicates the FOOD as the source of the illness.~~

~~(17) "Consumer" means a person who is a member of the public, takes possession of food, is not functioning in the capacity of an operator of a food establishment or food processing plant, and does not offer the food for resale.~~

~~(18) "Corrosion-resistant materials" means those materials that maintain acceptable sanitary surface characteristics under prolonged influence of the food to be contacted, the normal use of cleaning compounds and sanitizing solutions, and other conditions of the use environment.~~

~~(19) "Critical control point" means a point or procedure in a specific system where loss of control may result in an unacceptable health risk.~~

~~(20) Critical Item.~~

~~(a) "Critical item" means a provision of this Code, that, if in noncompliance, is more likely than other violations to contribute to FOOD contamination, illness, or environmental health HAZARD.~~

~~(b) "Critical item" is an item that is denoted in this Code with an asterisk *.~~

~~(21) "Critical Violation" means any deficiency affecting the sanitation or wholesomeness of product, infestations of rodents, insects or other vermin that might effect sanitation, which includes but is not limited to, violations affecting the sanitation of food products; edible product, product contact surfaces contaminated by improper cleaning procedures, handling procedures or other insidious contamination; contaminated water supplies; or any violation that is more likely than other violations to contribute to food contamination, illness or environmental degradation.~~

~~(22) "Critical limit" means the maximum or minimum value to which a physical, biological, or chemical parameter must be controlled at a CRITICAL CONTROL POINT to minimize the RISK that the identified FOOD safety HAZARD may occur.~~

~~(23) "Cut leafy greens" means fresh leafy greens whose leaves have been cut, shredded, sliced, chopped, or torn. The term "leafy greens" includes iceberg lettuce, romaine lettuce, leaf lettuce,~~

butter lettuce, baby leaf lettuce (i.e., immature lettuce or leafy greens), escarole, endive, spring mix, spinach, cabbage, kale, arugula and chard. The term "leafy greens" does not include herbs such as cilantro or parsley.

(24) **"Department"** means the Department of Agriculture, the State of Georgia.

(25) **"Department Representative"** means any officer, inspector, agent or employee of the Georgia Department of Agriculture who is authorized by the Commissioner with the duty of enforcing these regulations.

(26) **Drinking Water.**

(a) **"Drinking water"** means water that meets 40 CFR 141 National Primary Drinking Water Regulations.

(b) **"Drinking water"** is traditionally known as "potable water."

(c) **"Drinking water"** includes the term "water" except where the term used denotes that the water is not potable, such as "boiler water," "mop water," "rainwater," "wastewater," and "nondrinking" water.

(27) **"Dry storage area"** means a room or area designated for the storage of PACKAGED or containerized bulk FOOD that is not POTENTIALLY HAZARDOUS and dry goods such as SINGLE-SERVICE items.

(28) **Easily Cleanable.**

(a) **"Easily cleanable"** means a characteristic of a surface that:

1. Allows effective removal of soil by normal cleaning methods;
2. Is dependent on the material, design, construction, and installation of the surface; and
3. Varies with the likelihood of the surface's role in introducing pathogenic or toxigenic agents or other contaminants into FOOD based on the surface's APPROVED placement, purpose, and use.

(b) **"Easily cleanable"** includes a tiered application of the criteria that qualify the surface as EASILY CLEANABLE as specified under Subparagraph (a) of this definition to different situations in which varying degrees of cleanability are required such as:

1. The appropriateness of stainless steel for a FOOD preparation surface as opposed to the lack of need for stainless steel to be used for floors or for tables used for CONSUMER dining; or
2. The need for a different degree of cleanability for a utilitarian attachment or accessory in the deli prep area as opposed to a decorative attachment or accessory in the CONSUMER dining area.

(29) **"Easily movable"** means:

(a) Portable; mounted on casters, gliders, or rollers; or provided with a mechanical means to safely tilt a unit of EQUIPMENT for cleaning; and

(b) Having no utility connection, a utility connection that disconnects quickly, or a flexible utility connection line of sufficient length to allow the EQUIPMENT to be moved for cleaning of the EQUIPMENT and adjacent area.

(30) **"Egg"** means the shell EGG of the domesticated chicken, turkey, duck, goose, or guinea.

(31) **"Employee"** means the License Holder, PERSON IN CHARGE, PERSON having supervisory or management duties, PERSON on the payroll, family member, volunteer, PERSON performing work under contractual agreement, or other PERSON working in a FOOD SALES ESTABLISHMENT.

(32) **"EPA"** means the U.S. Environmental Protection Agency.

(33) **Equipment.**

(a) ~~“Equipment” means an article that is used in the operation of a food establishment such as a freezer, grinder, hood, ice maker, meat block, mixer, oven, reach-in refrigerator, scale, sink, slicer, stove, table, temperature measuring device, or warewashing machine.~~

(b) ~~“Equipment” does not include items used for handling or storage of large quantities of packaged foods that are received from a supplier in a cased or overwrapped lot, such as hand trucks, forklifts, and related equipment.~~

(34) ~~“Exclude” means to prevent a PERSON from working as a FOOD EMPLOYEE or entering a FOOD ESTABLISHMENT except for those areas open to the general public.~~

(35) ~~“Expiration Date” is synonymous with Pull Date, Best By Date, Best Before Date, Use By Date, and Sell By Date; and means the last date on which the following FOOD products can be sold at retail or wholesale:~~

(a) ~~Prepackaged sandwiches;~~

(b) ~~Eggs;~~

(c) ~~Infant formula;~~

(d) ~~Shucked oysters;~~

(e) ~~Milk; and~~

(f) ~~POTENTIALLY HAZARDOUS FOOD (TIME/TEMPERATURE CONTROL FOR SAFETY FOOD) that are labeled as “keep refrigerated.”~~

(36) ~~**Fish.**~~

(a) ~~“Fish” means fresh or saltwater finfish, crustaceans and other forms of aquatic life (including alligator, frog, aquatic turtle, jellyfish, sea cucumber, and sea urchin and the roe of such animals) other than birds or mammals, and all mollusks, if such animal life is intended for human consumption.~~

(b) ~~“Fish” includes an edible human FOOD product derived in whole or in part from FISH, including FISH that have been processed in any manner~~

(37) ~~“Food” means a raw, cooked, or processed edible substance, ice, beverage, or ingredient used or intended for use or for sale in whole or in part for human consumption, or chewing gum.~~

(38) ~~“Foodborne disease outbreak” means the occurrence of two or more cases of a similar illness resulting from the ingestion of a common food.~~

(39) ~~“Food contact surface” means:~~

(a) ~~A surface of EQUIPMENT or a UTENSIL with which FOOD normally comes into contact; or~~

(b) ~~A surface of EQUIPMENT or a UTENSIL from which FOOD may drain, drip, or splash:~~

1. ~~Into a FOOD, or~~

2. ~~Onto a surface normally in contact with FOOD.~~

(40) ~~“Food employee” means an individual working with unPACKAGED FOOD, FOOD EQUIPMENT or UTENSILS, or FOOD CONTACT SURFACES.~~

(41) ~~**Food Sales Establishment**~~

(a) ~~“Food Sales Establishment” means retail and wholesale grocery stores; retail seafood stores and places of business; food processing plants, seafood processing plants, except those food processing plants which are currently required to obtain a license from the Commissioner under any other provision of law; bakeries; confectioneries; fruit, nut, and vegetable stores or roadside stands; wholesale sandwich and salad manufacturers, including vending machines and operations connected therewith; and places of business and similar establishments, mobile or permanent, engaged in the sale of food primarily for consumption off premises. Within a food sales establishment, there may be a food service component, not separately operated, which may serve~~

customers on site. This food service component shall be considered as part of the food sales establishment. The food sales component of any food service establishment defined in Code Section 26-2-370 shall not be included in this definition. Such "Food Sales Establishments" shall, except as in paragraph (b) of this part, comply with all requirements as set forth in these regulations.

(b) "Food Sales Establishments" shall include cottage food operations. See Department rules Chapter 40-7-19 for regulations and requirements specific to cottage food operations.

(c) "Food Sales Establishments" which do not receive, store, prepare, process, ship, display for sale or sell any open food, including but not limited to coffee, drinks, either dispensed or poured into an open container or any non-packaged food products including ice or POTENTIALLY HAZARDOUS FOOD (TIME/TEMPERATURE CONTROL FOR SAFETY FOOD) as defined in part 40-7-1-.02, or are involved in the manufacture and bagging of ice; may be exempt from the requirement for a three-compartment sink with hot and cold running water under pressure, hand wash sink with hot and cold running water under pressure and a rest room, within the confines of the establishment; if there is convenient access to acceptable rest room facilities; and in the opinion of the Department, no public health risk will result from such action; however, all other provisions of these regulations shall be complied with as applicable.

(d) This term shall not include "Food Service Establishments" as defined in Section 26-2-370.

(e) This term also shall not include establishments engaged in the boiling, bottling, and sale of sugar cane syrup or sorghum syrup within this state, provided that such bottles contain a label listing the producer's name and street address, all added ingredients, and the net weight or volume of the product.

(f) This term also shall not include establishments engaged in the sale of food primarily for consumption off the premises if such sale is an authorized part of, and occurs upon the site of a fair or festival which:

1. Is sponsored by a political subdivision of this state or by an organization exempt from taxes under paragraph (1) of subsection (a) of Code Section 48-7-25 or under Section 501(d) or paragraphs (1) through (8) or paragraph (10) of Section 501(e) of the Internal Revenue Code, as that is defined in Code Section 48-1-2;

2. Lasts 120 hours or less; and

3. When sponsored by such an organization, is authorized to be conducted pursuant to a permit issued by the municipality or county in which it is conducted.

(42) Food Processing Plant.

(a) "**Food processing plant**" means a commercial operation that manufactures, packages, labels, or stores FOOD for human consumption and does not provide FOOD directly to a CONSUMER.

(b) "**Food processing plant**" does not include a FOOD ESTABLISHMENT as defined under Subparagraph 40-7-1-.02(38).

(43) Game Animal.

(a) "**Game animal**" means an animal, the products of which are FOOD, that is not classified as cattle, sheep, swine, goat, horse, mule, or other equine in 9 CFR Subchapter A—Mandatory Meat Inspection, Part 301, as Poultry in 9 CFR Subchapter C—Mandatory Poultry Products Inspection, Part 381, or as FISH as defined under Subparagraph 40-7-1-.02(33).

(b) "**Game animal**" includes mammals such as reindeer, elk, deer, antelope, water buffalo, bison, rabbit, squirrel, opossum, raccoon, nutria, or muskrat, and nonaquatic reptiles such as land snakes.

(c) "**Game animal**" does not include ratites such as ostrich, emu, and rhea.

- (44) "**General use pesticide**" means a pesticide that is not classified by EPA for restricted use as specified in 40 CFR 152.175.
- (45) "**Grade A standards**" means the requirements of the United States Public Health Service/FDA "Grade A Pasteurized Milk Ordinance" and "Grade A Condensed and Dry Milk Ordinance" with which certain fluid and dry milk and milk products comply.
- (46) "**GMP**" refers to Good Manufacturing Practice as referenced in 21 CFR 110.
- (47) "**HACCP Plan**" means a written document that delineates the formal procedures for following the Hazard Analysis Critical Control Point principals developed by The National Advisory Committee on Microbiological Criteria for foods.
- (48) "**Hazard**" means a biological, chemical, or physical property that may cause an unacceptable consumer health risk.
- (49) "**Hermetically sealed container**" means a container which is designed and intended to secure against entry of microorganisms and, in the case of low acid canned foods, to maintain the commercial sterility of its contents after processing.
- (50) "**Imminent health hazard**" means a significant threat or danger to health that is considered to exist when there is evidence to show that a product, practice, circumstance, or event creates a situation that requires immediate correction or cessation of operation to prevent injury based on:
- (a) The number of potential injuries, and
 - (b) The nature, severity, and duration of the anticipated injury.
- (51) "**Injected**" means manipulating a meat so that infectious or toxigenic microorganisms may be introduced from its surface to its interior through tenderizing with deep penetration or injecting the meat such as with juices which may be referred to as "injecting," "pinning," or "stitch pumping."
- (52) "**Juice**" means, when used in the context of FOOD safety, the aqueous liquid expressed or extracted from one or more fruits or vegetables, purées of the edible portions of one or more fruits or vegetables, or any concentrates of such liquid or purée. Juice includes juice as a whole beverage, an ingredient of a beverage and a purée as an ingredient of a beverage.
- (53) "**Law**" means applicable local, state, and federal statutes, regulations, and ordinances.
- (54) "**Linens**" means fabric items such as cloth hampers, cloth napkins, table cloths, wiping cloths, and work garments including cloth gloves.
- (55) "**License**" means the document issued by the Department, which authorizes a person to operate a food sales establishment. The Department does not issue Temporary License.
- (56) "**Meat**" means the flesh of animals used as food including the dressed flesh of cattle, swine, sheep, or goats and other edible animals, except fish, poultry, and wild game that is offered for human consumption.
- (57) "**mg/L**" means milligrams per liter, which is the metric equivalent of parts per million (ppm).
- (58) "**Molluscan shellfish**" means any edible species of fresh oysters, clams, mussels, and scallops or edible portions thereof, except when the scallop product consists only of the shucked adductor muscle.
- (59) **Packaged**
- (a) "Packaged" means bottled, canned, cartoned, bagged or securely wrapped, whether packaged in a Food Establishment or a Food Processing Plant.
 - (b) "Packaged" does not include a wrapper, carry-out box, or other nondurable container used to containerize food with the purpose of facilitating food protection during service and receipt of the food by the consumer.

(60) **"Person"** means an association, a corporation, individual, partnership, other legal entity, government, or governmental subdivision or agency.

(61) **"Person in charge"** means the individual present at a FOOD ESTABLISHMENT who is responsible for the operation at the time of inspection, as defined in part 40 7 1 .03 of these regulations.

(62) **Personal Care Items.**

(a) **"Personal care items"** means items or substances that may be poisonous, toxic, or a source of contamination and are used to maintain or enhance a PERSON'S health, hygiene, or appearance.

(b) **"Personal care items"** include items such as medicines; first aid supplies; and other items such as cosmetics, and toiletries such as toothpaste and mouthwash.

(63) **"pH"** means the symbol for the negative logarithm of the hydrogen ion concentration, which is a measure of the degree of acidity or alkalinity of a solution.

(64) **"Physical facilities"** means the structure and interior surfaces of a food establishment including accessories such as soap and towel dispensers and attachments such as light fixtures and heating or air conditioning system vents.

(65) **"Plumbing fixture"** means a receptacle or device that:

(a) Is permanently or temporarily connected to the water distribution system of the premises and demands a supply of water from the system; or

(b) Discharges used water, waste materials, or sewage directly or indirectly to the drainage system of the premises.

(66) **"Plumbing system"** means the water supply and distribution pipes; PLUMBING FIXTURES and traps; soil, waste, and vent pipes; sanitary and storm sewers and building drains, including their respective connections, devices, and appurtenances within the PREMISES; and water treating EQUIPMENT.

(67) **"Poisonous or toxic materials"** means substances that are not intended for ingestion and are included in 4 categories.

(a) Cleaners and sanitizers, which include cleaning and sanitizing agents and agents such as caustics, acids, drying agents, polishes, and other chemicals.

(b) Pesticides which include substances such as insecticides and rodenticides.

(c) Substances that are not necessary for the operation and maintenance of the establishment such as nonfood grade lubricants and personal care items that may be deleterious to health; and

(d) Substances that are not necessary for the operation and maintenance of the establishment and are on the premises for retail sale, such as petroleum products and paints.

(68) **"Potentially Hazardous Food (Time/Temperature Control for Safety Food)"** means a FOOD that requires time/temperature control for safety (TCS) to limit pathogenic microorganism growth or toxin formation.

(a) **"Potentially hazardous food (time/temperature control for safety food)"** includes:

1. An animal FOOD that is raw or heat treated; a plant FOOD that is heat treated or consists of raw seed sprouts, cut melons, cut leafy greens, cut tomatoes or mixtures of cut tomatoes that are not modified in a way so that they are unable to support pathogenic microorganism growth or toxin formation, or garlic in oil mixtures that are not modified in a way so that they are unable to support pathogenic microorganism growth or toxin formation; and

2. Except as specified in Subparagraph (b)4 of this definition, a FOOD that because of the interaction of its Aw and pH values is designated as Product Assessment Required (PA) in Table A or B of this definition:

Table A. Interaction of pH and A_w for control of spores in FOOD heat-treated to destroy vegetative cells and subsequently PACKAGED			
A_w values	pH values		
	4.6 or less	> 4.6 - 5.6	> 5.6
≤ 0.92	non-PHF*/non-TCS FOOD**	non-PHF/non-TCS FOOD	non-PHF/non-TCS FOOD
> 0.92 - .95	non-PHF/non-TCS FOOD	non-PHF/non-TCS FOOD	PA***
> 0.95	non-PHF/non-TCS FOOD	PA	PA

* PHF means POTENTIALLY HAZARDOUS FOOD
 ** TCS FOOD means TIME/TEMPERATURE CONTROL FOR SAFETY FOOD
 *** PA means Product Assessment required

Table B. Interaction of pH and A_w for control of vegetative cells and spores in FOOD not heat-treated or heat-treated but not PACKAGED				
A_w values	pH values			
	< 4.2	4.2 - 4.6	> 4.6 - 5.0	> 5.0
< 0.88	non-PHF*/non-TCS food**	non-PHF/non-TCS food	non-PHF/non-TCS food	non-PHF/non-TCS food
0.88 – 0.90	non-PHF/non-TCS food	non-PHF/non-TCS food	non-PHF/non-TCS food	PA***
> 0.90 – 0.92	non-PHF/non-TCS food	non-PHF/non-TCS food	PA	PA
> 0.92	non-PHF/non-TCS food	PA	PA	PA

* PHF means POTENTIALLY HAZARDOUS FOOD
 ** TCS FOOD means TIME/TEMPERATURE CONTROL FOR SAFETY FOOD
 *** PA means Product Assessment required

(b) "~~Potentially hazardous food (time/temperature control for safety food)~~" does not include:

1. ~~An air-cooled hard-boiled EGG with shell intact, or an EGG with shell intact that is not hard-boiled, but has been pasteurized to destroy all viable salmonellae;~~
2. ~~A FOOD in an unopened HERMETICALLY SEALED CONTAINER that is commercially processed to achieve and maintain commercial sterility under conditions of non-refrigerated storage and distribution;~~
3. ~~A FOOD that because of its pH or A_w value, or interaction of A_w and pH values, is designated as a non-PHF/non-TCS FOOD in Table A or B of this definition;~~
4. ~~A FOOD that is designated as Product Assessment Required (PA) in Table A or B of this definition and has undergone a Product Assessment showing that the growth or toxin formation of pathogenic microorganisms that are reasonably likely to occur in that FOOD is precluded due to:~~

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

5. A FOOD that does not support the growth or toxin formation of pathogenic microorganisms in accordance with one of the Subparagraphs (b)1—(b)4 of this definition even though the FOOD may contain a pathogenic microorganism or chemical or physical contaminant at a level sufficient to cause illness or injury.

(69) Poultry.

(a) "**Poultry**" means:

1. Any domesticated bird (chickens, turkeys, ducks, geese, or guineas), whether live or dead, as defined in 9 CFR 381 Poultry Products Inspection Regulations; and
2. Any migratory waterfowl, game bird, such as pheasant, partridge, quail, grouse, or guinea, or pigeon or squab, whether live or dead, as defined in 9 CFR 362 Voluntary Poultry Inspection Program.

(b) "**Poultry**" does not include ratites.

(70) "Premises" means:

(a) The physical facility, its contents, and the contiguous land or property under the control of the permit holder or;

(b) The physical facility, its contents, and the contiguous land or property and its facilities and contents that are under the control of the permit holder that may impact food establishment personnel, facilities, or operations, if a food establishment is only one component of a larger organization.

(71) "**Primal cut**" means a basic major cut into which carcasses and sides of meat are separated, such as a beef round, pork loin, lamb flank or veal breast.

(72) "**Private water system**" means a system for the provision of piped water for human consumption that is not a public water system.

(73) "**Processing**" or "**Process**" means any or all of the physical and/or chemical alterations applied to a food; as it is taken from its original state; or any food which has been partially or fully processed previously; and either prepared further by cooking or made into another form before being marketed.

(74) "**Product Code**" is a method with which a consumer size product package is marked, from which accurate process information such as, but not limited to, date of production, lot designation, process line identification, or any other information which would provide product traceability, should there be a recall or other need for such information.

(75) "**Public water system**" has the meaning stated in 40 CFR Part 141 National Drinking Water Regulations.

(76) Ready-to-Eat Food.

(a) "**Ready-to-eat food**" means FOOD that:

(i) Is in a form that is edible without additional preparation to achieve FOOD safety, as specified under 40-7-1-.17(1) (a) or 40-7-1-.17(2) or 40-7-1-.18; or

(ii) Is a raw or partially cooked animal FOOD and the consumer is advised as specified under Subparagraphs 40-7-1-.27; or

(iii) Is prepared in accordance with a variance that is granted as specified under Subparagraphs 40-7-1-.17(b); and

(iv) May receive additional preparation for palatability or aesthetic, epicurean, gastronomic, or culinary purposes.

(b) "**Ready-to-eat food**" includes:

(i) Raw animal FOOD that is cooked as specified under paragraph 40-7-1-.17, or frozen as specified under paragraph 40-7-1-.18;

- (ii) Raw fruits and vegetables that are washed as specified under paragraph 40-7-1-.12(6);
- (iii) Fruits and vegetables that are cooked for hot holding, as specified under § 40-7-1-.17(3);
- (iv) All POTENTIALLY HAZARDOUS FOOD (TIME/TEMPERATURE CONTROL FOR SAFETY FOOD) that is cooked to the temperature and time required for the specific food under 40-7-1-.17 and cooled as specified in § 40-7-1-.20 (5);
- (v) Plant FOOD for which further washing, cooking, or other processing is not required for FOOD safety, and from which rinds, peels, husks, or shells, if naturally present are removed;
- (vi) Substances derived from plants such as spices, seasonings, and sugar;
- (vii) A bakery item such as bread, cakes, pies, fillings, or icing for which further cooking is not required for FOOD safety;
- (viii) The following products that are produced in accordance with USDA guidelines and that have received a lethality treatment for pathogens: dry, fermented sausages, such as dry salami or pepperoni; salt-cured MEAT and POULTRY products, such as prosciutto ham, country-cured ham, and Parma ham; and dried MEAT and POULTRY products, such as jerky or beef sticks; and
- (ix) FOODS manufactured according to 21 CFR Part 113, Thermally Processed Low-Acid Foods Packaged in Hermetically Sealed Containers.

(77) Reduced Oxygen Packaging.

(a) "~~Reduced oxygen packaging~~" means:

1. The reduction of the amount of oxygen in a PACKAGE by removing oxygen; displacing oxygen and replacing it with another gas or combination of gases; or otherwise controlling the oxygen content to a level below that normally found in the surrounding, 21% oxygen atmosphere, and
2. A process as specified in Subparagraph (a) (1) of this definition that involves a FOOD for which *Clostridium botulinum* is identified as a microbiological HAZARD in the final PACKAGED form.

(b) "~~Reduced oxygen packaging~~" includes:

1. Vacuum PACKAGING, in which air is removed from a PACKAGE of FOOD and the package is HERMETICALLY SEALED so that a vacuum remains inside the PACKAGE, such as sous vide;
2. Modified atmosphere PACKAGING, in which the atmosphere of a PACKAGE of FOOD is modified so that its composition is different from air but the atmosphere may change over time due to the permeability of the PACKAGING material or the respiration of the FOOD. Modified atmosphere PACKAGING includes: reduction in the proportion of oxygen, total replacement of oxygen, or an increase in the proportion of other gases such as carbon dioxide or nitrogen; and
3. Controlled atmosphere PACKAGING, in which the atmosphere of a PACKAGE of FOOD is modified so that until the PACKAGE is opened, its composition is different from air, and continuous control of that atmosphere is maintained, such as by using oxygen scavengers or a combination of total replacement of oxygen, nonrespiring food, and impermeable packaging material.

(78) "~~Refuse~~" means solid waste not carried by water through the sewage system.

(79) "~~Restrict~~" means to limit the activities of a FOOD EMPLOYEE so that there is no RISK of transmitting a disease that is transmissible through FOOD and the FOOD EMPLOYEE does not work with exposed FOOD, clean EQUIPMENT, UTENSILS, LINENS; and unwrapped SINGLE SERVICE or SINGLE USE ARTICLES.

- (80) "**Restricted egg**" means any check, dirty EGG, incubator reject, inedible, leaker, or loss as defined in 9 CFR 590.
- (81) "**Restricted use pesticide**" means a pesticide product that contains the active ingredients specified in 40 CFR 152.175 Pesticides classified for restricted use, and that is limited to use by or under the direct supervision of a certified applicator.
- (82) "**Risk**" means the likelihood that an adverse health effect will occur within a population as a result of a HAZARD in a FOOD.
- (83) "**Safe materials**" means
- (a) An article manufactured from or composed of materials that may not reasonably be expected to result, directly or indirectly, in their becoming a component or otherwise affecting the characteristics of any food.
 - (b) An additive that is used as specified in paragraph 409 or 706 of the Federal Food, Drug and Cosmetic Act; or
 - (c) Other materials that are not additives and that are used in conformity with applicable regulations of the Food and Drug Administration.
- (84) "**Sanitization**" means the application of cumulative heat or chemicals on cleaned food contact surfaces that, when evaluated for efficacy, yield a reduction of 5 logs, which is equal to a 99.999% reduction, of representative disease microorganisms of public health importance.
- (85) "**Sealed**" means free of cracks or other openings that allow the entry or passage of moisture.
- (86) "**Service animal**" means an animal such as a guide dog, signal dog, or other animal individually trained to provide assistance to an individual with a disability.
- (87) "**Servicing area**" means an operating base location to which a mobile FOOD ESTABLISHMENT or transportation vehicle returns regularly for such things as vehicle and equipment cleaning, discharging liquid or solid wastes, refilling water tanks and ice bins, and boarding FOOD.
- (88) "**Sewage**" means liquid waste containing animal or vegetable matter in suspension or solution and may include liquids containing chemicals in solution.
- (89) "**Shellfish control authority**" means a state, federal, foreign, tribal, or other government entity legally responsible for administering a program that includes certification of MOLLUSCAN SHELLFISH harvesters and dealers for interstate commerce.
- (90) "**Shellstock**" means raw, in-shell molluscan shellfish.
- (91) "**Shiga toxin-producing *Escherichia coli***" means any *E. coli* capable of producing Shiga toxins (also called verocytotoxins or "Shiga-like" toxins). This includes, but is not limited to, *E. coli* reported as serotype O157:H7, O157:NM, and O157:H-."
- (92) "**Shucked shellfish**" means molluscan shellfish that have one or both shells removed.
- (93) "**Single service articles**" means items used by the food sales establishment or the consumer such as cups, containers, lids, and packing materials, including bags and similar articles, intended for contact with food, and designed for one-time use. The term does not include "Single use articles" such as number 10 cans, aluminum pie pans, bread wrappers and similar articles into which food has been packaged by the manufacturer.
- (94) "**Slacking**" means the process of moderating the temperature of a food such as allowing a food to gradually increase from a temperature of -23 C (-10 F) to -4 C (25 F) in preparation for deep fat frying or to facilitate even heat penetration during the cooking of previously block-frozen food such as frozen vegetables or in preparation of frozen foods for further processing.
- (95) "**Smooth**" means:

- (a) ~~A food contact surface having a surface free of pits and inclusions with cleanability equal to or exceeding that of (100 grit) no. 3 stainless steel;~~
- (b) ~~A nonfood contact surface of equipment having a surface equal to that of commercial grade hot rolled steel, free of visible scale; and;~~
- (c) ~~A floor, wall, or ceiling having an even or level surface with no roughness or projections that renders it difficult to clean.~~
- (96) **"Temperature measuring device"** means a thermometer, thermocouple, thermistor, or other device that indicates the temperature of food, air, or water.
- (97) **"Transportation (transported)"** means movement of food within the food sales establishment or delivery of food from that food sales establishment to another place while under the control of the person in charge.
- (98) **"Utensil"** means a ~~FOOD~~ contact implement or container used in the storage, preparation, transportation, dispensing, sale, or service of ~~FOOD~~, such as ~~KITCHENWARE or TABLEWARE~~ that is multiuse, ~~SINGLE SERVICE~~, or ~~SINGLE USE~~; gloves used in contact with ~~FOOD~~; temperature sensing probes of ~~FOOD TEMPERATURE MEASURING DEVICES~~; and probe type price or identification tags used in contact with ~~FOOD~~.
- (99) **"Variance"** means a written document issued by the ~~REGULATORY AUTHORITY~~ that authorizes a modification or waiver of one or more requirements of this Code if, in the opinion of the ~~REGULATORY AUTHORITY~~, a health ~~HAZARD~~ or nuisance will not result from the modification or waiver.
- (100) **"Vending machine"** means a self-service device that, upon insertion of a coin, paper currency, token, card, or key, or by optional manual operation, dispenses unit servings of ~~FOOD~~ in bulk or in packages without the necessity of replenishing the device between each vending operation.
- (101) **"Vending machine location"** means the room, enclosure, space, or area where one or more ~~VENDING MACHINES~~ are installed and operated and includes the storage areas and areas on the ~~PREMISES~~ that are used to service and maintain the ~~VENDING MACHINES~~.
- (102) **"Warewashing"** means the cleaning and sanitizing of food contact surfaces of equipment and utensils.
- (103) **"Water activity"** means a measure of the free moisture in a food, is the quotient of the water vapor pressure of the substance divided by the vapor pressure of pure water at the same temperature, and is indicated by the symbol "aw".

40-7-1-.03 Person in Charge.*-Repealed

The license holder shall be the Person in Charge or shall designate a person in charge and shall assure that a person in charge is present at the food sales establishment during all hours of its operation.

- (1) **Demonstration of Knowledge** Based on the ~~RISKS~~ of foodborne illness inherent to the ~~FOOD~~ operation, during inspections and upon request the ~~PERSON IN CHARGE~~ shall demonstrate to the ~~REGULATORY AUTHORITY~~ knowledge of foodborne disease prevention, application of the ~~HAZARD ANALYSIS CRITICAL CONTROL POINT~~ principles, and the requirements of this Code. The ~~PERSON IN CHARGE~~ shall demonstrate this knowledge by:
- (A) Complying with this Code by having no critical violations during the current inspection.

~~(B) Being a certified FOOD protection manager who has shown proficiency of required information through passing a test that is part of an ACCREDITED PROGRAM; or~~
~~(C) Responding correctly to the inspector's questions as they relate to the specific FOOD operation. The areas of knowledge include:~~

- ~~(1) Describing the relationship between the prevention of foodborne disease and the PERSONAL hygiene of a FOOD EMPLOYEE;~~
- ~~(2) Explaining the responsibility of the PERSON IN CHARGE for preventing the transmission of foodborne disease by a FOOD EMPLOYEE who has a disease or medical condition that may cause foodborne disease;~~
- ~~(3) Describing the symptoms associated with the diseases that are transmissible through food;~~
- ~~(4) Explaining the significance of the relationship between maintaining the time and temperature of POTENTIALLY HAZARDOUS FOOD (TIME/TEMPERATURE CONTROL FOR SAFETY FOOD) and the prevention of foodborne illness;~~
- ~~(5) Explaining the HAZARDS involved in the consumption of raw or undercooked MEAT, POULTRY, EGGS, and FISH;~~
- ~~(6) Stating the required FOOD temperatures and times for safe cooking of POTENTIALLY HAZARDOUS FOOD (TIME/TEMPERATURE CONTROL FOR SAFETY FOOD) including MEAT, POULTRY, EGGS, and FISH;~~
- ~~(7) Stating the required temperatures and times for the safe refrigerated storage, hot holding, cooling, and reheating of POTENTIALLY HAZARDOUS FOOD (TIME/TEMPERATURE CONTROL FOR SAFETY FOOD);~~
- ~~(8) Describing the relationship between the prevention of foodborne illness and the management and control of the following:~~
 - ~~(a) Cross contamination,~~
 - ~~(b) Hand contact with READY TO EAT FOODS,~~
 - ~~(c) Handwashing, and~~
 - ~~(d) Maintaining the FOOD ESTABLISHMENT in a clean condition and in good repair;~~
- ~~(9) Explaining the relationship between FOOD safety and providing EQUIPMENT that is:~~
 - ~~(a) Sufficient in number and capacity, and~~
 - ~~(b) Properly designed, constructed, located, installed, operated, maintained, and cleaned;~~
- ~~(10) Explaining correct procedures for cleaning and SANITIZING UTENSILS and FOOD-CONTACT SURFACES of EQUIPMENT;~~
- ~~(11) Identifying the source of water used and measures taken to ensure that it remains protected from contamination such as providing protection from backflow and precluding the creation of cross connections;~~
- ~~(12) Identifying POISONOUS OR TOXIC MATERIALS in the FOOD ESTABLISHMENT and the procedures necessary to ensure that they are safely stored, dispensed, used, and disposed of according to LAW;~~
- ~~(13) Identifying CRITICAL CONTROL POINTS in the operation from purchasing through sale or service that when not controlled may contribute to the transmission of foodborne illness and explaining steps taken to ensure that the points are controlled in accordance with the requirements of this Code;~~
- ~~(14) Explaining the details of how the PERSON IN CHARGE and FOOD EMPLOYEES comply with the HACCP plan if a plan is required by the LAW, this Code, or an agreement between the REGULATORY AUTHORITY and the establishment; and~~
- ~~(15) Explaining the responsibilities, rights, and authorities assigned by this Code to the:~~

- (a) ~~FOOD EMPLOYEE,~~
- (b) ~~PERSON IN CHARGE,~~ and
- (c) ~~REGULATORY AUTHORITY.~~

40-7-1-.04 Responsibility of Person in Charge. Repealed

(1) The ~~PERSON IN CHARGE~~ shall ensure that:

(A) ~~FOOD ESTABLISHMENT~~ operations are not conducted in a private home or in a room used as living or sleeping quarters as specified under ~~§ 40-7-1-.65(9)~~

(B) ~~PERSONS~~ unnecessary to the ~~FOOD ESTABLISHMENT~~ operation are not allowed in the ~~FOOD~~ preparation, ~~FOOD~~ storage, or ~~WAREWASHING~~ areas, except that brief visits and tours may be authorized by the ~~PERSON IN CHARGE~~ if steps are taken to ensure that exposed food; clean ~~EQUIPMENT, UTENSILS,~~ and ~~LINENS;~~ and unwrapped ~~SINGLE SERVICE~~ and ~~SINGLE USE ARTICLES~~ are protected from contamination;

(C) ~~EMPLOYEES~~ and other ~~PERSONS~~ such as delivery and maintenance ~~PERSONS~~ and pesticide applicators entering the ~~FOOD~~ preparation, ~~FOOD~~ storage, and ~~WAREWASHING~~ areas comply with this Code;

(D) ~~EMPLOYEES~~ are effectively cleaning their hands, by routinely monitoring the ~~EMPLOYEES'~~ handwashing;

(E) ~~EMPLOYEES~~ are visibly observing ~~FOODS~~ as they are received to determine that they are from ~~APPROVED~~ sources, delivered at the required temperatures, protected from contamination, un~~ADULTERATED,~~ and accurately presented, by routinely monitoring the ~~EMPLOYEES'~~ observations and periodically evaluating ~~FOODS~~ upon their receipt;

(F) ~~EMPLOYEES~~ are properly cooking ~~POTENTIALLY HAZARDOUS FOOD~~ (~~TIME/TEMPERATURE CONTROL FOR SAFETY FOOD~~), being particularly careful in cooking those ~~FOODS~~ known to cause severe foodborne illness and death, such as ~~EGGS~~ and ~~COMMUNUTED MEATS,~~ through daily oversight of the ~~EMPLOYEES'~~ routine monitoring of the cooking temperatures using appropriate temperature measuring devices properly sealed and calibrated as specified under Rule ~~40-7-1-.32(7)(c)~~ and Rule ~~40-7-1-.38(1)(b);~~

(G) ~~EMPLOYEES~~ are using proper methods to rapidly cool ~~POTENTIALLY HAZARDOUS FOODS~~ (~~TIME/TEMPERATURE CONTROL FOR SAFETY FOODS~~) that are not held hot or are not for consumption within 4 hours, through daily oversight of the ~~EMPLOYEES'~~ routine monitoring of ~~FOOD~~ temperatures during cooling;

(H) ~~CONSUMERS~~ who order raw or partially cooked ~~READY TO EAT FOODS~~ of animal origin are informed as specified under ~~40-7-1-.27~~ that the ~~FOOD~~ is not cooked sufficiently to ensure its safety;

(I) ~~EMPLOYEES~~ are properly ~~SANITIZING~~ cleaned multiuse ~~EQUIPMENT~~ and ~~UTENSILS~~ before they are reused, through routine monitoring of solution temperature and exposure time for hot water ~~SANITIZING,~~ and chemical concentration, pH, temperature, and exposure time for chemical ~~SANITIZING;~~

(J) ~~CONSUMERS~~ are notified that clean ~~TABLEWARE~~ is to be used when they return to self-service areas such as salad bars and buffets.

(K) ~~EMPLOYEES~~ are preventing cross-contamination of ~~READY TO EAT FOOD~~ with bare hands by properly using suitable ~~UTENSILS~~ such as deli tissue, spatulas, tongs, ~~SINGLE USE~~ gloves, or dispensing ~~EQUIPMENT;~~ and

(L) EMPLOYEES are properly trained in FOOD safety as it relates to their assigned duties.

(M) The person in charge shall ensure that all vehicles used to ship food products from their facility and incoming shipments of product received into their facility are compliant with these regulations.

(2) Reporting by applicants / employees The PERMIT HOLDER shall require FOOD EMPLOYEE applicants to whom a conditional offer of employment is made and FOOD EMPLOYEES to report to the PERSON IN CHARGE, information about their health and activities as they relate to diseases that are transmissible through FOOD. A FOOD EMPLOYEE or applicant shall report the information in a manner that allows the PERSON IN CHARGE to prevent the likelihood of foodborne disease transmission, including the date of onset of jaundice or of an illness specified under (C) of this section, if the FOOD EMPLOYEE or applicant:

(A) Is diagnosed with an illness due to:

1. *Salmonella Typhi*,

2. *Shigella* spp.,

3. SHIGA TOXIN PRODUCING *Escherichia coli*, or

4. Hepatitis A virus;

(B) Has a symptom caused by illness, infection, or other source that is:

1. Associated with an acute gastrointestinal illness such as:

(a) Diarrhea,

(b) Fever,

(c) Vomiting,

(d) Jaundice, or

(e) Sore throat with fever, or

2. A lesion containing pus such as a boil or infected wound that is open or draining and is:

(a) On the hands or wrists, unless an impermeable cover such as a finger cot or stall protects the lesion and a SINGLE-USE glove is worn over the impermeable cover,

(b) On exposed portions of the arms, *unless the lesion is protected by an impermeable cover*, or

(c) On other parts of the body, *unless the lesion is covered by a dry, durable, tight fitting bandage*;

(C) Had a past illness from:

1. *S. Typhi* within the past three months,

2. *Shigella* spp. within the past month,

3. SHIGA TOXIN PRODUCING *Escherichia coli*, within the past month; or

4. Hepatitis A virus;

(D) Meets one or more of the following high RISK conditions:

1. Is suspected of causing, or being exposed to, a CONFIRMED DISEASE OUTBREAK caused by *S. Typhi*, *Shigella* spp., SHIGA TOXIN PRODUCING *Escherichia coli*, or hepatitis A virus including an outbreak at an event such as a family meal, church supper, or festival because the FOOD EMPLOYEE or applicant:

(a) PREPARED FOOD implicated in the outbreak,

(b) Consumed FOOD implicated in the outbreak, or

(c) Consumed FOOD at the event prepared by a PERSON who is infected or ill with the infectious agent that caused the outbreak or who is suspected of being a shedder of the infectious agent,

~~2. Lives in the same household as, and has knowledge about, a PERSON who is diagnosed with a disease caused by *S. Typhi*, *Shigella* spp., SHIGA TOXIN PRODUCING *Escherichia coli*, or hepatitis A virus, or~~

~~3. Lives in the same household as, and has knowledge about, a PERSON who attends or works in a setting where there is a confirmed disease outbreak caused by *S. Typhi*, *Shigella* spp., SHIGA TOXIN PRODUCING *Escherichia coli*, or hepatitis A virus.~~

~~(3) Restriction. The PERSON IN CHARGE shall:~~

~~(A) EXCLUDE a FOOD EMPLOYEE from a FOOD ESTABLISHMENT if the FOOD EMPLOYEE is diagnosed with an infectious agent specified under 40-7-1-.04(2) (A);~~

~~(B) Except as specified under (C) or (D) of this section, RESTRICT a FOOD EMPLOYEE from working with exposed food; clean EQUIPMENT, UTENSILS, and LINENS; and unwrapped SINGLE-SERVICE and SINGLE-USE ARTICLES, in a FOOD ESTABLISHMENT if the FOOD EMPLOYEE is:~~

~~1. Suffering from a symptom specified under 40-7-1-.04(2) (B) (1) (a), (b), (c), and (e), or~~

~~2. Not experiencing a symptom of acute gastroenteritis specified under Subparagraph 40-7-1-.04(2) (B) (1) but has a stool that yields a specimen culture that is positive for *Salmonella Typhi*, *Shigella* spp., or SHIGA TOXIN PRODUCING *Escherichia coli*;~~

~~(C) For a FOOD EMPLOYEE who is jaundiced:~~

~~1. If the onset of jaundice occurred within the last 7 calendar days, EXCLUDE the FOOD EMPLOYEE from the FOOD ESTABLISHMENT, or~~

~~2. If the onset of jaundice occurred more than 7 calendar days before:~~

~~(a) RESTRICT the FOOD EMPLOYEE from activities specified under 40-7-1-.04(3) (B) in the FOOD ESTABLISHMENT~~

~~(4) Removal of exclusions~~

~~(A) The PERSON IN CHARGE may remove an EXCLUSION specified under 40-7-1-.04(3) (A) if:~~

~~1. The PERSON IN CHARGE obtains approval from the REGULATORY AUTHORITY; and~~

~~2. The PERSON EXCLUDED as specified under 40-7-1-.04(3)(A) provides to the PERSON IN CHARGE written medical documentation from a physician licensed to practice medicine or, if allowed by LAW, a nurse practitioner or physician assistant, that specifies that the EXCLUDED PERSON may work as a FOOD EMPLOYEE in a FOOD ESTABLISHMENT.~~

~~(B) The PERSON IN CHARGE may remove a RESTRICTION specified under:~~

~~1. Subparagraph 40-7-1-.04(3) (B) if the RESTRICTED PERSON:~~

~~(a) Is free of the symptoms specified under 40-7-1-.04(2) (B) (1) (a), (b), (c), and (e), or (2) and no foodborne illness occurs that may have been caused by the RESTRICTED PERSON;~~

~~(b) Is suspected of causing foodborne illness but:~~

~~(i) Is free of the symptoms specified under 40-7-1-.04(2) (B) (1) (a), (b), (c), and (e), or (2), and~~

~~(ii) Provides written medical documentation from a physician licensed to practice medicine or, if allowed by LAW, a nurse practitioner or physician assistant, stating that the RESTRICTED PERSON is free of the infectious agent that is suspected of causing the PERSON'S symptoms or causing foodborne illness, as specified in 40-7-1-.76(4)~~

~~(c) Provides written medical documentation from a physician licensed to practice medicine or, if allowed by LAW, a nurse practitioner or physician assistant, stating that the symptoms experienced result from a chronic noninfectious condition such as Crohn's disease, irritable bowel syndrome, or ulcerative colitis; or~~

~~2. Subparagraph 40-7-1-.04(3) (B) (2), if the RESTRICTED PERSON provides written medical documentation from a physician, licensed to practice medicine, or, if allowed by LAW, a nurse practitioner or physician assistant, according to the criteria specified in § 40-7-1-.76(4) that indicates the stools are free of *Salmonella Typhi*, *Shigella* spp., or SHIGA TOXIN-PRODUCING *Escherichia coli*, whichever is the infectious agent of concern.~~

~~(C) The PERSON IN CHARGE may remove an EXCLUSION specified under Subparagraph 40-7-1-.04(3) (D) (1) and a RESTRICTION specified under Subparagraph 40-7-1-.04(3) (D) (2) (a) if:~~

~~1. No foodborne illness occurs that may have been caused by the EXCLUDED or RESTRICTED PERSON and the PERSON provides written medical documentation from a physician licensed to practice medicine or, if allowed by LAW, a nurse practitioner or physician assistant, that specifies that the PERSON is free of hepatitis A virus as specified in Subparagraph 40-7-1-.76(4) (d) (1); or~~

~~2. The EXCLUDED or RESTRICTED PERSON is suspected of causing foodborne illness and complies with the requirements in Subparagraphs 40-7-1-.76(4) (d) (1); and 40-7-1-.76(4) (d) (2);~~

~~(5) Reporting~~

~~(A) A FOOD EMPLOYEE or a PERSON who applies for a job as a FOOD EMPLOYEE shall:~~

~~(i) In a manner specified under § 40-7-1-.04(2), report to the PERSON IN CHARGE the information specified under 40-7-1-.04(2) (A) (D); and~~

~~(ii) Comply with EXCLUSIONS and RESTRICTIONS that are specified under 40-7-1-.04(3) (A) (D).~~

~~(B) The PERSON IN CHARGE shall notify the REGULATORY AUTHORITY that a FOOD EMPLOYEE is diagnosed with an illness due to *Salmonella Typhi*, *Shigella* spp., SHIGA TOXIN-PRODUCING *Escherichia coli*, or hepatitis A virus.~~

~~Information~~

~~40-7-1-.05 Personal Cleanliness. Repealed~~

~~(1) Hands and Arms.* Food employees shall keep their hands and exposed portions of their arms clean while engaged in food preparation and warewashing operations:~~

~~(a) Procedure for hand and arm cleaning.* Food employees shall clean their hands and exposed portions of their arms with a cleaning compound in a lavatory that is equipped as specified under part 40-7-1-.58(1) of these regulations by vigorously rubbing together the surfaces of their lathered hands for at least 20 seconds and thoroughly rinsing with clean water. Employees shall pay particular attention to the areas underneath fingernails and between fingers.~~

~~(b) If approved and capable of removing the types of soils encountered in the food operations involved, an automatic handwashing facility may be used by food employees to clean their hands.~~

~~(c) When to wash.* Food employees shall clean their hands and exposed portions of their arms as specified in 40-7-1-.05(1) (a) at the following times:~~

~~1. After touching bare human body parts other than clean hands and clean exposed portions of arms.~~

~~2. After using the toilet room.~~

3. After caring for or handling support animals or aquatic animals as allowed under part 40.7.1-.06(4) (b) of these regulations.
 4. After coughing, sneezing, using a handkerchief or disposable tissue, using tobacco, eating or drinking.
 5. After handling soiled equipment or utensils.
 6. Immediately before engaging in food preparation including working with exposed food, clean equipment and utensils, and unwrapped single-service and single-use articles.
 7. During food preparation, as often as necessary to remove soil and contamination and to prevent cross-contamination when changing tasks.
 8. When switching between working with raw foods and working with ready-to-eat foods.
 9. Before donning gloves for working with food; and
 10. After engaging in other activities that contaminate the hands.
- (d) ~~Where to Wash.~~ Food Employees shall clean their hands in a handwashing lavatory or approved automatic handwashing facility and may not clean their hands in a sink used for food preparation, or in a service sink or a curbed cleaning facility used for the disposal of mop water and similar liquid waste.
- (2) ~~Hand Sanitizers.~~
- (a) ~~An hand sanitizer and a chemical hand sanitizing solution used as a hand dip shall:~~
1. ~~Comply with one of the following:~~
 - (i) ~~Be an approved drug that is listed in the FDA publication **Approved Drug Products with Therapeutic Equivalence Evaluations** as an approved drug based on safety and effectiveness; or~~
 - (ii) ~~Have active antimicrobial ingredients that are listed in the FDA monograph for OTC Health Care Antiseptic Drug Products as an antiseptic handwash, or~~
 2. ~~Comply with one of the following:~~
 - (i) ~~Have components that are exempted from the requirement of being listed in federal food additive regulations as specified in 21 CFR 170.39 – Threshold of regulation for substances used in food contact articles; or~~
 - (ii) ~~Comply with and be listed in:~~
 - a. ~~21 CFR 178 – Indirect Food Additives: Adjuvants, Production Aids, and Sanitizers as regulated for use as a food additive with conditions of safe use, or~~
 - b. ~~21 CFR 182 – Substances Generally Recognized as Safe, 21 CFR 184 – Direct Food Substances Affirmed as Generally Recognized as Safe, or 21 CFR 186 – Indirect Food Substances Affirmed as Generally Recognized as Safe for use in contact with food; and~~
- (b) ~~Be applied only to hands that are cleaned as specified under part 40.7.1-.05(1) (a) of these regulations.~~
- (c) ~~A chemical hand sanitizing solution used as a hand dip shall be maintained clean and at a strength equivalent to 100 mg/L chlorine or above.~~
- (3) ~~Fingernails.~~
- (a) ~~Food employees shall keep their fingernails trimmed (When looking at palm, nail shall not be visible past tip of finger unless wearing intact gloves in good repair), filed and maintained so the edges and surfaces are cleanable and not rough.~~
 - (b) ~~Unless wearing intact gloves in good repair, a FOOD EMPLOYEE may not wear fingernail polish or artificial fingernails when working with exposed food.~~
- (4) ~~Jewelry.~~ While preparing food, food employees may not wear jewelry on their arms

and hands. This part does not apply to a plain ring such as a wedding band.

~~(5) Clean outer garments. Food employees shall wear clean outer clothing. When moving from a raw food operation to a ready-to-eat food operation, food employees shall wash or change to a clean outer garment to prevent cross-contamination.~~

~~(6) Clean Clothing. Clothing not being worn shall be kept in locker room, or other area away from the area where food is commercially processed, stored and/or offered for sale.~~

40-7-1-.06 Hygienic Practices. Repealed

~~(1) Eating, Drinking or use of Tobacco.*~~

~~(a) Food employees shall eat, drink, or use any form of tobacco only in designated areas where the contamination of exposed food; clean equipment, utensils, and linens; unwrapped single-service and single-use articles; or other items needing protection can not result.~~

~~(b) A FOOD EMPLOYEE may drink from a closed BEVERAGE container if the container is handled to prevent contamination of the EMPLOYEE'S hands, the container, and exposed food; clean EQUIPMENT, UTENSILS, and LINENS; and unwrapped SINGLE-SERVICE and SINGLE-USE ARTICLES.~~

~~(2) Discharges from the Eyes, Nose, and Mouth.* Food employees experiencing persistent sneezing, coughing, or a runny nose that causes discharges from the eyes, nose, or mouth, may not work with exposed food; clean equipment, utensils, and linens; or unwrapped single-service or single-use articles.~~

~~(3) Hair Restraints. Food employees, while on duty, shall wear hair restraints; such as hats, hair coverings, nets, beard restraints and clothing that covers body hair; that are designed and worn effectively to preclude the contamination by hair; of exposed food, clean equipment, utensils and linens; and unwrapped single-service and single-use articles.~~

~~(4) Handling animals.*~~

~~(a) Except as specified in paragraph (b) below, food employees may not care for or handle animals that may be present such as patrol dogs, support animals, or pets that are allowed under part 40-7-1-.67(12).~~

~~(b) Food employees with support animals may care for their support animals and FOOD EMPLOYEES may handle or care for FISH in aquariums or MOLLUSCAN SHELLFISH or crustacea in display tanks if they wash their hands as specified under part 40-7-1-.05(1) (a) before working with exposed food; clean equipment, utensils, and linens; or unwrapped single-service and single-use articles.~~

40-7-1-.07. Condition of Food. Repealed

~~Food shall be safe, unadulterated and honestly presented as specified under part 40-7-1-.25(2).~~

40-7-1-.08 Food from Approved Source. Repealed

~~(1) Compliance with applicable law.* Food shall be of sound condition and safe for human consumption and shall be obtained from sources that comply with applicable laws relating to food safety.~~

~~(2) Food prepared in a private home may not be used or offered for human consumption in a food sales establishment, neither shall rooms used to store food or offer food for sale, be used as living quarters.~~

~~(3) Fish, other than molluscan shellfish, that are intended for consumption in their raw form shall be obtained from a supplier that freezes the fish as specified in 40-7-1-.18(1) or shall be frozen on the premises as specified in 40-7-1-.18(1) and records shall be retained as specified in 40-7-1-.18(2).~~

~~(4) Ice shall be obtained from an approved source and/or manufactured from water of a source approved by the Department.~~

~~(5) Food Hermetically Sealed Containers.* Food in a hermetically sealed container shall be obtained from a food processing plant that is regulated by the food regulatory agency that has jurisdiction over the plant.~~

~~(6) Fluid Milk and Milk Products.* Fluid milk and milk products shall be obtained from sources that comply with Grade A standards as specified in law.~~

~~(7) Fish.*~~

~~(a) Fish may not be received for sale unless they are:~~

- ~~1. Commercially and legally caught or harvested; or~~
- ~~2. Except as specified in paragraph (b) of this section, caught recreationally and Approved for sale by the Department.~~

~~(b) Molluscan shellfish that are recreationally caught may not be received for sale.~~

~~(8) Molluscan Shellfish.*~~

~~(a) Molluscan shellfish shall be obtained from sources according to law and the requirements specified in the U.S. Department of Health and Human Services, Public Health Service, Food and Drug Administration, National Shellfish Sanitation Program (NSSP) Guide for the Control of Molluscan Shellfish.~~

~~(b) Molluscan shellfish received in interstate commerce shall be from sources that are listed in the Interstate Certified Shellfish Shippers List.~~

~~(9) Game Animals.* Game animals may be received for sale if:~~

~~(a) Game animals commercially raised for food are:~~

- ~~1. Raised, slaughtered, and processed under a voluntary inspection program that is conducted by the agency that has animal health jurisdiction, or~~
- ~~2. Under a routine inspection program conducted by a regulatory agency other than the agency that has animal health jurisdiction and are raised, slaughtered, and processed according to laws governing meat and poultry as determined by the agency that has animal health jurisdiction and the agency that conducts the inspection program. The agencies shall consider factors such as the need for antemortem and postmortem examination by a veterinarian or a veterinarian's designee, approved by the regulatory authority.~~

~~(b) Exotic species of animals including animals raised for exhibition purposes in a zoo or circus:~~

1. Meet Subparagraph (a) 1 of this section, or
2. Receive antemortem and postmortem examination by a veterinarian or a veterinarian's designee, approved by the regulatory authority, and
3. Are slaughtered and processed according to laws governing meat and poultry as determined by the agency that has animal health jurisdiction and the agency that conducts the inspection program.

(c) As allowed by law, wild game animals that are live-caught are:

1. Under a routine inspection program conducted by a regulatory agency other than the agency that has animal health jurisdiction.
2. Are slaughtered and processed according to laws governing meat and poultry as determined by the agency that has animal health jurisdiction and the agency that conducts the inspection program, and
3. The agencies consider factors such as the need for ante-mortem and postmortem examination by a veterinarian or a veterinarian's designee, approved by the regulatory authority; or

(d) As allowed by law, field dressed wild game animals that are under a routine inspection program under which the animals:

1. Receive a postmortem examination by a veterinarian or a veterinarian's designee, approved by the regulatory authority,
2. Are field dressed and transported according to requirements specified by the agency that has animal health jurisdiction and the agency that conducts the inspection program, and
3. Are processed according to laws governing meat and poultry as determined by the agency that has animal health jurisdiction and the agency that conducts the inspection program.

(10) Processing of Deer in Retail Stores.* The processing of deer in retail meat markets may be permitted if:

- (a) Carcasses are skinned, eviscerated and head is removed prior to being brought into the facility.
- (b) Carcasses shall be examined for proper dressing, cleanliness and removal of severely bruised or wounded places.
- (c) Carcasses should be held separate from inspected meats with nothing stored underneath
- (d) Processing operations shall be kept separate by time and distance from normal store processing activities.
- (e) Facilities, equipment and utensils used shall be subject to a thorough cleaning and sanitization subsequent to processing and prior to resuming normal store processing activities.

(11) Uninspected Meats.* Except as provided for in paragraph 10, uninspected meat and/or poultry or products of such, may not be received for holding and/or processing or sale.

(12) MEAT and POULTRY that is not a READY TO EAT FOOD and is in a PACKAGED form when it is offered for sale or otherwise offered for consumption, shall be labeled to include safe handling instructions as specified in LAW, including 9 CFR 317.2(i) and 9 CFR 381.125(b).

(13) Shell EGGS that have not been specifically treated to destroy all viable *Salmonellae*

shall be labeled to include safe handling instructions as specified in LAW, including 21 CFR 101.17(h).

(14) Wild Mushrooms.*

(a) Except as specified in (b) of this section, mushroom species picked in the wild shall be obtained from sources where each mushroom is individually inspected and found to be safe by an approved mushroom identification expert.

(b) This section does not apply to:

1. Cultivated wild mushroom species that are grown, harvested, and processed in an operation that is regulated by the food regulatory agency that has jurisdiction over the operation; or
2. Wild mushroom species if they are in packaged form and are the product of a food processing plant that is regulated by the food regulatory agency that has jurisdiction over the plant.

40-7-1-.09 Transportation of Food. Repealed

(1) Protection from Cross Contamination.* At all times, including while being loaded, transported, and unloaded, food shall be protected from cross contamination between foods and from potential contamination by insects, chemicals, rodents, waste products, toxic materials, unclean equipment, unnecessary handling, or other agents of public health significance.

(a) All foods must be protected from contamination by use of packaging or covered containers while being transported.

1. Foods in original individual packages do not need to be overwrapped if the original package has not been torn or broken.
2. Exclusions to this requirement may be raw fruits and vegetables.

(b) Adequate food temperature controls must be maintained.

1. All POTENTIALLY HAZARDOUS FOODS (TIME/TEMPERATURE CONTROL FOR SAFETY FOODS) shall be transported only in vehicles provided with sufficient refrigeration and freezing capabilities, if necessary, for product temperature maintenance
2. During transportation, POTENTIALLY HAZARDOUS FOOD (TIME/TEMPERATURE CONTROL FOR SAFETY FOOD) shall be maintained at 40-41 degrees F. or below, for cold foods, or 135 degrees F., or above, for hot foods.
3. Frozen foods shall remain frozen during transport.
4. Shellfish shall be held at temperatures between 32-45 degrees F. unless frozen.

(c) Food items that are spoiled or that are in damaged containers that may affect the product because of spoilage, container damage, or other public health considerations, shall be removed from the transporting vehicle and stored properly pending satisfactory disposition by a regulatory authority.

(2) Prior to being used to Transport Food, All vehicles shall be examined for deficiencies that would prevent their use as food carriers. Vehicles shall be maintained in a clean and sanitary condition to protect the food products from contamination at all times.

(a) All equipment used in transporting food shall be smooth, impervious, corrosion resistant, nontoxic, in good repair, and constructed to permit adequate cleaning.

- (b) ~~The vehicles must be constructed to prevent waste products such as iced poultry wastes from leaking on to the ground surfaces during transport.~~
- (3) ~~Open (uncovered) commercial trucks shall not be used for transporting food unless approved by the Department.~~
- (4) ~~A vehicle transporting trash, garbage, soiled linen, toxic chemicals, or other similar loads shall not be used for transporting foods except after cleaning and sanitizing in a manner acceptable by the Department.~~
- (5) ~~The delivery, shipping, and receiving personnel shall ensure that all vehicles used to transport food products are compliant with these regulations. Shipments from non-compliant vehicles shall be rejected by receiving firm and the department notified immediately.~~

40-7-1-.10 Specifications for Receiving. Repealed

- (1) ~~Temperature at receiving.*~~
- (a) ~~Except as specified in paragraph (b) of this section, refrigerated, POTENTIALLY HAZARDOUS FOOD (TIME/TEMPERATURE CONTROL FOR SAFETY FOOD) shall be at a temperature of 40-41 F or below when received.~~
- (b) ~~A food may be received at the temperature specified in laws governing its distribution. (Example: fluid milk and milk products, molluscan shellstock, and shell eggs).~~
- (c) ~~Except as specified under paragraph (d) of this section, POTENTIALLY HAZARDOUS FOOD (TIME/TEMPERATURE CONTROL FOR SAFETY FOOD) that is cooked to a temperature and for a time specified in 40-7-1-.17(1)–40-7-1-.17(2)(d) and received hot, shall be at a temperature of 135°F or above when received.~~
- (d) ~~Upon receipt, POTENTIALLY HAZARDOUS FOODS (TIME/TEMPERATURE CONTROL FOR SAFETY FOODS) shall be free of evidence of previous temperature abuse.~~
- (e) ~~A food that is labeled frozen and shipped frozen by a Food Processing Plant or Distributor shall be received frozen.~~
- (2) ~~Additives.* Food may not contain unapproved food additives or additives that exceed amounts allowed in 21 CFR, 170-180 relating to food additives, GRAS or prior sanctioned substances that exceed amounts allowed in 21 CFR, 181-186, substances that exceed amounts specified in 9 CFR Subpart C Section 424.21(b) Food ingredients and sources of radiation, or pesticide residues that exceed provisions specified in 40 CFR 185 Tolerances for Pesticides in Food~~
- (3) ~~Shell Eggs.* Shell eggs shall be received in refrigerated equipment that maintains an ambient air temperature of 45 F or less; and clean and sound and may not exceed the restricted egg tolerances for U.S. Consumer Grade B as specified in 7 CFR Part 56–Regulations Governing the Grading of Shell Eggs and U.S. Standards, Grades, and Weight classes for Shell Eggs, and 9 CFR Part 590–Regulations Governing the Inspection of Eggs and Egg Products.~~
- (4) ~~Liquid, Frozen, and Dry Eggs *–Liquid, frozen, and dry eggs and egg products shall be obtained pasteurized.~~
- (5) ~~Fluid, Frozen, and Dry Milk and Milk Products.*~~
- (a) ~~Fluid and dry milk and milk products complying with Grade A standards as specified by law shall be obtained pasteurized.~~
- (b) ~~Frozen milk products, such as ice cream, shall be obtained pasteurized in accordance with 21 CFR 135–Frozen Desserts.~~

~~(c) Cheese shall be obtained pasteurized unless alternative procedures to pasteurization are provided for in the CFR, such as in 21 CFR 133—Cheeses and Related Cheese Products, for curing certain cheese varieties.~~

~~(6) Package Integrity.* Food packages shall be in good condition and protect the integrity of the contents so that the food is not exposed to adulteration or potential contaminants. The sale of the following described food products is prohibited and such products shall be considered distressed merchandise:~~

~~(a) Cans damaged to the degree that could possibly result in the contents being unfit for human consumption.~~

~~(b) Cans excessively rusty.~~

~~(c) Packaged foods; boxes/packages having openings whereby the contents may be exposed to contamination.~~

~~(d) Abnormal cans: puffed, springer or flipper.~~

~~(e) Food packages or cans: where required labeling information is illegible or absent.~~

~~(7) Ice.* Ice for use as a food or a cooling medium shall be made from drinking water.~~

~~(8) Pre-packaged juice shall:~~

~~(a) Be obtained from a processor with a HACCP system as specified in 21 CFR Part 120;~~

~~(b) Be obtained pasteurized or otherwise treated to attain a 5-log reduction of the most resistant microorganism of public health significance as specified in 21 CFR Part 120.24; or~~

~~(c) Bear a warning label as specified in 21 CFR Section 101.17(g).~~

~~(8) Shucked Shellfish, Packaging and Identification.~~

~~(a) Raw and frozen shucked molluscan shellfish shall be obtained in nonreturnable packages legibly bearing the name, address, and certification number of the shucker-packer or repacker of the shellfish, and the “sell by” date for packages with a capacity of less than 1.87L (one half gallon) or the date shucked for packages with a capacity of 1.87L (one half gallon) or more.~~

~~(b) A package of raw shucked shellfish that does not bear a label or which bears a label which does not contain all the information as specified under (a) of this section shall be subject to a withhold from sale as allowed by law.~~

~~(9) Shellstock Identification.* Molluscan shellstock shall be obtained in containers bearing legible source identification tags or labels that are affixed by the harvester and each dealer that depurates, ships, or reships the shellstock as specified in the National Shellfish Sanitation Program (NSSP) Guide for the Control of Molluscan Shellfish, and that list:~~

~~(a) Except as specified under paragraph (c) of this section, on the harvester’s tag or label, the following information in the following order:~~

~~1. The harvester’s identification number that is assigned by the shellfish control authority;~~

~~2. The date of harvesting;~~

~~3. The most precise identification of the harvest location or aquaculture site that is practicable based on the system of harvest area designations that is in use by the shellfish control authority and including the abbreviation of the name of the state or country in which the shellfish are harvested;~~

~~4. The type and quantity of shellfish; and~~

~~5. The following statement in bold, capitalized type: “This tag is required to be attached until container is empty or retagged and thereafter kept on file for 90 days.”~~

~~(b) Except as specified in paragraph (d) of this section, on each dealer’s tag or label, the following information in the following order:~~

1. The dealer's name and address and the certification number assigned by the shellfish control authority.
 2. The original shipper's certification number including the abbreviation of the name of the state or country in which the shellfish are harvested.
 3. The information specified in Subparagraphs (a) 2-5 of this section, and
 4. The following statement in bold, capitalized type: "This tag is required to be attached until container is empty and thereafter kept on file for 90 days."
- (c) A container of shellstock that does not bear a tag or label or that bears a tag or label that does not contain all the information as specified under (b) of this section shall be subject to a hold order, as allowed by law
- (d) If a place is provided on the harvester's tag or label for a dealer's name, address, and certification number, the dealer's information shall be listed first.
- (e) If the harvester's tag or label is designed to accommodate each dealer's identification specified under Subparagraphs (b) 1 and 2 of this section, individual dealer tags or labels need not be provided.
- (10) Molluscan Shellstock, Condition. When received by a food establishment, molluscan shellstock shall be reasonably free of mud, dead shellfish or shellstock with badly broken shells. Dead shellstock with badly broken shells shall be discarded.

40-7-1-.11 Molluscan Shellfish, Original Containers and Record Keeping. Repealed

- (1) Except as specified in paragraphs (2) and (3) of this section, molluscan shellfish may not be removed from the container in which they were received other than immediately before sale.
- (2) Molluscan shellstock may be removed from the container in which they were received, displayed on drained ice, or held in a display container, and a quantity specified by a consumer may be removed from the display or display container and provided to the consumer if:
- (a) The source of the shellstock on display is identified as specified under part 40-7-1-.10(9) and recorded as specified under part 40-7-1-.11(4).
 - (b) The shellstock are protected from contamination.
- (3) Shucked molluscan shellfish may be removed from the container in which they were received and held in a display container from which individual servings are dispensed upon a consumer's request if:
- (a) The labeling information for the shellfish on display as specified under part 40-7-1-.10(8) is retained and correlated to the date when, or dates during which, the shellfish are sold.
 - (b) The shellfish are protected from contamination.
- (4) Shellstock, Maintaining Identification. (Records) The identity of the source of shellstock that are sold shall be maintained by retaining shellstock tags or labels for 90 calendar days from the date the container was emptied by:
- (a) Using a record keeping system approved by the Department that keeps the tags or labels in chronological order correlated to the date when, or dates during which, the shellstock are sold, and
 - (b) If Shellstock are removed from their tagged or labeled container:

1. Using only one tagged or labeled container at a time, or
2. Using more than 1 tagged or labeled container at a time and obtaining approval from the Department, of a method which:
 - (i) Preserves source identification by using a record keeping system as specified under Subparagraph (4)(a) of this section, and;
 - (ii) Assures that shellstock from one tagged or labeled container are not commingled with shellstock from another container before being ordered by the consumer.

40-7-1-.12-Preventing Food and Ingredient Contamination.-Repealed

~~(1) Preventing Contamination from Employees' Hands.*~~

- ~~(a) Food employees shall wash their hands as specified under 40-7-1-.05(1)~~
- ~~(b) Except when washing fruits and vegetables as specified under 40-7-1-.12(6), food employees may not contact exposed, ready to eat food with their bare hands and shall use suitable utensils such as deli tissue, spatulas, tongs, or single-use gloves.~~
- ~~(c) Food Employees shall minimize bare hand and arm contact with exposed food that is not in a ready to eat form.~~

~~(2) Preventing Contamination of Packaged and Unpackaged Food.*~~

- ~~(a) During preparation, unpackaged food shall be protected from environmental sources of contamination.~~
- ~~(b) Food shall be protected from cross contamination by:
 1. Separating raw animal foods during storage, preparation, holding and display from:
 - (i) Raw ready to eat food including other raw animal food such as fish for sushi or molluscan shellfish, or other raw ready to eat food such as vegetables, and,
 - (ii) Cooked ready to eat food;
 2. Except when combined as ingredients, separating types of raw animal foods from each other such as beef, fish, lamb, pork, and poultry during storage, preparation, holding, and display by:
 - (i) Using separate equipment for each type, or
 - (ii) Arranging each type of food in equipment so that cross contamination of one type with another is prevented, and
 - (iii) Preparing each type of food at different times or in separate areas;
 3. Cleaning equipment and utensils as specified under part 40-7-1-.41(a) and sanitizing as specified under part 40-7-1-.44;
 4. Except as specified in paragraph (3) of this section, storing the food in packages, containers, or wrappings;
 5. Cleaning hermetically sealed food containers of visible soil before opening.
 6. Protecting food containers that are received packaged together in a case or overwrap from cuts when the case over wrap is opened.
 7. Storing damaged, spoiled or recalled food being held in the food sales establishment as specified under part 40-7-1-.12(7); and;
 8. Separating fruits and vegetables, before they are washed as specified under part 40-7-1-.12(6) from ready to eat food.~~

~~(3) Subparagraph (b)4. of this section does not apply to:~~

- ~~1. Whole, uncut, raw fruits and vegetables and nuts in the shell, that require peeling or~~

~~hulling before consumption.~~

~~2. Primal cuts, quarters, or sides of raw meat or slab bacon that are hung on clean, sanitized hooks or placed on clean, sanitized racks.~~

~~3. Whole, uncut, processed meats such as country hams, and smoked or cured sausages that are placed on clean, sanitized racks, or~~

~~4. Food being cooled as specified under part 40-7-1-.20(5)(b)2.; or~~

~~5. Shellstock.~~

~~(4) Food Storage Containers. Identified with common name of food. Working containers holding food or food ingredients that are removed from their original packages for use in the establishment, such as cooking oils, flour, herbs, potato flakes, salt, spices, and sugar shall be identified with the common name of the food, except that containers holding food that is readily and unmistakably recognized such as dry pasta need not be identified.~~

~~(5) Protection from Unapproved Additives.*~~

~~(a) Food shall be protected from contamination that may result from the addition of, as specified in part 40-7-1-.10(2).~~

~~1. Unsafe or unapproved food or color additives; and~~

~~2. Unsafe or unapproved levels of approved food and color additives.~~

~~(b) A food employee *may not*:~~

~~1. Apply sulfiting agents to fresh fruits and vegetables intended for raw consumption or to a food considered to be a good source of vitamin B1, including fresh meat products.~~

~~2. Sell food specified in Subparagraph (b) 1 of this section that is treated with sulfiting agents before receipt by the establishment, except that grapes need not meet this subparagraph.~~

~~(6) Washing Fruits and Vegetables.~~

~~(a) Raw fruits and vegetables shall be thoroughly washed in water to remove soil and other contaminants before being cut, combined with other ingredients, cooked, served, or offered for human consumption in ready-to-eat form except that whole, raw fruits and vegetables that are intended for washing by the consumer before consumption need not be washed before they are sold.~~

~~(b) Fruits and vegetables may be washed by using chemicals as specified under part 40-7-1-.69(7).~~

~~(7) Distressed Merchandise. (Segregation and Location) Products that are held by the person in charge for credit, redemption, or return to the distributor, such as damaged, spoiled, or recalled products, shall be segregated and held in designated areas that are separated from food, equipment, utensils, linens, and single service and single use articles. Food products damaged by water, fire, mechanical damage, and/or contaminated by insects, rodents, or other means, shall not be sold or offered for use or sale.~~

~~(8) Tasting. A FOOD EMPLOYEE may not use a UTENSIL more than once to taste FOOD that is to be sold or served.~~

40-7-1-.13 Preventing Contamination from Ice Used as a Coolant. Repealed

~~(1) Ice used as exterior coolant is prohibited as ingredient after use as a medium for cooling the exterior surfaces of food such as melons or fish, packaged foods such as canned beverages, or cooling coils and tubes of equipment, ice may not be used as food.~~

~~(2) Storage or Disposal of Food in Contact with Water or Ice.~~

~~(a) Packaged food may not be stored in direct contact with ice or water if the food is subject to the entry of water because of the nature of its packaging, wrapping or container or its positioning in the ice or water.~~

~~(b) Except as specified in paragraph (c) and (d) of this section, unpackaged food may only be stored in direct contact with drained ice.~~

~~(c) Whole, raw fruits or vegetables; cut, raw vegetables such as celery or carrot sticks; and tofu may be immersed in ice or water.~~

~~(d) Raw chicken and raw fish that are received immersed in ice in shipping containers may remain in that condition while in storage awaiting preparation, display or sale.~~

40-7-1-.14 Preventing Contamination from Equipment, Utensils, and Wiping Cloths. Repealed

~~(1) Food Contact with Equipment and Utensils.* Food may not contact:~~

~~(a) Probe-type price or identification tag(s); and~~

~~(b) Surfaces of utensils and equipment that are not cleaned as specified in the regulations.~~

~~(2) In-Use Utensils, Between-Use Storage. During pauses in food preparation, or dispensing, food preparation and dispensing utensils shall be stored;~~

~~(a) Except as specified under paragraph (b) of this section, in the food with their handles above the top of the food and the container.~~

~~(b) In food that is not potentially hazardous with their handles above the top of the food within containers or equipment that can be closed, such as bins of sugar, flour, or cinnamon.~~

~~(c) On a clean portion of the food preparation table or cooking equipment only if the in-use utensil and the food contact surface of the food preparation table or cooking equipment are cleaned and sanitized at a frequency specified in part 40-7-1-.40(1)(a) and 40-7-1-.43;~~

~~(d) In running water of sufficient velocity to flush particulate to the drain, if used with moist food such as ice cream or mashed potatoes; or~~

~~(e) In a clean, protected location, If the utensils, such as ice scoops, are used only with a food that is not potentially hazardous.~~

~~(f) In a container of water if the water is maintained at a temperature of at least 57°C (135°F) and the container is cleaned at a frequency specified in part 40-7-1-.40(1)(a) and 40-7-1-.43;~~

~~(3) Wiping Cloths, Use Limitation.~~

~~(a) Cloths that are in use for wiping food spills shall be used for no other purpose.~~

~~(b) Cloths used for wiping food spills shall be:~~

~~1. Dry and used for wiping FOOD spills from TABLEWARE and carry-out containers; or~~

~~2. Wet and cleaned as specified under part 40-7-1-.46(d), stored in a chemical sanitizer as specified under part 40-7-1-.69(6) and used for wiping spills from food contact and nonfood-contact surfaces of equipment.~~

~~3. Dry or wet cloths that are used with raw animal foods shall be kept separate from cloths used for other purposes, and moist cloths used with raw animal foods shall be kept in a separate sanitizing solution.~~

~~4. Wet wiping cloths used with a freshly made sanitizing solution and dry wiping cloths shall be free of FOOD debris and visible soil.~~

~~(4) Gloves, Use Limitation *~~

- (a) ~~Single use gloves shall be used for only one task, such as working with ready to eat food or with raw animal food, used for no other purpose, and discarded when damaged or soiled, or when interruptions occur in the operation.~~
- (b) ~~Except as specified in (c) of this section, slash resistant gloves that are used to protect the hands during operations requiring cutting shall be used in direct contact only with food that is subsequently cooked as specified under paragraph 40-7-1-.17 such as frozen food or a primal cut of meat.~~
- (c) ~~Slash resistant gloves may be used with ready to eat food that will not be subsequently cooked if the slash resistant gloves have a smooth, durable, and nonabsorbent outer surface; or if the slash resistant gloves are covered with a smooth, durable, nonabsorbent glove, or a single use glove.~~
- (d) ~~Cloth gloves may not be used in direct contact with food unless the food is subsequently cooked as required under paragraph 40-7-1-.17 such as frozen food or a primal cut of meat.~~
- (5) ~~Refilling returnables.~~
- (a) ~~A take home container returned to a food sales establishment may not be refilled at a food sales establishment with a POTENTIALLY HAZARDOUS FOOD (TIME/TEMPERATURE CONTROL FOR SAFETY FOOD).~~
- (b) ~~Except as specified in (c), a take home food container refilled with food that is not potentially hazardous shall be cleaned as specified under 40-7-1-.40(4)~~
- (c) ~~Personal take out beverage containers, such as thermally insulated bottles, nonspill coffee cups, and promotional beverage glasses, may be refilled by employees or the consumer if refilling is a contamination free process as specified under 40-7-1-.12(9).~~
- (6) ~~Linens and Napkins, Use Limitation.~~
- (a) ~~Linens and napkins may not be used in contact with food unless they are used to line a container for the service of foods and the linens and napkins are replaced each time the container is refilled for a new consumer.~~

40-7-1-.15 Preventing Contamination from the Premises. Repealed

~~(1) Food Storage.~~

- (a) ~~Except as specified in paragraph 2. and 3. of this section, food shall be protected from contamination by storing the food:~~
- ~~1. In a clean, dry location;~~
 - ~~2. Where it is not exposed to splash, dust, or other contamination;~~
 - ~~3. Where adequate measures to preclude contamination by insects and/or rodents are in place;~~
 - ~~4. Arranged with aisles of sufficient width to permit access and cleaning.~~
 - ~~5. Stacked a sufficient distance away from walls to allow adequate cleaning, pest control and inspection;~~
 - ~~6. At least 4 inches above the floor.~~
- (b) ~~Pressurized beverage containers, cased food in waterproof containers such as bottles or cans, and milk containers in plastic crates may be stored on a floor that is clean and not exposed to floor moisture.~~
- (c) ~~Slip sheets may be utilized in situations of short term storage if requirements of paragraph (a) parts 1. through 5. are satisfied.~~

~~(d) Discarded or surplus equipment not in use shall be stored in areas adequately separated and apart from areas where human food is commercially processed, stored or offered for sale.~~

~~(2) Food Storage, Prohibited Areas. Food may not be stored:~~

~~(a) In locker rooms;~~

~~(b) In toilet rooms;~~

~~(c) In dressing rooms;~~

~~(d) In garbage rooms;~~

~~(e) In mechanical rooms;~~

~~(f) Under sewer lines that are not shielded to intercept potential drips;~~

~~(g) Under leaking water lines, including leaking automatic fire sprinkler heads or under lines on which water has condensed;~~

~~(h) Under open stairwells; or~~

~~(i) Under other sources of contamination.~~

40-7-1-.16 Preventing Contamination by Consumers. Repealed

~~(1) Food Display. Except for nuts in the shell and whole, raw fruits and vegetables that are intended for hulling, peeling or washing by the consumer before consumption, food on display shall be protected from contamination by the use of packaging; counter, service bar, or salad bar food guards; display cases; or other effective means.~~

~~(2) Condiments, (Protection). Condiments shall be protected from contamination by being kept in dispensers that are designed to provide protection, protected food displays provided with the proper utensils, original containers designed for dispensing, or individual packages or portions.~~

~~(3) Consumer Self-Service Operations.*~~

~~(a) Unpackaged, raw animal food, such as beef, lamb, pork, poultry, and fish may not be offered for consumer self-service. This paragraph does not apply to consumer selfservice of exposed ready to eat foods at salad bars, as in retail food sales establishments, that serve foods such as sushi or raw shellfish; or raw, frozen shell on shrimp or lobster.~~

~~(b) Consumer self-service operations for ready-to-eat foods shall be provided with suitable utensils or effective dispensing methods that protect the food from contamination. Tongs or individual tissues may also be used.~~

~~(c) Consumer self-service operations such as buffets and salad bars shall be monitored by food employees trained in safe operating procedures.~~

~~(4) Except as specified in (a) of this section, after being served or sold and in the possession of a CONSUMER, FOOD that is unused or returned by the CONSUMER may not be offered as FOOD for human consumption.~~

~~(a) a container of FOOD that is not POTENTIALLY HAZARDOUS may be transferred from one CONSUMER to another if: The FOOD, such as crackers, commercially canned goods, or soft drinks, is in an unopened original package and is maintained in sound condition.~~

40-7-1-.17-Cooking-Repealed

(1) Raw Animal Foods.*

~~(a) Except as specified in sub paragraphs 1 and 2 of this section; raw animal foods such as meat, poultry, fish, eggs and foods containing these raw animal foods, shall be cooked to heat all parts of the food to a temperature and for a time that complies with one of the following methods based on the food that is being cooked:~~

- ~~1. 145° F (63° C) or above for 15 seconds for raw shell eggs that are broken and prepared in response to a consumer's order and for immediate service and fish, meat, and pork including game animals commercially raised for food as specified under Subparagraph 40-7-1-.08(9)(a)1. and game animals under a voluntary inspection program as specified under Subparagraph 40-7-1-.08(9)(a)2.; not specified in paragraph (a)2 of this section.~~
- ~~2. 68°C (155°F) for 15 seconds or the temperature specified in table 3-4-01 that corresponds to the holding time for ratites and injected meats; the following if they are comminuted: fish, meat, game animals commercially raised for food as specified under Subparagraph 40-7-1-.08(9)(a)1. , and game animals under a voluntary inspection program as specified under Subparagraph 40-7-1-.08(9)(a)2. and raw eggs that are not prepared as specified under Subparagraph (1)(a)1. of this section:~~
- ~~3. As specified in Table 3-4-03 for roasts of beef, corned beef, pork roast and cured pork roasts such as ham.~~
- ~~4. 165° F (74° C) or above for 15 seconds for poultry, stuffed fish, stuffed meat, stuffed pasta, stuffed poultry, wild game or stuffing containing fish, meat, or poultry.~~

~~(b) Subparagraph (a) of this section does not apply if the Department grants a variance from paragraph (a) of this section as specified in 40-7-1-.70(2) based on a HACCP plan that:~~

- ~~1. Is submitted by the permit holder and approved by the Department.~~
- ~~2. Documents scientific data or other information that shows that a lesser time and temperature regimen results in a safe food, and~~
- ~~3. Verifies that equipment and procedures for food preparation and training of food employees at the establishment meet the conditions of the variance.~~

~~(c) Whole beef roasts, corned beef roasts, pork roasts, and cured pork roasts such as ham, shall be cooked:~~

- ~~1. In an oven that is preheated to the temperature specified for their weight in Table 3-4-02 and that is held at or above that temperature; and~~
- ~~2. To a food temperature as specified in Table 3-4-03 and held for the corresponding amount of time specified in Table 3-4-03 for that temperature.~~

~~Table 3-4-01 Minimum Food Temperature and Holding Time Required Under Subparagraph 40-7-1-.17(1)(a)2. for Cooking All Parts of Pork, Game Animals, Comminuted Fish and Meats, and Injected Meats.*~~

~~Minimum~~

~~Temperature~~

~~°C (°F)~~

~~Time~~

~~63 (145) 3 minutes~~

~~66 (150) 1 minute~~

~~70 (158) < 1 second (instantaneous)~~

~~Table 3-4-02 Oven Parameters Required for Destruction of Pathogens on the Surface of Roasts.*~~

~~Oven Type~~

~~Oven Temperature Based on Roast Weight~~

~~Less than 4.5 kg (10~~

~~lbs)~~

~~4.5 kg (10 lbs) or More~~

~~Still Dry 177°C (350°F) or more 121°C (250°F) or more~~

~~Convection 163°C (325°F) or more 121°C (250°F) or more~~

~~High Humidity¹ 121°C (250°F) or less 121°C (250°F) or less~~

~~* Relative humidity greater than 90% for at least 1 hour as measured in the cooking chamber or exit of the oven; or in a moisture impermeable bag that provides 100% humidity.~~

~~Table 3-4-03 Minimum Holding Times Required at Specified Temperatures for Cooking All Parts of Roasts.*~~

~~Temperature~~

~~°C (°F)~~

~~Time¹ in~~

~~Minutes~~

~~Temperature~~

~~°C (°F)~~

~~Time¹ in Seconds~~

~~54.4 (130) 112 63.9 (147) 134~~

~~55.0 (131) 89 65.0 (149) 85~~

~~56.1 (133) 56 66.1 (151) 54~~

~~57.2 (135) 36 67.2 (153) 34~~

~~57.8 (136) 28 68.3 (155) 22~~

~~58.9 (138) 18 69.4 (157) 14~~

~~60.0 (140) 12 70.0 (158) 0~~

~~61.1 (142) 8~~

~~62.2 (144) 5~~

~~62.8 (145) 4~~

~~1 Holding time may include postoven heat rise.~~

~~(2) Microwave Cooking.* Raw animal foods cooked in a microwave oven shall be:~~

~~(a) Rotated or stirred throughout or midway during cooking to compensate for uneven distribution of heat;~~

~~(b) Covered to retain surface moisture;~~

~~(c) Heated to a temperature of at least 74°C (165°F) in all parts of the FOOD; and~~

~~(d) Allowed to stand covered for 2 minutes after cooking to obtain temperature equilibrium.~~

~~(3) Plant Food Cooking for Hot Holding: Fruits and vegetables that are cooked for hot holding shall be cooked to a temperature of 57°C (135°F).~~

40-7-1-.18 Freezing. Repealed

~~(1) Parasite Destruction.* Except as specified in paragraph (2) of this section, before service or sale in ready to eat form, raw, marinated, or partially cooked fish other than molluscan shellfish shall be frozen throughout to a temperature of:~~

~~(a) 4° F (-20° C) or below for 168 hours (7 days) in a freezer; or~~

~~(b) 31° F (-35° C) or below for 15 hours in a blast freezer.~~

~~(2) If the fish are tuna of the species Thunnus alalunga, Thunnus albacares (Yellowfin tuna), Thunnus atlanticus, Thunnus maccoyii (Bluefin tuna, Southern), Thunnus obesus (Bigeye tuna), or Thunnus thynnus (Bluefin tuna, Northern), or any other species currently listed in the Fish and Fisheries Products Hazard and Control Guide not to have a parasite hazard, the fish may be served or sold in a raw, raw marinated, or partially cooked ready to eat form without freezing as specified under paragraph (1) of this section.~~

~~(3) Records, Creation and Retention.~~

~~(a) Except as specified in paragraph (b) of this section, if raw, marinated, or partially cooked fish are served or sold in ready to eat form, the person in charge shall record the freezing temperature and time to which the fish are subjected and shall retain the records at the food establishment for 90 calendar days beyond the time of service or sale of the fish.~~

~~(b) If the fish are frozen by a supplier, a written agreement or statement from the supplier stipulating that the fish supplied are frozen to a temperature and for a time specified under 40-7-1-.18(1) may substitute for the records specified under paragraph (a) of this section.~~

40-7-1-.19 Reheating. Repealed

~~(1) Reheating for Hot Holding.*~~

~~(a) Except as specified under paragraph (b) and (c) of this section, POTENTIALLY HAZARDOUS FOOD (TIME/TEMPERATURE CONTROL FOR SAFETY FOOD) that is cooked, cooled, and reheated for hot holding shall be reheated so that all parts of the food reach a temperature of at least 165 F (74 C) for 15 seconds.~~

~~(b) Except and specified under paragraph (c) of this section, food reheated in a microwave oven shall be covered; rotated or stirred throughout or midway during cooking or according to label instructions during heating; heated to a temperature of at least 165 F (74 C); and allowed to stand covered 2 minutes after reheating.~~

~~(c) Ready to eat food taken from a commercially processed, hermetically sealed container, or from an intact package from a food processing plant that is inspected by the food regulatory authority that has jurisdiction over the plant, shall be heated to a temperature of at least 135 F (57 C) hot holding.~~

~~(d) Reheating shall be done rapidly and the minimum temperature specified under paragraph (a) of this section shall be reached within 2 hours.~~

40-7-1-.20 Temperature and Time Control. Repealed

~~(1) Frozen Foods. Stored frozen foods shall be maintained frozen.~~

~~(2) POTENTIALLY HAZARDOUS FOOD (TIME/TEMPERATURE CONTROL FOR SAFETY FOOD), Slacking. Frozen POTENTIALLY HAZARDOUS FOOD (TIME/TEMPERATURE CONTROL FOR SAFETY FOOD) that is slacked to moderate the temperature shall be held:~~

~~(a) Under refrigeration that maintains the food temperature at 40-41 F or below; or~~

~~(b) At any temperature if the food remains frozen.~~

~~(3) Thawing. POTENTIALLY HAZARDOUS FOOD (TIME/TEMPERATURE CONTROL FOR SAFETY FOOD) shall be thawed:~~

~~(a) Under refrigeration that maintains the food temperature at 40-41 F, or below;~~

~~(b) Completely submerged under running water;~~

~~1. At a water temperature of 70 F (21 C) or below;~~

~~2. With sufficient velocity to agitate and float off loose particles in an overflow; and~~

~~3. For a period of time that does not allow thawed portions of ready-to-eat food to rise above 41 F; or~~

~~4. For a period of time that does not allow thawed portions of raw animal food requiring cooking, to be above 41 F for more than 4 hours including the time the food is exposed to the running water and the time needed for preparation for cooking or the time it takes under refrigeration to lower the food temperature to 41 F; or~~

~~(c) As part of a cooking process if the food that is frozen is:~~

~~1. Cooked as specified in part 40-7-1-.17(1)(a) 1-4.~~

~~2. Thawed in a microwave oven and immediately transferred to conventional cooking equipment with no interruption in the process.~~

~~(4) Cooling.*~~

~~(a) Cooked POTENTIALLY HAZARDOUS FOOD (TIME/TEMPERATURE CONTROL FOR SAFETY FOOD) shall be cooled:~~

~~1. From 135 F to 70 F within 2 hours; and~~

~~2. From 70 F to 41 F or below within 4 hours.~~

~~(b) POTENTIALLY HAZARDOUS FOOD (TIME/TEMPERATURE CONTROL FOR SAFETY FOOD) shall be cooled to 41 F or below within 4 hours if prepared from ingredients at ambient temperature, such as reconstituted foods and canned tuna.~~

~~(c) Except as specified in (d) of this section, a POTENTIALLY HAZARDOUS FOOD (TIME/TEMPERATURE CONTROL FOR SAFETY FOOD) received in compliance with LAWS allowing a temperature above 41 °F during shipment from the supplier, shall be cooled within 4 hours to 41 °F or less.~~

~~(d) Raw shell EGGS shall be received and immediately placed in refrigerated EQUIPMENT that maintains an ambient air temperature of 45°F or less.~~

~~(5) Cooling Methods.~~

~~(a) Cooling shall be accomplished in accordance with the time and temperature criteria specified in part 40-7-1-.20(4) by using one or more of the following methods based on the type of food being cooled:~~

~~1. Placing the food in shallow pans;~~

~~2. Separating the food into smaller or thinner portions;~~

3. Using rapid cooling equipment;
4. Stirring the food in a container placed in an ice water bath;
5. Using containers that facilitate heat transfer;
6. Adding ice as an ingredient; or
7. Other effective methods.

(b) When placed in cooling or cold holding equipment, food containers in which food is being cooled shall be:

1. Arranged in the equipment to provide maximum heat transfer through the container wall; and;
2. Loosely covered, or uncovered if protected from overhead contamination, during the cooling period to facilitate heat transfer from the surface of the food.

~~(6) POTENTIALLY HAZARDOUS FOOD (TIME/TEMPERATURE CONTROL FOR SAFETY FOOD) Hot and Cold Holding.* Except during preparation, cooking, cooling, or when time is used as a public health control as specified under 40-7-1-.20(9), POTENTIALLY HAZARDOUS FOOD (TIME/TEMPERATURE CONTROL FOR SAFETY FOOD) shall be maintained:~~

- ~~(a) At 135 F or above; except that roasts cooked to temperature and for a time specified in Table 3-4-03 or reheated as specified in 40-7-1-.19 may be held at a temperature of 130 F (54 C); or~~
- ~~(b) At 41 F or below~~

~~(7) Ready to Eat, POTENTIALLY HAZARDOUS FOOD (TIME/TEMPERATURE CONTROL FOR SAFETY FOOD), Date Marking.*~~

~~(a) Refrigerated, ready to eat, POTENTIALLY HAZARDOUS FOOD (TIME/TEMPERATURE CONTROL FOR SAFETY FOOD) prepared for sale or to be used as an ingredient in other POTENTIALLY HAZARDOUS FOOD (TIME/TEMPERATURE CONTROL FOR SAFETY FOOD) and held more than 24 hours in a food sales establishment shall be marked to indicate the date as specified in part 40-7-1-.20(8)(b), by which the food shall be sold or used.~~

~~(b) Refrigerated ready to eat, POTENTIALLY HAZARDOUS FOOD (TIME/TEMPERATURE CONTROL FOR SAFETY FOOD), in containers from a food processing plant, to be sold or used as an ingredient in other POTENTIALLY HAZARDOUS FOOD (TIME/TEMPERATURE CONTROL FOR SAFETY FOOD); shall be marked to indicate the date or day as specified in part 40-7-1-.20(8)(b), by which the food shall be sold or used; and~~

- ~~1. The day the original container is opened in the FOOD ESTABLISHMENT shall be counted as Day 1; and~~
- ~~2. The day or date marked by the FOOD ESTABLISHMENT may not exceed a manufacturer's use-by date.~~

~~(c) Sub Paragraph (b) of this section does not apply to whole unsliced portions of a cured and processed product with original casing maintained on the remaining portion, such as bologna, salami, or other sausages in a cellulose casing.~~

~~(d) A refrigerated, ready to eat, POTENTIALLY HAZARDOUS FOOD (TIME/TEMPERATURE CONTROL FOR SAFETY FOOD) ingredient or a portion of a refrigerated, ready to eat, POTENTIALLY HAZARDOUS FOOD (TIME/TEMPERATURE CONTROL FOR SAFETY FOOD) that is subsequently combined with additional ingredients or portions of food shall retain the date marking of the earliest prepared or first prepared ingredient.~~

~~(8) Ready to Eat, POTENTIALLY HAZARDOUS FOOD (TIME/TEMPERATURE CONTROL FOR SAFETY FOOD), Disposition.*~~

~~(a) Refrigerated ready to eat, POTENTIALLY HAZARDOUS FOOD (TIME/TEMPERATURE CONTROL FOR SAFETY FOOD), specified in 40-7-1-.20(7)(a) shall be discarded if not sold or used within 7 calendar days.~~

~~(b) An ingredient or container of refrigerated ready to eat, POTENTIALLY HAZARDOUS FOOD (TIME/TEMPERATURE CONTROL FOR SAFETY FOOD) as specified in part 40-7-1-.20(7)(a) or (b) shall be discarded if not sold or used within 7 calendar days after the original container is opened or by the manufacturer's "sell by" or "use by" date which ever comes first.~~

~~(9) Time as a Public Health Control.* Time only, rather than time in conjunction with temperature, may be used as the public health control for a working supply of POTENTIALLY HAZARDOUS FOOD (TIME/TEMPERATURE CONTROL FOR SAFETY FOOD) before cooking, or for ready to eat POTENTIALLY HAZARDOUS FOOD (TIME/TEMPERATURE CONTROL FOR SAFETY FOOD) that is displayed or held for service for immediate consumption, if:~~

~~(a) The food is marked or otherwise identified with the time within which it shall be cooked, served, or discarded;~~

~~(b) The food is served or discarded within 4 hours from the point in time when the food is removed from temperature control;~~

~~(c) Food in unmarked containers or packages; or for which the time expires, is discarded; and~~

~~(d) Written procedures that assure compliance with Sub-paragraphs (a)-(c) of this section are maintained in the establishment and made available to the Department upon request, to ensure compliance with:~~

~~1. Paragraph (a)-(c) of this section; and~~

~~2. Written procedures for cooling of foods that are prepared, cooked, and refrigerated before time is used as a public health control.~~

40-7-1-.21 Specialized Processing Methods. Repealed

~~(1) Variance Requirement.* A retail food establishment shall obtain a variance from the Department as specified in 40-7-1-.70(2) before smoking or curing food as a method of food preservation rather than as a method of flavor enhancement; using food additives or adding components such as vinegar as a method of food preservation rather than as a method of flavor enhancement or to render a food so that it is not potentially hazardous; Operating a molluscan shellfish life support system display tank used to store and display shellfish that are offered for human consumption; Custom processing animals that are for personal use as food and not for sale or service in a food establishment; using a reduced oxygen method of packaging food except as specified in 40-7-1-.21(2), where a barrier to Clostridium botulinum in addition to refrigeration exists; or preparing food by another method that is determined by the Department to require a variance.~~

~~(2) Reduced Oxygen Packaging, Criteria.*~~

~~(a) A retail food establishment that packages food using a reduced oxygen packaging method shall have a HACCP plan that contains the information specified under paragraph 40-7-1-.72(2) and that:~~

~~1. Identifies the food to be packaged;~~

~~2. Limits the food packaged to a food that does not support the growth of *Clostridium botulinum* because it complies with one or more of the following:~~

~~(i) Has an aw of 0.91 or less;~~

~~(ii) Has a pH of 4.6 or less;~~

~~(iii) Is a meat product cured at a processing plant regulated by the Georgia Department of Agriculture or U.S. Department of Agriculture using substances specified in 9 CFR 318.7 Approval of substances for use in the preparation of products and 9 CFR 381.147 Restrictions on the use of substances in poultry products and is received in an intact package, or~~
~~(iv) Is a food with a high level of competing organisms such as raw meat or raw poultry;~~
~~3. Specifies methods for maintaining food at 40-41oF or below;~~
~~4. Describes how the packages shall be prominently and conspicuously labeled on the principal display panel in bold type on a contrasting background, with instructions to:~~
~~(i) Maintain the food at 41oF or below, and~~
~~(ii) Discard the food if within 14 calendar days of its packaging if it is not sold.~~
~~5. Limits the shelf life to no more than 14 calendar days from packaging to consumption or the original manufacturer's "sell by" or "use by" date, whichever occurs first;~~
~~6. Includes operational procedures for packaging that:~~
~~(i) Prohibit contacting food with bare hands,~~
~~(ii) Identify a designated area and the method by which~~
~~(I) Physical barriers or methods of separation of raw foods and ready-to-eat foods minimize cross contamination, and~~
~~(II) Access to the processing equipment is restricted to responsible trained personnel familiar with the potential hazards of the operation, and~~
~~(iii) Delineate cleaning and sanitization procedures for food-contact surfaces; and~~
~~7. Describes the training program that assures that the individual responsible for the reduced oxygen packaging operation understands the:~~
~~(i) Concepts required for a safe operation,~~
~~(ii) Equipment and facilities, and~~
~~(iii) Procedures specified in Subparagraph (a) 6 of this section and paragraph 40-7-1-72 (2).~~
~~(b) Except for fish that is frozen before, during, and after packaging, a retail food establishment may not package fish using a reduced oxygen packaging method.~~

40-7-1-.22 Current Good Manufacturing Practice in Manufacturing, Processing, Packing or Holding Human Food. Repealed

~~The criteria set forth in 21 CFR 110 shall apply in determining whether the methods, practices and controls used in the manufacture, processing, packing, or holding of food are in conformance with or are operated or administered in conformity with good manufacturing practices to assure that food for human consumption is safe and has been prepared, packed, and held under sanitary conditions. The criteria set forth in 21 CFR 123 shall; with the exception of CFR 123.12, which relates to special requirements for imported products; apply in determining conformance for the processing of Fish and Fishery Products.~~

40-7-1-.23 Thermally Processed Low-Acid Foods Packaged in Hermetically Sealed Containers. Repealed

~~The criteria set forth in 21 CFR 113 and 21 CFR 108.35 shall apply in determining whether methods, practices and controls used in the manufacture, processing, packing, and holding of Low Acid Canned Foods are in conformance with manufacturing practices which assure these products are safe for human consumption.~~

40-7-1-.24 Acidified Foods. Repealed

~~The criteria set forth in 21 CFR 114 and 21 CFR 108.25 shall apply in determining whether methods, practices and controls used in the manufacture, processing, packing and holding of Acidified Foods are in conformance with manufacturing practices which assure these products are safe for human consumption.~~

40-7-1-.25 Accurate Representation. Repealed

~~(1) Standards of Identity. Packaged food products sold in Georgia shall comply with the Georgia Standards of Identity and/or Standards of Quality and/or Fill Container and requirements as set forth in 21 CFR 131-169 and 9 CFR 319 Definitions and Standards of Identity or Composition, and the general requirements in 21 CFR 130 — Food Standards: General and 9 CFR 319 Subpart A — General.~~

~~(2) Honestly Presented.~~

~~(a) False/Misleading Advertising. No labeling, menus, signs billboards, newspaper advertising or accompanying literature or other media used in the advertising or selling of food for human consumption shall be false or misleading in any manner.~~

~~(b) Food or color additives, colored overwraps, or lights may not be used to misrepresent the true appearance, color, or quality of food.~~

~~(c) Color of printing on packaged food shall be of such color as to contrast with the color of the container and be easily readable.~~

~~(d) FRESH. No fowl, shrimp, fish, oysters or other seafood product, shall be labeled "FRESH" that has been frozen.~~

~~(e) Pet Foods. All pet foods, including frozen or refrigerated shall be displayed for sale separate and apart from all other foods and clearly identified as pet food.~~

40-7-1-.26 Labeling. Repealed

~~(1) Packaged Food Labels.~~

~~(a) FOOD PACKAGED in a FOOD ESTABLISHMENT shall be labeled as specified in LAW; including the Georgia Department of Agriculture Weights and Measures Rules and Regulations Chapter 40-15-2 and Chapter 40-15-3; National Institute of Standards and Technology — Handbook Number 130 and 133; 21 CFR 101 Food and 9 CFR 317 Subpart A and B Labeling~~

and Containers; provided that the Commissioner may authorize the omission from the label of packaged food of the name and place of business of the manufacturer, packer, or distributor if the manufacturer, packer, or distributor shows a hardship in fully labeling his food product because of the size of the package, the material of which the package is made, or the disproportionate cost of compliance. Before authorizing such omission, the Commissioner shall require the filing of a Certificate of Territorial Responsibility in a form prescribed by him. Failure to maintain on file with the Commissioner a correct current statement of territorial responsibility in accordance with the Commissioner's requirements shall terminate any such authorization previously granted. Prior to the manufacture of products, all packaged product labels are subject to review by the Department as administrative procedures enjoin.

(b) Label information shall include:

1. The common name of the FOOD, or absent a common name, an adequately descriptive identity statement;
2. If made from two or more ingredients, a list of ingredients in descending order of predominance by weight, including a declaration of artificial color or flavor and chemical preservatives, if contained in the FOOD;
3. An accurate declaration of the quantity of contents;
4. The name and place of business of the manufacturer, packer, or distributor; and
5. The name of the FOOD source for each MAJOR FOOD ALLERGEN contained in the FOOD unless the FOOD source is already part of the common or usual name of the respective ingredient (Effective January 1, 2006).
6. Except as exempted in the Federal Food, Drug, and Cosmetic Act § 403(Q)(3) — (5), nutrition labeling as specified in 21 CFR 101 — Food Labeling and 9 CFR 317 Subpart B Nutrition Labeling.
7. For any salmonid FISH containing canthaxanthin as a COLOR ADDITIVE, the labeling of the bulk FISH container, including a list of ingredients, displayed on the retail container or by other written means, such as a counter card, that discloses the use of canthaxanthin.

(c) BULK FOOD that is available for CONSUMER self-dispensing shall be prominently labeled with the following information in plain view of the CONSUMER:

1. The manufacturer's or processor's label that was provided with the FOOD; or
2. A card, sign, or other method of notification that includes the information specified under Subparagraphs (b)1., 2., and 5. of this section.

(d) Bulk, unPACKAGED FOODS such as bakery products and unPACKAGED FOODS that are portioned to CONSUMER specification need not be labeled if:

1. A health, nutrient content, or other claim is not made;
2. There are no local LAWS requiring labeling; and
3. The FOOD is manufactured or prepared on the PREMISES of the FOOD SALES ESTABLISHMENT or at another FOOD SALES ESTABLISHMENT or a FOOD PROCESSING PLANT that is owned by the same PERSON and is regulated by the FOOD regulatory agency that has jurisdiction.

(e) A PRODUCT CODE (lot number) indicating the date of production shall be applied to all PACKAGED FOOD by the FOOD manufacturer or processor at the time of packaging. Further designations indicating time of production, production line, and like information, may be also incorporated at the manufacturer's option. This information on FOOD packages may not be concealed or altered.

~~(f) The alteration, mutilation, destruction, obliteration, concealment, or removal of the whole, or any part of the labeling of a FOOD, results in such product being ADULTERATED or misbranded.~~

~~(g) If required by LAW, CONSUMER warnings shall be provided.~~

~~(h) All products labeled as "keep refrigerated"; except those covered by other temperature regulations; shall be transported, held, stored, and displayed for sale at 41oF or below.~~

~~(2) Expiration Dates. It shall be unlawful to sell or offer for sale, at retail or wholesale, the following food items past the EXPIRATION DATE stated on the label:~~

~~(a) Infant Formula.~~

~~1. Each and every container of liquid or powdered infant formula made from two or more ingredients and represented as or intended as a replacement or supplement for milk, shall conspicuously show in common and express terms the calendar month and year after which the product is not to be sold or used for human consumption.~~

~~2. The expiration date, or the date after which the product is not to be sold or used for human consumption, shall be determined by the manufacturer based on empirical data, or other verifiable scientific means.~~

~~3. If the Commissioner or his authorized agent has prohibited the sale of a product still within date, after notice, the manufacturer shall for each and every brand, variety, or formulation of infant formula intended to be sold or offered for sale in Georgia, submit scientific data establishing the expiration date to comply with Section (a)2 of this regulation. Such data shall include, but is not limited to, physical, nutritional, and chemical properties. In the absence of empirical data on any specific formulation, the manufacturer shall provide such scientific data to reasonably substantiate the expiration date. If the data submitted does not in the opinion of the Commissioner justify the expiration date, the Commissioner shall prohibit the sale of the product until a new expiration date consistent with data is applied to the food product.~~

~~4. Each and every shipping carton container, and consumer package shall in like manner show the calendar month and year after which the product is not to be sold or used. This section will be complied with if the information is not contained on the shipping carton, container, and consumer package, but is easily legible by virtue of the transparency of the outer wrapper or container.~~

~~5. Any manufacturer, distributor, dealer, or other person who offers for sale or sells infant formula not showing an expiration date or who offers for sale or sells infant formula on a date after the expiration date shown, shall be deemed to be offering for sale a product unfit for food within the meaning of part 26-2-28 of the Georgia Food Act.~~

~~6. Knowingly filing with the Commissioner incorrect or unverifiable date or placing an expiration date upon a shipping carton, container or any consumer package, which date is inconsistent with the data filed with the Commissioner shall be deemed to be misbranding under part 26-2-28 of the Georgia Food Act provided, however, that it shall not be deemed misbranded if the expiration date shown is an earlier date than the filed data would warrant.~~

~~7. Special Formulation. The provisions of this regulation shall not apply to any special formulation manufactured on request of any licensed physician for the express purpose of meeting dietary needs of a specific individual.~~

~~(b) Prepackaged Sandwiches. For the purpose of this section, prePACKAGED sandwiches shall be classified as Type A, Type B or Type C.~~

~~1. Type A.~~

(i) Type A sandwiches are those ~~prePACKAGED~~ sandwiches which are handled and sold as non-refrigerated sandwiches. Type A sandwiches shall not contain ~~POTENTIALLY HAZARDOUS FOOD (TIME/TEMPERATURE CONTROL FOR SAFETY FOOD)~~ in whole, or as an ingredient.

(ii) Type A Sandwiches which are stored, transported and offered for sale in a non-refrigerated state shall be labeled with an ~~EXPIRATION DATE~~ not later than two (2) days from the date of manufacture.

2. Type B Sandwiches.

(i) Type B Sandwiches are those ~~prePACKAGED~~ sandwiches which are handled and sold as refrigerated sandwiches.

(ii) Type B Sandwiches which are labeled “keep refrigerated,” and which are stored, transported and offered for sale under refrigeration; shall be held after preparation continuously at or below 41oF, and shall be labeled with an ~~EXPIRATION DATE~~ not later than seven (7) days from the date of manufacture.

(iii) The ~~EXPIRATION DATE~~ for sandwiches shall state the last day of sale in terms of the month, or its abbreviation, and numerical day of the month (e.g. 6-6). The expiration day shall be preceded by an explanatory term, such as “Expires”, “Sell By”, or similar wording. Other ~~PRODUCT CODES~~ or dating methods are prohibited.

(iv) The date shall be conspicuously located on the front of the wrapper.

(v) When improved packing methods including but not limited to “Nitrogen Flushed” and “Vacuum Packed” are developed and become economically feasible, an extended expiration date may be granted by the Commissioner upon application by the manufacturer with proof of the safety of such an extended shelf life. The time of such extension will be decided by the Commissioner based upon such proof from the manufacturer.

3. Type C Sandwiches.

(i) Type C Sandwiches are those ~~prePACKAGED~~ sandwiches which are immediately hard frozen after manufacture, and which are in a frozen state until the time of sale to institutions or individual retail firms. A 10 degree rise in temperature will be allowed during delivery of frozen sandwiches from the truck into an individual firm.

(ii) Type C Sandwiches when sold by a retail store account for resale to individual ~~CONSUMERS~~ shall be dated when the sandwich is removed from the freezer, labeled as “keep refrigerated,” placed under refrigeration at or below 41oF, and made ready for sale to individual ~~CONSUMERS~~. An ~~EXPIRATION DATE~~, not to exceed seven (7), days shall be stamped on each individual sandwich label.

(iii) Type C Sandwiches intended to be maintained in a non-refrigerated state after removal from the freezer shall have an ~~EXPIRATION DATE~~ not to exceed two (2) days from the date of such removal stamped on each individual sandwich.

(iv) The ~~EXPIRATION DATE~~, as required in Subparagraphs (ii) and (iii) of this section, shall meet the criteria as in ~~40-7-1-.26(2)(b)2.(iii)~~; and be conspicuously displayed on the front of the wrapper.

(e) ~~EGGS~~ cannot be offered or held for sale after the ~~EXPIRATION DATE~~, according to Departmental Rules Chapter ~~40-3-1-.01(e)1~~.

(d) ~~POTENTIALLY HAZARDOUS FOOD (TIME/TEMPERATURE CONTROL FOR SAFETY FOOD)~~, or any ~~FOOD~~ that is labeled “keep refrigerated,” cannot be offered or held for sale past the stated ~~EXPIRATION DATE~~. Nor can the ~~EXPIRATION DATE~~ be modified or lengthened by the use of these products as an ingredient in another ~~FOOD~~ product.

40-7-1-.27 Consumer Advisory—Consumption of Raw or Undercooked Animal Foods.* Repealed

~~If an animal food such as beef, eggs, fish, lamb, milk, pork, poultry or shellfish that is raw, undercooked, or not otherwise processed to eliminate pathogens is offered in a ready-to-eat form as a deli, menu, or other item or as a raw ingredient in another ready-to-eat food; the person in charge shall inform consumers by deli case or menu advisories, label statements, placards or other effective written means of the significantly increased risk associated with certain especially vulnerable consumers eating such foods in raw or undercooked form.~~

40-7-1-.28 Equipment and Utensils (Multiuse). Repealed

~~(1) Characteristics.* Materials that are used in the construction of utensils and food contact surfaces of equipment may not allow the migration of deleterious substances or impart colors, odors, or tastes to food and under normal conditions shall be:~~

- ~~(a) Safe;~~
- ~~(b) Durable, corrosion resistant, and non-absorbent;~~
- ~~(c) Sufficient in weight and thickness to withstand repeated warewashing;~~
- ~~(d) Finished to have a smooth, easily cleanable surface; and~~
- ~~(e) Resistant to pitting, chipping, crazing, scratching, scoring, distortion and decomposition.~~

~~(2) Copper, Use Limitation.* Copper and copper alloys such as brass may not be used in contact with a food that has a pH below 6 such as vinegar, fruit juice, or wine or for a fitting or tubing installed between a backflow prevention device and a carbonator.~~

~~(a) Copper and copper alloys may be used in contact with beer brewing ingredients that have a pH below 6 in the prefermentation and fermentation steps of a beer brewing operation such as a brewpub or microbrewery.~~

~~(3) Sponges, Use Limitation. Sponges may not be used in contact with cleaned and sanitized or in-use food contact surfaces.~~

~~(4) Pewter, Use Limitation. Pewter alloys containing lead in excess of 0.05% may not be used as a food contact surface.~~

~~(5) Solder and Flux, Use Limitation. Solder and flux containing lead in excess of 0.2% may not be used as a food contact surface.~~

~~(6) Wood, Use Limitation.~~

~~(a) Except as specified in paragraphs (b), (c), and (d) of this Sub-section, wood and wood wicker may not be used as a food contact surface.~~

~~(b) Hard maple or an equivalently hard, close grained, wood may be used for:~~

~~1. Cutting boards, cutting blocks, bakers' tables and utensils such as rolling pins, doughnut dowels, salad bowls, and like utensils; and~~

~~2. Wooden paddles used in confectionery operations for pressure-scraping kettles when manually preparing confections at a temperature of 230 F or above.~~

~~(c) Whole, uncut raw fruits and vegetables, and nuts in the shell may be kept in the wood shipping containers in which they were received, until the fruits, vegetables, or nuts are used.~~

- (d) If the nature of the food requires removal of rinds, peels, husks, or shells before consumption, the whole, uncut, raw food may be kept in:
1. Untreated wood containers; or
 2. Treated wood containers, if the containers are treated with a preservative that meets the requirements specified in 21 CFR 178.38 Preservatives for Wood.
- (7) ~~Nonfood Contact Surfaces.~~ Nonfood contact surfaces of equipment that are exposed to splash, spillage or other food soiling or that require frequent cleaning shall be constructed of a corrosion resistant, nonabsorbent and smooth material.
- (8) ~~Cast Iron, Use Limitation.~~
- (a) ~~Except as specified in ¶¶ (b) and (c) of this section, cast iron may not be used for utensils or food contact surfaces of equipment.~~
- (b) ~~Cast iron may be used as a surface for cooking.~~
- (c) ~~Cast iron may be used in utensils for serving food if the utensils are used only as part of an uninterrupted process from cooking through service.~~
- (9) ~~Lead in Ceramic, China, and Crystal Utensils, Use Limitation.~~
- (a) ~~Ceramic, china, crystal utensils, and decorative utensils such as hand painted ceramic or china that are used in contact with food shall be lead free or contain levels of lead not exceeding the federal limits.~~
- (10) ~~Galvanized Metal, Use Limitation.*~~
- (a) ~~Galvanized metal may not be used for utensils or food contact surfaces of equipment that are used in contact with acidic food.~~
- (11) ~~Nonstick Coatings, Use Limitation.~~
- (a) ~~Multiuse kitchenware such as frying pans, griddles, sauce pans, cookie sheets, and waffle bakers that have a perfluorocarbon resin coating shall be used with nonscoring or nonscratching utensils and cleaning aids.~~

40-7-1-.29 Single-Service and Single-Use. Repealed

- (1) ~~Characteristics.~~ Materials that are used to make single service and single use articles:
- (a) ~~May not:~~
1. Allow the migration of deleterious substances; or
 2. Impart colors, odors, or tastes to food; and
- (b) ~~Shall be:~~
1. Safe; and
 2. Clean.

40-7-1-.30 Equipment Durability, Strength, and Accuracy. Repealed

- (1) ~~Equipment and Utensils.~~ Equipment and utensils shall be designed and constructed to be durable and to retain their characteristic qualities under normal use conditions.
- (2) ~~Food Temperature Measuring Devices.*~~ Food temperature measuring devices may not have sensors or stems constructed of glass, except that thermometers with glass sensors or stems that are encased in a shatterproof coating.
- (3) ~~Temperature Measuring Devices, Food.~~

~~(a) Food temperature measuring device that are sealed only in Celsius or dually sealed in Celsius and Fahrenheit shall be accurate to $\pm 1^{\circ}\text{C}$ in the intended range of use.~~

~~(b) Food temperature measuring device that are sealed only in Fahrenheit shall be accurate to $\pm 2^{\circ}\text{F}$ in the intended range of use.~~

~~(4) Temperature Measuring Devices, Ambient Air and Water.~~

~~(a) Ambient air and water temperature measuring device that are sealed in Celsius or dually sealed in Celsius and Fahrenheit shall be designed to be easily readable and accurate to $\pm 1.5^{\circ}\text{C}$ in the intended range of use.~~

~~(b) Ambient air and water temperature measuring device that are sealed only in Fahrenheit shall be accurate to $\pm 3^{\circ}\text{F}$ in the intended range of use.~~

~~(5) Pressure Measuring Devices, Mechanical Warewashing Equipment.~~

~~(a) Pressure measuring devices that display the pressures in the water supply line for the fresh hot water sanitizing rinse shall have increments of 7 kilopascals (1 pounds per square inch) or smaller and shall be accurate to ± 14 kilopascals (± 2 pounds per square inch) in the 100-170 kilopascals (15-25 pounds per square inch) range.~~

40-7-1-.31 Equipment Cleanability. Repealed

~~(1) Food Contact Surfaces.* Multiuse food contact surfaces shall be:~~

~~(a) Smooth;~~

~~(b) Free from breaks, open seams, cracks, chips, inclusions, pits, and similar imperfections;~~

~~(c) Free of sharp internal angles, corners, and crevices;~~

~~(d) Finished to have smooth welds and joints; and~~

~~(e) Accessible for cleaning and inspection by one of the following methods:~~

~~1. Without being disassembled;~~

~~2. By disassembling without the use of tools, or~~

~~3. By easy disassembling with the use of handheld tools commonly available to maintenance and cleaning personnel such as screwdrivers, pliers, open end wrenches, and Allen wrenches.~~

~~(2) CIP Equipment Cleaning Specifications.~~

~~(a) CIP equipment shall meet the characteristics specified under 40-7-1-.31(1) and shall be designed and constructed so that:~~

~~1. Cleaning and sanitizing solutions circulate throughout a fixed system and contact all interior food contact surfaces, and~~

~~2. The system is self-draining or capable of being completely drained of cleaning and sanitizing solutions; and~~

~~(b) CIP equipment that is not designed to be disassembled for cleaning shall be designed with inspection access points to ensure that all interior food contact surfaces throughout the fixed system are being effectively cleaned.~~

~~(3) "V" Threads, Use Limitation. "V" type threads may not be used on food contact surfaces. This section does not apply to hot oil cooking or filtering equipment.~~

~~(4) Hot Oil Filtering Equipment. Hot oil filtering equipment shall meet the characteristics specified under 40-7-1-.31(1) and 40-7-1-.31(2) and shall be readily accessible for filter replacement and cleaning of the filter.~~

~~(5) Can Openers. Cutting or piercing parts of can openers shall be readily removable for cleaning and for replacement.~~

~~(6) Nonfood Contact Surfaces. Nonfood contact surfaces shall be free of unnecessary ledges, projections, and crevices and designed and constructed to allow easy cleaning and to facilitate maintenance.~~

~~(7) Kick Plates, Removable. Kick plates shall be designed so that the areas behind them are accessible for inspection and cleaning by being:~~

~~(a) Removable by one of the methods specified under 40-7-1-.31(1)(e) or capable of being rotated open; and~~

~~(b) Removable or capable of being rotated open without unlocking equipment doors.~~

40-7-1-.32 Equipment Functionality. Repealed

~~(1) Ventilation Hood Systems, Drip Prevention. Exhaust ventilation hood systems in food preparation and warewashing areas including components such as hoods, fans, guards, and ducting shall be designed to prevent grease or condensation from draining or dripping onto food, equipment, utensils, and single-service and single-use articles.~~

~~(2) Ventilation Hood Systems, Filters. Filters or other grease extracting equipment shall be designed to be readily removable for cleaning and replacement if not designed to be cleaned in place.~~

~~(3) Equipment Openings, Closures and Deflectors. A cover or lid for equipment shall overlap the opening and be sloped to drain.~~

~~(4) Bearings and Gear Boxes, Leakproof. Equipment containing bearings and gears that require lubricants shall be designed and constructed so that the lubricant cannot leak, drip, or be forced into food or onto food contact surfaces.~~

~~(5) Ice Units, Separation of Drains. Liquid waste drain lines may not pass through an ice machine or ice storage bin.~~

~~(6) Molluscan Shellfish Tanks.~~

~~(a) Except as specified under paragraph (b) of this section, molluscan shellfish life support system display tanks may only be used to display shellfish that are not offered for human consumption and shall be conspicuously marked so that it is obvious to the consumer that the shellfish are for display only.~~

~~(b) Molluscan shellfish life support system display tanks that are used to store and display shellfish that are offered for human consumption shall be operated and maintained in accordance with a variance granted by the Department as specified in 40-7-1-.70(2) and a HACCP plan that:~~

- ~~1. Is submitted by the person in charge and approved by the Department as specified in 40-7-1-.72(1) and~~

~~2. Ensures that:~~

~~(i) Water used with fish other than molluscan shellfish does not flow into the molluscan tank,~~

~~(ii) The safety and quality of the shellfish as they were received are not compromised by use of the tank, and~~

~~(iii) The identity of the source of the shellstock is retained as specified under 40-7-1-.11(4).~~

~~(7) Temperature Measuring Devices.~~

(a) In a mechanically refrigerated or hot food storage unit, the sensor of a temperature measuring device shall be located to measure the air temperature or a simulated product temperature in the warmest part of a mechanically refrigerated unit and in the coolest part of a hot food storage unit.

(b) Hot or cold holding equipment used for ~~POTENTIALLY HAZARDOUS FOOD~~ (TIME/TEMPERATURE CONTROL FOR SAFETY FOOD) shall be designed to include and shall be equipped with at least one integral or permanently affixed temperature measuring device that is located to allow easy viewing of the display.

(c) Paragraph (b) of this section does not apply to equipment such as heat lamps, cold plates, steam tables, salad bars or calrod units, since measuring ambient air temperature in this type of equipment would be impractical due to design, type and use.

(d) Temperature measuring devices shall be designed to be easily readable and their numerical scale, printed record, or digital readout in increments no greater than 2° F and shall be accurate to + or - 2° F.

(8) Warewashing Machines,

(a) Data Plate Operating Specifications. A warewashing machine shall be provided with an easily accessible and readable data plate affixed to the machine by the manufacturer that indicates the machine's design and operation specifications including the:

1. Temperatures required for washing, rinsing, and sanitizing;
2. Pressure required for the fresh water sanitizing rinse unless the machine is designed to use only a pumped sanitizing rinse; and
3. Conveyor speed for conveyor machines or cycle time for stationary rack machines.
4. It shall be the responsibility of the person in charge to see that such equipment is operated as specifications require.

(b) Warewashing Machines, Internal Baffles.

Warewashing machine wash and rinse tanks shall be equipped with baffles, curtains, or other means to minimize internal cross contamination of the solutions in wash and rinse tanks.

(c) Warewashing Machines, Temperature Measuring Devices.

A warewashing machine shall be equipped with a temperature measuring device that indicates the temperature of the water:

1. In each wash and rinse tank; and
2. As the water enters the hot water sanitizing final rinse manifold or in the chemical sanitizing solution tank.

(d) Warewashing Machines, Automatic Dispensing of Detergents and Sanitizers.

A warewashing machine shall be designed and equipped to:

1. Automatically dispense detergents and sanitizers; and
2. Incorporate a visual means to verify that detergents and sanitizers are delivered or a visual or audible alarm to signal if the detergents and sanitizers are not delivered to the respective washing and sanitizing cycles.

(e) Warewashing Machines, Flow Pressure Device.

1. warewashing machines that provide a fresh hot water sanitizing rinse shall be equipped with a pressure gauge or similar device such as a transducer that measures and displays the water pressure in the supply line immediately before entering the warewashing machine; and
2. If the flow pressure measuring device is upstream of the fresh hot water sanitizing rinse control valve, the device shall be mounted in a 6.4 millimeter or one fourth inch Iron Pipe Size (IPS) valve.

~~3. Paragraphs 1 and 2 of this section do not apply to a machine that uses only a pumped or recirculated sanitizing rinse.~~

~~(9) Case Lot Handling Equipment, Moveability. Equipment, such as dollies, pallets, racks, and skids used to store and transport large quantities of packaged foods received from a supplier in a cased or overwrapped lot, shall be designed to be moved by hand or by conveniently available equipment such as hand trucks and forklifts.~~

~~(10) Dispensing Equipment, Protection of Equipment and Food.~~

~~In equipment that dispenses or vends liquid food or ice in unpackaged form:~~

~~(a) The delivery tube, chute, orifice, and splash surfaces directly above the container receiving the food shall be designed in a manner, such as with barriers, baffles, or drip aprons, so that drips from condensation and splash are diverted from the opening of the container receiving the food;~~

~~(b) The delivery tube, chute, and orifice shall be protected from manual contact such as by being recessed;~~

~~(c) The delivery tube or chute and orifice of equipment used to vend liquid food or ice in unpackaged form to self-service consumers shall be designed so that the delivery tube or chute and orifice are protected from dust, insects, rodents, and other contamination by a self-closing door if the equipment is:~~

~~1. Located in an outside area that does not otherwise afford the protection of an enclosure against the rain, windblown debris, insects, rodents, and other contaminants that are present in the environment, or~~

~~2. Available for self-service during hours when it is not under the full-time supervision of a food employee;~~ (d) ~~The dispensing equipment actuating lever or mechanism and filling device of consumer self-service beverage dispensing equipment shall be designed to prevent contact with the lip contact surface of glasses or cups that are refilled.~~

~~(11) Beverage Tubing, Separation.~~

~~(a) Beverage tubing and cold-plate beverage cooling devices may not be installed in contact with stored ice. This section does not apply to cold plates that are constructed integrally with an ice storage bin.~~

~~(12) Condenser Unit, Separation.~~

~~(a) If a condenser unit is an integral component of equipment, the condenser unit shall be separated from the food and food storage space by a dustproof barrier.~~

~~(13) Food Equipment, Certification and Classification: FOOD EQUIPMENT that is certified or classified for sanitation by an American National Standards Institute (ANSI)-accredited certification program will be deemed to comply with this section.~~

40-7-1-.33 Equipment Numbers and Capacities. Repealed

~~(1) Cooling, Heating, and Holding Capacities. Equipment for cooling and heating food, and holding cold and hot food, shall be sufficient in number and capacity to provide proper food temperatures.~~

~~(2) Sink Compartment Requirements, Manual Warewashing.~~

~~(a) Except as specified in Paragraph (c) of this section, a sink with at least 3 compartments shall be provided and conveniently located for manually washing, rinsing, and sanitizing equipment and utensils.*~~

~~(b) Sink compartments shall be large enough to accommodate immersion of the largest~~

equipment and utensils. If equipment or utensils are too large for the warewashing sink, a warewashing machine or alternative equipment as specified in paragraph (c) of this section shall be used.

~~(c) Alternative manual warewashing equipment may be used when there are special cleaning needs or constraints and the Department has approved the use of the alternative equipment. Alternative manual warewashing equipment may include:~~

- ~~1. High pressure detergent sprayers;~~
- ~~2. Low or line pressure spray detergent foamers;~~
- ~~3. Other task specific cleaning equipment;~~
- ~~4. Brushes or other implements;~~
- ~~5. 2-compartment sinks as specified under paragraph (d) of this section; or~~
- ~~6. Receptacles that substitute for the compartments of a multi-compartment sink.~~

~~(d) A 2-compartment sink may be used only if:~~

- ~~1. Its use is approved by the Department; and~~
- ~~2. The nature of warewashing is limited to batch operations for cleaning kitchenware such as between cutting one type of raw meat and another or clean up at the end of a shift, where the number of items cleaned is limited, where the cleaning and sanitizing solutions are made up immediately before use and drained immediately after use, and where a detergent sanitizer is used to sanitize and is applied as specified in 40-7-1-.37(11). A 2-compartment sink may not be used for warewashing operations such as where cleaning and sanitizing solutions are used for a continuous or intermittent flow of food handling ware and utensils in an ongoing ware-washing process.~~

~~** (See part 40-7-1-.70(1) (b))~~

~~(e) Warewashing Sinks and Drainboards, Self-Draining. Sinks and drainboards of warewashing sinks and machines shall be self-draining.~~

~~(f) Equipment Compartments, Drainage. Equipment compartments that are subject to accumulation of moisture due to conditions such as condensation, food or beverage drip, or water from melting ice shall be sloped to an outlet that allows complete draining.~~

~~(3) Utensil Storage Racks. Drainboards, utensil racks, or tables large enough to accommodate all soiled and cleaned items that may accumulate during hours of operation shall be provided for necessary utensil holding before cleaning and after sanitizing.~~

~~(4) Ventilation Hood Systems, Adequacy. Ventilation hood systems and devices shall be sufficient in number and capacity to prevent grease or condensation from collecting on walls and ceilings.~~

~~(5) Clothes Washers and Dryers.~~

~~(a) Except as specified in paragraph (b) of this section, if work clothes or linens are laundered on the premises, a mechanical clothes washer and dryer shall be provided and used.~~

~~(b) If on premises laundering is limited to wiping cloths intended to be used moist, or wiping cloths are air dried as specified under 40-7-1-.49(2) a mechanical clothes washer and dryer need not be provided.~~

40-7-1-.34 Utensils, Temperature Measuring Devices, and Testing Devices. Repealed

~~(1) Utensils, Consumer Self Service. A food dispensing utensil shall be available for each container displayed at a consumer self service unit such as a buffet or salad bar.~~

~~(2) Food Temperature Measuring Devices.~~

~~(a) Temperature measuring devices such as stem thermometers shall be provided and readily accessible for use in assuring attainment and maintenance of food temperatures where POTENTIALLY HAZARDOUS FOOD (TIME/TEMPERATURE CONTROL FOR SAFETY FOOD) is prepared and /or held. Their accuracy shall be as specified in 40-7-1-.32(7) (c).~~

~~(b) A TEMPERATURE MEASURING DEVICE with a suitable small diameter probe that is designed to measure the temperature of thin masses shall be provided and readily accessible to accurately measure the temperature in thin FOODS such as MEAT patties and FISH filets.~~

~~(3) Temperature Measuring Devices, Manual Warewashing. In manual warewashing operations, a temperature measuring device shall be provided and readily accessible for frequently measuring the washing and sanitizing temperatures.~~

~~(4) Sanitizing Solutions, Testing Devices. A test kit or other device that accurately measures the concentration in mg/L of sanitizing solutions shall be provided.~~

40-7-1-.35 Location. Repealed

~~(1) Equipment and Storage Cabinets, Contamination Prevention.~~

~~(a) Except as specified in Subparagraph (b) and under Subparagraph (c) of this section, equipment, a cabinet used for the storage of food, or a cabinet that is used to store cleaned and sanitized equipment, utensils, laundered linens, and single service and single use articles may not be located:~~

~~1. In locker rooms;~~

~~2. In toilet rooms;~~

~~3. In garbage rooms;~~

~~4. In mechanical rooms;~~

~~5. Under sewer lines that are not shielded to intercept potential drips;~~

~~6. Under leaking water lines including leaking automatic fire sprinkler heads or under lines on which water has condensed;~~

~~7. Under open stairwells; or~~

~~8. Under other sources of contamination.~~

~~(b) A storage cabinet used for linens or single service or single use articles may be stored in a locker room.~~

~~(c) If a mechanical clothes washer or dryer is provided; it shall be located so that the washer or dryer is protected from contamination and only where there is no exposed food; clean equipment, utensils and linens; and unwrapped single service and single use articles.~~

40-7-1-.36 Installation of Equipment. Repealed

~~(1) Fixed Equipment, Spacing or Sealing.~~

~~(a) A unit of equipment that is fixed because it is not easily movable shall be installed so that it is:~~

- ~~1. Spaced to allow access for cleaning along the sides, behind, and above the unit;~~
- ~~2. Sealed to adjoining equipment or walls, if the unit is exposed to spillage or seepage.~~

~~(b) Table-mounted equipment that is not easily movable shall be installed to allow cleaning of the equipment and areas underneath and around the equipment by being:~~

- ~~1. Sealed to the table; or~~
- ~~2. Elevated on legs to allow cleaning underneath.~~

~~(2) Fixed Equipment, Elevation or Sealing.~~

~~(a) Except as specified in ¶¶ (b) and (c) of this section, floor-mounted equipment that is not easily movable shall be sealed to the floor or elevated on legs that provide at least a 15-centimeter (6-inch) clearance between the floor and the equipment.~~

~~(b) If no part of the floor under the floor-mounted equipment is more than 15 centimeters (6 inches) from the point of cleaning access, the clearance space may be only 10 centimeters (4 inches).~~

~~(c) This section does not apply to display shelving units, display refrigeration units, and display freezer units located in the consumer shopping areas of a retail food store, if the floor under the units is maintained clean.~~

~~(d) Except as specified in ¶ (e) of this section, table-mounted equipment that is not easily movable shall be elevated on legs that provide at least a 10-centimeter (4-inch) clearance between the table and the equipment.~~

~~(e) The clearance space between the table and table-mounted equipment may be:~~

- ~~1. 7.5 centimeters (3 inches) if the horizontal distance of the table top under the equipment is no more than 50 centimeters (20 inches) from the point of access for cleaning; or~~
- ~~2. 5 centimeters (2 inches) if the horizontal distance of the table top under the equipment is no more than 7.5 centimeters (3 inches) from the point of access for cleaning.~~

40-7-1-.37 Equipment Maintenance. Repealed

~~(1) Good Repair and Proper Adjustment.~~

~~(a) Equipment shall be maintained in a state of repair and condition that meets the requirements of these regulations.~~

~~(b) Equipment components such as doors, seals, hinges, fasteners, and kick plates shall be kept intact, tight, and adjusted in accordance with manufacturers' specifications.~~

~~(c) Cutting or piercing parts of can openers shall be kept sharp to minimize the creation of metal fragments that can contaminate food when the container is opened.~~

~~(2) Cutting Surfaces. Surfaces such as cutting blocks and boards that are subject to~~

scratching and scoring shall be resurfaced if they can no longer be effectively cleaned and sanitized, or discarded if they are not capable of being resurfaced.

(3) Warewashing Equipment, Cleaning Frequency. The compartments of sinks, basins, or other receptacles used for washing and rinsing equipment, utensils, or raw foods, or laundering wiping cloths; and drainboards or other equipment used to substitute for drainboards as specified in paragraph 40-7-1-.33(3) shall be cleaned;

(a) Before use;

(b) Throughout the day at a frequency necessary to prevent recontamination of equipment and utensils and to assure that the equipment performs its intended function; and

(c) If used, at least every 24 hours.

(4) Warewashing Machines, Manufacturers' Operating Instructions.

(a) A warewashing machine and its auxiliary components shall be operated in accordance with the machine's data plate and other manufacturer's instructions.

(b) A warewashing machine's conveyor speed or automatic cycle times shall be maintained accurately timed in accordance with manufacturer's specifications.

(c) Mechanical warewashing equipment shall be operated at manufacturers recommended washing, rinsing and sanitization temperatures and pressures.

(5) Warewashing Sinks, Use Limitation. A warewashing sink may be used to wash wiping cloths, wash produce, or thaw food if the sink is cleaned as specified under paragraph 40-7-1-.37(3) before and after each time it is used to wash wiping cloths or wash produce or thaw food. Sinks used to wash or thaw food shall be sanitized as specified under part 40-7-1-.43 before and after using the sink to wash produce or thaw food.

(6) Warewashing Equipment, Cleaning Agents. The wash compartment of a sink, mechanical warewasher, or wash receptacle of alternative manual warewashing equipment as specified in 40-7-1-.33(2) (c), shall, when used for warewashing, contain a wash solution of soap, detergent, acid cleaner, alkaline cleaner, degreaser, abrasive cleaner, or other cleaning agent according to the cleaning agent manufacturer's label instructions.

(7) Warewashing Equipment, Clean Solutions. The wash, rinse and sanitize solutions shall be maintained clean.

(8) Manual Warewashing Equipment, Wash solution Temperature. The temperature of the wash solution in manual warewashing equipment shall be maintained at not less than 110° F (43° C) unless a different temperature is specified on the cleaning agent manufacturer's label instructions.

(9) Manual Warewashing Equipment, Hot Water Sanitization Temperatures.*

(a) If immersion in hot water is used for sanitization in a manual operation, the temperature of the water shall be maintained at 170° F (77° C) or above.

(b) If hot water is used for sanitization in manual warewashing operations, the sanitizing compartment of the sink shall be:

1. Designed with an integral heating device that is capable of maintaining water at a temperature not less than 77°C (171°F); and
2. Provided with a rack or basket to allow complete immersion of equipment and utensils into the hot water.

(10) Manual and Mechanical Warewashing Equipment, Chemical Sanitization—Temperature, pH, Concentration, and Hardness.* A chemical sanitizer used in a

sanitizing solution for a manual or mechanical operation at exposure times specified in 40-7-1-.44 shall be listed in 21 CFR 178.1010 Sanitizing solutions, shall be used in accordance with the EPA approved manufacturer's label use instructions, and shall be used as follows:

(a) A chlorine solution shall have a minimum temperature based on the concentration and pH of the solution as listed in the following chart;

Minimum Concentration Minimum Temperature

Mg/L PH 10 or less F (C) pH 8 or less F (C)

25 120 (49) 120 (49)

50 100 (38) 75 (24)

100 55 (13) 56 (13)

(b) An iodine solution shall have a:

1. Minimum temperature of 75° F (24° C),

2. pH of 5.0 or less, unless the manufacturer's use directions included in the labeling specify a higher pH limit of effectiveness, and,

3. Concentration between 12.5 mg/L and 25 mg/L;

(c) A quaternary ammonium compound solution shall:

1. Have a minimum temperature of 75° F (24° C).

2. Have a concentration as specified under 40-7-1-.69(6) and as indicated by the manufacturer's use directions included in the labeling; and

3. Be used only in water with 500 mg/l hardness or less;

(d) Other solutions of the chemicals specified in parts (a) - (c) of this Sub-section may be used if demonstrated to the Department to achieve sanitation and approved by the Department, or

(e) Other chemical sanitizers may be used if they are applied in accordance with the manufacturer's use directions included in the labeling.

(11) Manual Warewashing Equipment, Chemical Sanitization Using Detergent-Sanitizers. If a detergent sanitizer is used to sanitize in a cleaning and sanitizing procedure where there is no distinct water rinse between the washing and sanitizing steps, the agent applied in the sanitizing step shall be the same detergent sanitizer that is used in the wash step.

(12) Warewashing Equipment, Determining Chemical Sanitizer Concentration.

Concentration of the sanitizer solution shall be accurately determined by using a test kit or device.

(13) Microwave ovens shall meet the safety standards specified in 21 CFR 1030.10 Microwave ovens.

40-7-1-.38 Utensils and Temperature Measuring Devices. Repealed

(1) Good Repair and Proper Calibration.

(a) Utensils shall be maintained in a state of repair or condition that complies with the requirements of these regulations or shall be discarded.

(b) Temperature measuring devices shall be calibrated in accordance with manufacturer's specifications as necessary to ensure their accuracy.

(c) Ambient air temperature, water pressure, and water temperature measuring device

shall be maintained in good repair and be accurate within the intended range of use.

~~(2) Single Service and Single Use Articles, Reuse Limitation:~~

~~(a) Single service and single use articles may not be reused.~~

~~(b) The bulk milk container dispensing tube shall be cut on the diagonal leaving no more than one inch protruding from the chilled dispensing head.~~

~~(3) Mollusk and crustacea shells may not be used more than once as serving containers.~~

40-7-1-.39-Cleaning of Equipment and Utensils. Repealed

~~(1) Equipment, Food Contact Surfaces, Nonfood Contact Surfaces, and Utensils:~~

~~(a) Equipment food contact surfaces and utensils shall be cleaned to sight and touch.~~

~~(b) The food contact surfaces of cooking equipment and pans shall be kept free of encrusted grease deposits and other soil accumulations.~~

~~(c) Non food contact surfaces of equipment shall be kept free of an accumulation of dust, dirt, food residue and other debris.~~

40-7-1-.40-Cleaning Frequency. Repealed

~~(1) Equipment Food Contact Surfaces and Utensils.*~~

~~(a) Equipment food contact surfaces and utensils shall be cleaned.~~

~~1. Before each use with a different type of raw animal food such as beef, fish, lamb, pork, or poultry.~~

~~2. Each time there is a change from working with raw foods to working with ready-to-eat foods.~~

~~3. Between uses with raw fruits or vegetables and with POTENTIALLY HAZARDOUS FOOD (TIME/TEMPERATURE CONTROL FOR SAFETY FOOD);~~

~~4. Before using or storing a food temperature measuring device; and~~

~~5. At any time during the operation when contamination may have occurred.~~

~~(b) Subparagraph (a) 1 of this section does not apply if the food contact surface or utensil is in contact with a succession of different raw animal foods each requiring a higher cooking temperature as specified under § 40-7-1-.17 than the previous food, such as preparing raw fish followed by cutting raw poultry on the same cutting board.~~

~~(c) Except as specified in (d) of this section, if used with POTENTIALLY HAZARDOUS FOOD (TIME/TEMPERATURE CONTROL FOR SAFETY FOOD), equipment food contact surfaces and utensils shall be cleaned throughout the day at least every 4 hours.~~

~~(d) Surfaces of utensils and equipment contacting POTENTIALLY HAZARDOUS FOOD (TIME/TEMPERATURE CONTROL FOR SAFETY FOOD) may be cleaned less frequently than every 4 hours if:~~

~~1. In storage, containers of POTENTIALLY HAZARDOUS FOOD (TIME/TEMPERATURE CONTROL FOR SAFETY FOOD) and their contents are maintained at temperatures specified under 40-7-1-.20 and the containers are cleaned when they are empty;~~

~~2. Utensils and equipment are used to prepare food in a refrigerated room or area that is maintained at one of the temperatures in the following chart and:~~

a. The utensils and equipment are cleaned at the frequency in the following chart that corresponds to the temperature:

Temperature	Cleaning Frequency
5.0°C (41°F) or less	24 hours
>5.0°C – 7.2°C (>41°F – 45°F)	20 hours
>7.2°C – 10.0°C (>45°F – 50°F)	16 hours
>10.0°C – 12.8°C (>50°F – 55°F)	10 hours

~~(e) Except when dry cleaning methods are used as specified under 40-7-1-.40(4), surfaces of utensils and equipment contacting food that is not potentially hazardous shall be cleaned:~~

- ~~1. At any time when contamination may have occurred;~~
- ~~2. At least every 24 hours for iced tea dispensers and consumer self-service utensils such as tongs, scoops, or ladles;~~
- ~~3. Before restocking consumer self-service equipment and utensils such as condiment dispensers and display containers; and~~
- ~~4. In equipment such as ice bins and beverage dispensing nozzles and enclosed components of equipment such as ice makers, cooking oil storage tanks and distribution lines, beverage and syrup dispensing lines or tubes, coffee bean grinders, and water vending equipment:~~
 - ~~a. At a frequency specified by the manufacturer, or~~
 - ~~b. Absent manufacturer specifications, at a frequency necessary to preclude accumulation of soil or mold.~~

~~(2) Cooking and Baking Equipment. The food-contact surfaces of cooking and baking equipment shall be cleaned at least every 24 hours. This section does not apply to hot oil cooking and filtering equipment if it is cleaned as specified under 40-7-1-.40(1)(c)(4).~~

~~(3) Nonfood Contact Surfaces. Nonfood contact surfaces of equipment shall be cleaned at a frequency necessary to preclude accumulation of soil residues.~~

~~(4) Returnables, Cleaning for Refilling.*~~

~~(a) Except as specified in (b) and (c) of this section, returned empty containers intended for cleaning and refilling with food shall be cleaned and refilled in a regulated food processing plant.~~

~~(b) A food specific container for beverages may be refilled at a food establishment if:~~

- ~~1. Only a beverage that is not a POTENTIALLY HAZARDOUS FOOD (TIME/TEMPERATURE CONTROL FOR SAFETY FOOD) is used as specified under 40-7-1-.14(5);~~
- ~~2. The design of the container and of the rinsing equipment and the nature of the beverage, when considered together, allow effective cleaning at home or in the food establishment;~~
- ~~3. Facilities for rinsing before refilling returned containers with fresh, hot water that is under pressure and not recirculated are provided as part of the dispensing system;~~
- ~~4. The consumer-owned container returned to the food establishment for refilling is refilled for sale or service only to the same consumer; and~~
- ~~5. The container is refilled by:~~
 - ~~a. An employee of the food establishment, or~~

- b. ~~The owner of the container if the beverage system includes a contamination-free transfer process that can not be bypassed by the container owner.~~
- c. ~~Consumer-owned containers that are not food-specific may be filled at a water vending machine or system.~~

40-7-1-.41-Cleaning-Repealed

~~(1) Wet Cleaning.~~

- ~~(a) Food processing equipment and multi-part utensils shall be *disassembled* as far as practical prior to each cleaning to assure an effective wash, rinse and sanitization.~~
- ~~(b) Equipment food contact surfaces and utensils shall be effectively washed to remove or completely loosen soils by using the manual or mechanical means necessary such as the application of detergents containing wetting agents and emulsifiers; acid, alkaline, or abrasive cleaners, hot water; brushes; scouring pads; or high pressure sprays or ultrasonic devices.~~
- ~~(c) The washing procedure selected shall be based on the type and purpose of the equipment or utensil, and on the type of soil to be removed.~~

~~(2) Washing, Procedures for Alternative Manual Warewashing Equipment. If washing in sink compartments or a warewashing machine is impractical such as when the equipment is fixed or the utensils are too large, washing shall be done by using alternative manual warewashing equipment as specified in 40-7-1.33(c) in accordance with the following procedures:~~

- ~~(a) Equipment shall be disassembled as necessary to allow access of the detergent solution to all parts;~~
- ~~(b) Equipment components and utensils shall be scrapped or rough cleaned to remove food particle accumulation; and~~
- ~~(c) Equipment and utensils shall be washed as specified under 40-7-1-.41(1) (a).~~

~~(3) Dry Cleaning.~~

- ~~(a) If used, dry cleaning methods such as brushing, scraping, and vacuuming shall contact only surfaces that are soiled with dry food residues that are not potentially hazardous.~~
- ~~(b) Cleaning equipment used in dry cleaning food contact surfaces may not be used for any other purpose.~~

~~(4) Preecleaning.~~

- ~~(a) Food debris on equipment and utensils shall be scrapped over a waste disposal unit or garbage receptacle or shall be removed in a warewashing machine with a prewash cycle.~~
- ~~(b) If necessary for effective cleaning, utensils and equipment shall be preflushed, presoaked, or scrubbed with abrasives.~~

40-7-1-.42-Rinsing Procedures-Repealed

~~Except as specified under subparagraph (b) of this section, washed utensils and equipment shall be rinsed so that abrasives are removed and cleaning chemicals are removed or diluted through the use of water or a detergent sanitizer solution by using one of the following procedures:~~

- ~~(a) Use of a distinct, separate water rinse after washing and before sanitizing if using:~~
- ~~1. A 3-compartment sink;~~
 - ~~2. Alternative manual warewashing equipment equivalent to a 3-compartment sink as specified under paragraph 40-7-1-.33(2)(c), or~~
 - ~~3. A 3-step washing, rinsing, and sanitizing procedure in a warewashing system for CIP equipment;~~
- ~~(b) Use of a detergent sanitizer as specified under 40-7-1-.37(11) if using:~~
- ~~1. Alternative warewashing equipment as specified under 40-7-1-.33(2) that is approved for use with a detergent sanitizer, or~~
 - ~~2. A warewashing system for CIP equipment;~~
- ~~(c) Use of a nondistinct water rinse that is integrated in the hot water sanitization immersion step of a 2-compartment sink operation;~~
- ~~(d) If using a warewashing machine that does not recycle the sanitizing solution as specified in subparagraph (e) of this section, or alternative manual warewashing equipment such as sprayers, use of a nondistinct water rinse that is:~~
- ~~1. Integrated in the application of the sanitizing solution, and~~
 - ~~2. Wasted immediately after each application; or~~
- ~~(e) If using a warewashing machine that recycles the sanitizing solution for use in the next wash cycle, use of a nondistinct water rinse that is integrated in the application of the sanitizing solution.~~

~~40-7-1-.43 Sanitization of Equipment and Utensils. Repealed~~

~~Food-Contact Surfaces and Utensils. Equipment food-contact surfaces and utensils shall be sanitized before use after cleaning.~~

~~40-7-1-.44 Methods of Sanitization. Repealed~~

~~Hot water and Chemical.* After being cleaned, equipment food-contact surfaces and utensils shall be sanitized in:~~

- ~~(a) Hot water manual operations by immersion for at least 30 seconds as specified under part 40-7-1-.37(9)~~
- ~~(b) Hot water mechanical operations by being cycled through equipment that is set up as specified by manufacturers' instructions and achieving a utensil surface temperature of 160o F(71o C) as measured by an irreversible registering temperature indicator ; or~~
- ~~(c) Chemical manual or mechanical operations, including the application of sanitizing chemicals by immersion, manual swabbing, brushing, or pressure spraying methods, using a solution as specified under 40-7-1-.37(11) by providing:~~
- ~~1. Except as specified under Subparagraph (c)(2) of this section, an exposure time of at least 10 seconds for a chlorine solution specified under 40-7-1-.37(10)(a),~~
 - ~~2. An exposure time of at least 7 seconds for a chlorine solution of 50 mg/L that has a pH of 10 or less and a temperature of at least 38°C (100°F) or a pH of 8 or less and a~~

temperature of at least 24°C (75°F),

3. An exposure time of at least 30 seconds for other chemical sanitizer solutions, or

4. An exposure time used in relationship with a combination of temperature, concentration, and pH that, when evaluated for efficacy, yields sanitization as defined in Subparagraph 40-7-1-.02(81).

40-7-1-.45 Laundering. Repealed

Clean clothing, wiping cloths, towels and other laundered articles shall be free from food residues and other soiling matter.

40-7-1-.46 Laundering Frequency. Repealed

Laundering specifications include:

(a) Linens that do not come in direct contact with food shall be laundered between operations if they become wet, sticky, or visibly soiled.

(b) Cloth gloves specified in 40-7-1-.14(4)(d) shall be laundered before being used with a different type of raw animal food such as beef, lamb, pork, and fish.

(c) Wet wiping cloths shall be laundered daily.

(d) Dry wiping cloths shall be laundered as necessary to prevent contamination of food and clean serving utensils.

(e) Employee clothing shall be laundered as necessary to prevent contamination of food and clean related equipment and articles.

40-7-1-.47 Laundering Methods. Repealed

(1) Storage of Soiled Linens. Soiled linens shall be kept in clean, nonabsorbent receptacles or clean, washable laundry bags and stored and transported to prevent contamination of food, clean equipment, clean utensils, and single service and single use articles.

(2) Mechanical Washing. In food establishments in which only wiping cloths or towels are laundered as specified in 40-7-1-.33(5)(b), the wiping cloths may be laundered in a mechanical washer, or a warewashing or food preparation sink that is cleaned as specified under 40-7-1-.37(3).

(3) Use of Laundry Facilities. Laundry facilities on the premises of a food establishment shall be used only for the washing and drying of items used in the operation of the establishment.

40-7-1-.48 Protection of Clean Items. Repealed

~~Clean equipment and multi-use utensils which have been cleaned and sanitized shall be protected from contamination prior to their intended use.~~

40-7-1-.49 Drying of Equipment and Utensils. Repealed

~~(1) Equipment and Utensils, Air-Drying Required.~~

~~(a) After cleaning and sanitizing, equipment and utensils may not be cloth-dried.~~

~~(b) Equipment and utensils may be air-dried or used after adequate draining as specified in paragraph (a) of 21 CFR 178.1010 Sanitizing solutions, before contact with food.~~

~~(2) Wiping Cloths, Air-Drying Locations. Wiping cloths laundered in a food establishment that does not have a mechanical clothes dryer as specified in part 40-7-1-.33(5)(b) shall be air-dried in a location and in a manner that contamination of food, equipment, utensils, linens, and single-service and single-use articles and the wiping cloths is prevented. This section does not apply if wiping cloths are stored after laundering in a sanitizing solution as specified under 40-7-1-.37(10).~~

40-7-1-.50 Equipment Lubricating and Reassembling. Repealed

~~(1) Food-Contact Surfaces. Lubricants shall be applied to food-contact surfaces that require lubrication in a manner that food-contact surfaces are not contaminated.~~

~~(2) Equipment. Equipment shall be reassembled so that food-contact surfaces are not contaminated.~~

40-7-1-.51 Storing of Cleaned Equipment. Repealed

~~(1) Equipment, Utensils, Linens, and Single-Service and Single-Use Articles.~~

~~(a) Except as specified in part (c) of this section, cleaned equipment and utensils, laundered linens, and single-service and single-use articles shall be stored:~~

~~1. In a clean, dry location;~~

~~2. Where they are not exposed to splash, dust, or other contamination; and~~

~~3. At least 15 cm (6 inches) above the floor.~~

~~(b) Clean equipment and utensils shall be stored as specified under Sub-paragraph (a) of this section and shall be stored:~~

~~1. In a self-draining position that permits air drying; and~~

~~2. Covered or inverted.~~

~~(c) Single-service and single-use articles shall be stored as specified under Sub-paragraph (a) of this section and shall be kept in the original protective package or stored by using other means that afford protection from contamination until used.~~

~~(d) Items that are kept in closed packages may be stored less than 15 cm (6 inches) above the floor on dollies, pallets, racks, and skids that are designed as specified under § 40-7-1-.32(9).~~

~~(2) Prohibitions.~~

~~(a) Except as specified in paragraph (b) of this section, cleaned and sanitized equipment, utensils, laundered linens, and single-service and single-use articles may not be stored:~~

~~1. In locker rooms;~~

~~2. In toilet rooms;~~

~~3. In garbage rooms;~~

~~4. In mechanical rooms;~~

~~5. Under sewer lines that are not shielded to intercept potential drips;~~

~~6. Under leaking water lines including leaking automatic fire sprinkler heads or under lines on which water has condensed;~~

~~7. Under open stairwells; or~~

~~8. Under other sources of contamination.~~

~~(b) Laundered linens and single-service and single-use articles that are packaged or in a facility such as a cabinet may be stored in a locker room.~~

~~(3) Kitchenware and Tableware.~~

~~(a) Single-service and single-use articles and cleaned and sanitized utensils shall be handled, displayed, and dispensed so that contamination of food and lip-contact surfaces is prevented.~~

~~(b) Knives, forks, and spoons that are not prewrapped shall be presented so that only the handles are touched by Employees and by Consumers if consumer self-service is provided.~~

~~(c) Except as specified under ¶ (b) of this section, single-service articles that are intended for food or lip-contact shall be furnished for consumer self-service with the original individual wrapper intact or from an approved dispenser.~~

~~(4) Soiled and Clean Tableware. Soiled tableware shall be removed from consumer eating and drinking areas and handled so that clean tableware is not contaminated.~~

40-7-1-.52 Water – Approved Source. Repealed

~~(1) Approved System.* Drinking water shall be obtained from an approved source that is:~~

~~(a) A public water system; or~~

~~(b) A non-public water system that is constructed, maintained, and operated according to requirements of the Department.~~

~~(2) System Flushing and Disinfection.* A drinking water system shall be flushed and disinfected using a method approved by the Department, before being placed in service after construction, repair, or modification and after an emergency situation, such as a flood, that may introduce contaminants to the system.~~

~~(3) Bottled Drinking Water.* Bottled drinking water used or sold in a food establishment shall be obtained from approved sources in accordance with requirements set forth by Georgia Department of Agriculture Food Division Regulation Chapter 40-7-6 Commercially Bottled Water and Water Vending Machines and 21 CFR 103.35 Standards of Quality – Bottled Water.~~

40-7-1-.53 Water Quality. Repealed

- (1) ~~Standards.* Except as specified under 40-7-1-.53(2), water from public or private water systems shall meet quality standards set forth by Georgia Department of Natural Resources regulation 391-3-5 Rules for Safe Drinking Water.~~
- (2) ~~Non-drinking Water.* If the use of a non-drinking water supply is approved by the Department, the supply shall be used only for purposes such as air conditioning, nonfood equipment cooling, fire protection, and irrigation, and may not be used so that the nondrinking water is allowed to contact, directly or indirectly, food, equipment, or utensils.~~
- (3) ~~Sampling. Except when used as specified under 40-7-1-.53(2), water from a nonpublic water system shall be sampled at least annually and tested as required by the Department~~
- (4) ~~Sample Report. Sample reports of non-public water systems shall be retained on file as required by the Department.~~
- (5) ~~Water Re-use. When water is re-used during the processing of food products, it shall be re-used backwards in the flow plan under strict sanitary conditions.~~

40-7-1-.54 Water Quantity and Availability. Repealed

- (1) ~~Capacity. The water source and system shall be of sufficient capacity to meet the water demands of the food establishment.~~
- (2) ~~Pressure. Water under pressure shall be provided to all fixtures, equipment, and nonfood equipment that are required to use water except that water supplied as specified in 40-7-1-.55(2).~~
- (3) ~~Hot Water. Hot water generation and distribution systems shall be sufficient to meet the peak hot water demands throughout the food establishment.~~

40-7-1-.55 Distribution, Delivery, and Retention. Repealed

- (1) ~~System. Water shall be received from the source through the use of:~~
- (a) ~~An approved public water main; or~~
- (b) ~~One or more of the following that shall be constructed, maintained, and operated according to law:~~
- ~~1. Private water main, water pumps, pipes, hoses, connections, and other appurtenances;~~
 - ~~2. Water transport vehicles, and~~
 - ~~3. Water containers.~~
- (2) ~~Alternative Water Supply. Water meeting the preceding requirements for source, quality, quantity and availability, shall be made available for a mobile facility, for a temporary facility without a permanent water supply, and for a food establishment with a~~

temporary interruption of its water supply through:

- (a) A supply of containers of commercially bottled drinking water;
- (b) One or more closed portable water containers;
- (c) An enclosed vehicular water tank;
- (d) An on-premises water storage tank; or
- (e) Piping, tubing, or hoses connected to an adjacent approved source.

40-7-1-.56 Plumbing System Materials. Approved System. Repealed

- ~~(a) A plumbing system and hoses conveying water shall be constructed and repaired with approved materials according to law.~~
- ~~(b) A water filter shall be made of safe materials.~~

40-7-1-.57 Design, Construction and Installation. Repealed

~~(1) Approved System and Cleanable Fixtures.*~~

~~(a) A plumbing system shall be designed, constructed, and installed according local code.~~

~~(b) A plumbing fixture such as a handwash lavatory, toilet, or urinal shall be easily cleanable.~~

~~(2) Handwashing Lavatory, Water Temperature, and flow.~~

~~(a) A handwashing lavatory shall be equipped to provide water at a temperature of at least 100o F (38o C) through a mixing valve or combination faucet.~~

~~(b) A steam mixing valve may not be used at a handwashing lavatory.~~

~~(c) A self-closing, slow-closing, or metering faucet shall provide a flow of water for at least 15 seconds without the need to reactivate the faucet.~~

~~(d) An automatic handwashing facility shall be installed in accordance with manufacturer's instructions.~~

~~(3) Backflow Prevention, Air Gap.* An air gap between the water supply inlet and the flood level rim of the plumbing fixture, equipment, or nonfood equipment shall be at least twice the diameter of the water supply inlet and may not be less than 25 mm (1 inch).~~

~~(4) Backflow Prevention Device, Design Standard. A backflow or backsiphonage prevention device installed on a water supply system shall meet American Society of Sanitary Engineers (A.S.S.E.) standards for construction, installation, maintenance, inspection, and testing for that specific application and type of device.~~

~~(5) Conditioning Device, Design. A water filter, screen, and other water conditioning device installed on water lines shall be designed to facilitate disassembly for periodic servicing and cleaning. A water filter element shall be of the replaceable type.~~

40-7-1-.58 Facility Numbers and Capacities. Repealed

~~(1) Handwashing Lavatory.* A handwashing lavatory shall be located:~~

~~(a) Handwashing facilities shall be installed according to regulation shall be at least one and permit the convenient use by all employees in food preparation and warewashing areas**.~~

~~(b) Additionally at least one handwash sink shall be located in or immediately adjacent to toilet rooms;~~

~~(c) If approved and capable of removing the types of soils encountered in the food operations involved, automatic handwashing facilities may be substituted for handwashing lavatories in a food establishment that has at least one handwashing lavatory.~~

~~(2) Furthermore:~~

~~(a) Handwashing lavatories shall be maintained so that they are accessible at all times for employee use.~~

~~(b) Handwashing facilities shall provide hot and cold running water under pressure and be accessible to employees at all times.~~

~~(c) Sinks used for food preparation or warewashing shall not be used for washing of hands or for any other purpose except as provided for in these regulations.~~

~~(d) A supply of hand-cleansing soap or detergent shall be available at each handwashing facility. A supply of sanitary towels or a hand-drying device providing heated air shall be conveniently located near each handwashing facility. Common towels are prohibited. If disposable towels are used, easily cleanable waste receptacles shall be conveniently located near the handwashing facilities.~~

~~(e) Handwashing facilities, soap or detergent dispensers, hand-drying devices, and all related facilities shall be cleaned daily or more often as necessary and maintained in good repair.~~

~~**Refer to part 40-7-1-.70(1)(b)~~

~~(3) Toilets and Urinals.* At least 1 toilet and not fewer than the number of toilets as may be required by other laws shall be provided. In accordance with law, urinals may be substituted for toilets if more than the required minimum number of toilets are provided.~~

~~(a) Toilets and urinals shall be designed to be easily cleanable.~~

~~(b) Toilet rooms shall be completely enclosed and shall have tight-fitting, self-closing solid doors, except for louvers that may be necessary for ventilation systems and toilet rooms that are located outside a food establishment and do not open directly into the food establishment such as toilet room that is provided by the management of a shopping mall.~~

~~(c) Toilet facilities, including toilet fixtures and any related vestibules, shall be kept clean and in good repair.~~

~~(d) Easily cleanable receptacles shall be provided for waste materials. Toilet rooms used by women shall have at least one covered waste receptacle.~~

~~(e) Toilet tissue—availability. A supply of toilet tissue shall be available at each toilet.~~

~~(4) Service Sink (Mop Sink). At least 1 service sink or 1 curbed cleaning facility equipped with a floor drain shall be provided and conveniently located for the cleaning of mops or similar wet floor cleaning tools and for the disposal of mop water and similar liquid waste. Service sinks shall be plumbed with hot and cold water under pressure.**~~

~~** Refer to part 40-7-1-.70(1)(b)~~

~~(5) Backflow Prevention Device, When Required.* A plumbing system shall be installed to preclude backflow of a solid, liquid, or gas contaminant into the water supply system at each point of use at the food establishment, including on a hose bibb if a hose is attached or on a hose bibb if a hose is not attached and backflow prevention is required by law, by:~~

~~(a) Providing an air gap as specified under 40-7-1-.57(3); or~~

~~(b) Installing an approved backflow prevention device as specified under 40-7-1-.57(4).~~

~~(6) Backflow Prevention Device, Carbonator.*~~

~~(a) If not provided with an air gap as specified under 40-7-1-.57(3) a double check valve with an intermediate vent preceded by a screen of not less than 100 mesh to 25.4mm (100 mesh to 1 inch) shall be installed upstream from a carbonating device and downstream from any copper in the water supply line.~~

~~(b) A single or double check valve attached to the carbonator need not be of the vented type if an air gap or vented backflow prevention device has been otherwise provided as specified under ¶(A) of this section.~~

40-7-1-.59 Operation and Maintenance of Water Systems. Repealed

~~(1) Prohibiting a Cross Connection.~~

~~(a) Except as allowed under 9 CFR 308.3(d) for firefighting, a person may not create a cross connection by connecting a pipe or conduit between the drinking water system and a nondrinking water system or a water system of unknown quality.~~

~~(b) The piping of a nondrinking water system shall be durably identified so that it is readily distinguishable from piping that carries drinking water.~~

~~(2) Scheduling Inspection and Service for a Water System Device. A device such as a water treatment device or backflow preventer shall be scheduled for inspection and service, in accordance with manufacturers' instructions and as necessary to prevent device failure based on local water conditions, and records demonstrating inspection and service shall be maintained by the person in charge.~~

~~(3) Water Reservoir of Fogging Devices, Cleaning.~~

~~(a) A reservoir that is used to supply water to a device such as a produce fogger shall be:~~

~~1. Maintained in accordance with manufacturer's specifications; and~~

~~2. Cleaned in accordance with manufacturer's specifications or according to the procedures specified under paragraph (b) of this Subparagraph, whichever is more stringent.~~

~~(b) Cleaning procedures shall include at least the following steps and shall be conducted at least once a week:~~

~~1. Draining and complete disassembly of the water and aerosol contact parts;~~

~~2. Brush cleaning the reservoir, aerosol tubing, and discharge nozzles with a suitable detergent solution;~~

~~3. Flushing the complete system with water to remove the detergent solution and particulate accumulation; and~~

~~4. Rinsing by immersing, spraying, or swabbing the reservoir, aerosol tubing, and discharge nozzles with at least 50 mg/L hypochlorite solution.~~

40-7-1-.60 System Maintained in Good Repair. Repealed

A plumbing system shall be:

- (a) Repaired according to applicable law; and
- (b) Maintained in good repair.

40-7-1-.61 Sewage, Other Liquid Waste and Rainwater. Repealed

(1) Establishment Drainage. Food establishment drainage systems, including grease traps, that convey sewage shall be sized and installed as specified by applicable regulations.

(2) Backflow Prevention.

(a) Except as specified in paragraph (b) and (c) of this section, a direct connection may not exist between the sewage system and a drain originating from equipment in which food, portable equipment, or utensils are placed.

(b) If allowed by law, a warewashing machine may have a direct connection between its waste outlet and a floor drain when the machine is located within 1.5 m (5 feet) of a trapped floor drain and the machine outlet is connected to the inlet side of a properly vented floor drain trap.

(c) If allowed by law, a warewashing or culinary sink may have a direct connection.

(3) Grease Trap. If used, a grease trap shall be located to be easily accessible for cleaning.

(4) Conveying Sewage. Sewage shall be conveyed to the point of disposal through an approved sanitary sewage system or other system, including use of sewage transport vehicles, waste retention tanks, pumps, pipes, hoses, and connections that are constructed, maintained, and operated according to law.

(5) Approved Sewage Disposal System. Sewage shall be disposed through an approved facility that is:

(a) A public sewage treatment plant; or

(b) An individual sewage disposal system that is sized, constructed, maintained, and operated according to law.

(6) Other Liquid Waste and Rainwater. Condensate drainage and other nonsewage liquids and rainwater shall be drained from point of discharge to disposal according to law.

40-7-1-.62 Garbage, Refuse and Sewage. Repealed

(1) Containers.

(a) Garbage and refuse shall be held in durable, easily cleanable, insect-resistant and rodent-resistant containers that do not leak and do not absorb liquids. Plastic bags and wet strength paper bags may be used to line these containers. Such bags and durable plastic garbage and refuse containers may be used for storage inside the food establishment.

~~(b) Containers used in food preparation and utensil washing areas shall be kept covered during nonworking hours and after they are filled.~~

~~(c) Containers stored outside the establishment, including dumpsters, compactors, and compactor systems, shall be easily cleanable. In containers designed with drains, drain plugs shall be in place at all times, except during cleaning.~~

~~(d) There shall be a sufficient number of containers to hold all the garbage and refuse that accumulates.~~

~~(e) Soiled containers shall be cleaned at a frequency to prevent insect and rodent attraction. Each container shall be thoroughly cleaned on the inside and outside in a way that does not contaminate food, equipment, utensils, or food preparation areas. All necessary provisions shall be provided and used for cleaning containers. Liquid waste from compacting or cleaning operations shall be disposed of as sewage.~~

~~(2) Storage.~~

~~(a) Garbage and refuse on the premises shall be stored in a manner to make them inaccessible to insects and rodents. Outside storage of non-rodent resistant plastic containers, unprotected plastic bags, wet strength paper bags, or baled units which contain garbage or refuse is prohibited. Cardboard or other packaging material not containing garbage or food wastes need not be stored in covered containers.~~

~~(b) Garbage or refuse storage rooms, if used, shall be constructed of easily cleanable, nonabsorbent, washable materials, shall be kept clean, shall be insect and rodent resistant, and shall be large enough to store all the garbage and refuse containers necessitated by disposal pick-up frequency.~~

~~(c) Outside storage areas or enclosures, if used, shall be kept clean and shall be large enough to store all the garbage and refuse containers necessitated by disposal pick-up frequency. Garbage and refuse containers, dumpsters, and compactor systems located outside, shall be located on or above a smooth surface of nonabsorbent material, such as concrete or machine-laid asphalt, that is kept clean and maintained in good repair.~~

~~(3) Disposal.~~

~~(a) Garbage and refuse shall be disposed of often enough to prevent the development of objectionable odors and the attraction of insects and rodents.~~

~~(b) Where garbage or refuse is burned on the premises, it shall be done by controlled incineration in accordance with applicable laws. Areas around incineration units shall be kept clean and orderly.~~

~~(4) Facilities for Disposal—Community or Individual Facility. Solid waste not disposed of through the sewage system such as through grinders and pulpers shall be recycled or disposed of in an approved public or private community recycling or refuse facility; or solid waste shall be disposed of in an individual refuse facility such as a landfill or incinerator which is sized, constructed, maintained, and operated according to law.~~

~~(5) Sewage. All sewage, including liquid waste, shall be disposed of by a public sewerage system or a private septic system approved by the Department. Systems shall be adequate to prevent unsanitary conditions. Non-water carried sewage disposal facilities are prohibited, except as permitted by the Department.~~

~~(6) Storage Areas, Redeeming Machines, Receptacles and Waste Handling Units, Location.~~

~~(a) An area designated for refuse, recyclables, returnables, and, except as specified in ¶~~

~~(b) of this section, a redeeming machine for recyclables or returnables shall be located so~~

~~that it is separate from food, equipment, utensils, linens, and single-service and single-use articles and a public health hazard or nuisance is not created.~~

~~(b) A redeeming machine may be located in the packaged food storage area or consumer area of a food establishment if food, equipment, utensils, linens, and single-service and single-use articles are not subject to contamination from the machines and a public health hazard or nuisance is not created.~~

~~(c) The location of receptacles and waste handling units for refuse, recyclables, and returnables may not create a public health hazard or nuisance or interfere with the cleaning of adjacent space.~~

40-7-1-.63 Materials for Construction and Repair. Repealed

~~(1) Surface Characteristics — Indoor Areas.~~

~~(a) Materials for indoor floor, wall, and ceiling surfaces under conditions of normal use shall be:~~

- ~~1. Smooth, durable and easily cleanable for areas where food establishment operations are conducted;~~
- ~~2. Closely woven and easily cleanable carpet for carpeted areas; and~~
- ~~3. Nonabsorbent for areas subject to moisture such as food preparation areas, walk-in refrigerators, warewashing areas, toilet rooms, and areas subject to flushing or spray cleaning methods.~~

~~(2) Surface Characteristics — Outdoor Areas.~~

~~(a) The outdoor walking and driving areas shall be surfaced with concrete, asphalt, or gravel or other materials that have been effectively treated to minimize dust, facilitate maintenance, and prevent muddy conditions.~~

~~(b) Exterior surfaces of establishment buildings and associated structures shall be of weather-resistant materials and shall comply with law.~~

40-7-1-.64 Cleanability — Physical Facilities. Repealed

~~(1) Floors, Walls, and Ceilings. The floors, floor coverings, walls, wall coverings, and ceilings shall be designed, constructed, and installed so they are smooth and easily cleanable, except that antislip floor coverings or applications may be used for safety reasons.~~

~~(2) Floors, Walls, and Ceilings, Utility Lines.~~

~~(a) Utility service lines and pipes may not be unnecessarily exposed.~~

~~(b) Exposed utility service lines and pipes shall be installed so they do not obstruct or prevent cleaning of the floors, walls, or ceilings.~~

~~(c) Exposed horizontal utility service lines and pipes may not be installed on the floor.~~

~~(3) Floor and Wall Junctures, Coved, and Enclosed or Sealed.~~

~~(a) In food establishments in which cleaning methods other than water flushing are used for cleaning floors, the floor and wall junctures shall be coved and closed to no more than~~

1 mm (one thirty-second inch).

(b) The floors in food establishments in which water flush cleaning methods are used shall be provided with drains and graded to drain, and the floor and wall junctures shall be coved and sealed.

~~(4) Floor Carpeting, Restrictions and Installation.~~

~~(a) Except as specified under paragraph (b) of this section, carpeting may be installed as a floor covering if it is:~~

- ~~1. Securely attached to the floor with a durable mastic, by using a stretch and tack method, or by another method; and~~
- ~~2. Installed tightly against the wall under the coving or installed away from the wall with a space between the carpet and the wall and with the edges of the carpet secured by metal stripping or some other means.~~

~~(b) Carpeting or similar material may not be installed as a floor covering in food preparation areas, food storage areas, warewashing areas, handwashing areas, toilet room areas where urinals and toilets are located, or refuse storage rooms and areas.~~

~~(5) Floor Covering, Mats and Duckboards. Mats and duckboards shall be designed to be removable and easily cleanable.~~

~~(6) Wall and Ceiling Coverings and Coatings.~~

~~(a) Wall and ceiling covering materials shall be attached so that they are easily cleanable.~~

~~(b) Except in areas used only for dry storage, concrete, porous blocks, or bricks used for indoor wall construction shall be finished and sealed to provide a smooth, nonabsorbent, easily cleanable surface.~~

~~(7) Walls and Ceilings, Attachments.~~

~~(a) Except as specified in paragraph (b) of this section, attachments to walls and ceilings such as light fixtures, mechanical room ventilation system components, vent covers, wall mounted fans, decorative items, and other attachments shall be easily cleanable.~~

~~(b) In a consumer area, wall and ceiling surfaces and decorative items and attachments that are provided for ambiance need not meet this requirement if they are kept clean.~~

~~(8) Walls and Ceilings, Studs, Joists, and Rafters. Studs, joists, and rafters may not be exposed in areas specified in part 40-7-1-.63(1) (a) 3~~

40-7-1-.65 Functionality—Physical Facilities. Repealed

~~(1) Light Bulbs, Protective Shielding.~~

~~(a) Except as specified in paragraph (b) of this section, light bulbs shall be shielded, coated, or otherwise shatter resistant in areas where there is exposed food; clean equipment, utensils, and linens; or unwrapped single service and single use articles.~~

~~(b) Shielded, coated, or otherwise shatter resistant bulbs need not be used in areas used only for storing food in unopened packages, if:~~

- ~~1. The integrity of the packages can not be affected by broken glass falling onto them; and~~
- ~~2. The packages are capable of being cleaned of debris from broken bulbs before the packages are opened.~~

~~(c) An infrared or other heat lamp shall be protected against breakage by a shield surrounding and extending beyond the bulb so that only the face of the bulb is exposed.~~

~~(2) Heating, Ventilation, Air Conditioning System Vents. Heating, ventilating, and air conditioning systems shall be designed and installed so that make-up air intake and exhaust vents do not cause contamination of food, food preparation surfaces, equipment, or utensils.~~

~~(3) Insect Control Devices, Design and Installation.~~

~~(a) Devices that are used to electrocute or stun flying insects shall be designed to retain the insect within the device.~~

~~(b) Devices that are used to electrocute flying insects and that may impel insects or insect fragments or to trap insects by adherence shall be installed so that:~~

- ~~1. The devices are not located over a food preparation area, and~~
- ~~2. Dead insects and insect fragments are prevented from falling on or being impelled onto exposed food; clean equipment, utensils, and linens; and unwrapped single-service and single-use articles.~~

~~(4) Outer Openings, Protected.~~

~~(a) Openings to the outdoors shall be protected against the entry of insects and rodents by:~~

- ~~1. Filling or closing holes and other gaps along floors, walls and ceilings.~~
- ~~2. Closed, tight-fitting windows, and~~
- ~~3. Solid self-closing, tight-fitting doors; or~~

~~(b) Except as specified in paragraph (c) of this section, if windows or doors are kept open for ventilation or other purposes, the openings shall be protected against the entry of insects and rodents by:~~

- ~~1. 16 mesh to 25.4 mm (16 mesh to 1 inch) screens;~~
- ~~2. Properly designed and installed air curtains, or~~
- ~~3. Other effective means.~~

~~(c) Paragraph (b) of this section does not apply if flying insects and other pests are absent due to the location of the establishment, the weather, or other limiting condition.~~

~~(5) Exterior Walls and Roofs. Protective Barrier Perimeter walls and roofs of a food establishment shall effectively protect the establishment from the weather and the entry of insects, rodents, and other animals.~~

~~(6) Outdoor Servicing Areas. Overhead Protection Servicing areas shall be provided with overhead protection except that areas used only for the loading of water or the discharge of sewage and other liquid waste, through the use of a closed system of hoses, need not be provided with overhead protection.~~

~~(7) Outdoor Walking and Driving Surfaces. Graded to Drain — Exterior walking and driving surfaces shall be graded to drain.~~

~~(8) Outdoor Refuse Areas, Curbed and Graded to Drain. Outdoor refuse areas shall be constructed in accordance with law and shall be curbed and graded to drain to collect and dispose of liquid waste that results from the refuse and from cleaning the area and waste receptacles.~~

~~(9) Private Homes and Living or Sleeping Quarters, Use Prohibition. A private home, a room used as living or sleeping quarters, or an area directly opening into a room used as living or sleeping quarters may not be used for conducting food establishment operations.~~

~~(10) Living or Sleeping Quarters, Separation. Living or sleeping quarters located on the premises of a food establishment shall be separated from rooms and areas used for food establishment operations by complete partitioning and solid self-closing doors.~~

40-7-1-.66 Numbers and Capacities - Facilities. Repealed

~~(1) Lighting.~~

~~(a) Intensity - The light intensity shall be:~~

- ~~1. In walk-in refrigeration units and dry food storage areas and in other areas and rooms during periods of cleaning, at least 110 lux (10 foot candles) at a distance of 75 cm (30 inches) above the floor;~~
- ~~2. In areas where fresh produce or packaged foods are sold or offered for consumption; areas used for handwashing, ware washing, and equipment and utensil storage; and in toilet rooms, at least 220 lux (20 foot candles) at a distance of 75 cm (30 inches) above the floor; and~~
- ~~3. At a surface where a food employee is working with unpackaged POTENTIALLY HAZARDOUS FOOD (TIME/TEMPERATURE CONTROL FOR SAFETY FOOD) or with food, utensils, and equipment such as knives, slicers, grinders, or saws where employee safety is a factor, at least 540 lux (50 foot candles).~~

~~(2) Ventilation. Mechanical Ventilation - If necessary to keep rooms free of excessive heat, steam, condensation, vapors, obnoxious odors, smoke, and fumes, mechanical ventilation of sufficient capacity shall be provided.~~

~~(3) Dressing Areas and Lockers.~~

~~(a) Designation.~~

- ~~1. Dressing rooms or dressing areas shall be designated if employees routinely change their clothes in the establishment.~~
- ~~2. Lockers or other suitable facilities shall be provided for the orderly storage of employees' clothing and other possessions.~~

~~(4) Service Sinks - Availability. A service sink or curbed cleaning facility shall be provided as specified under 40-7-1-.58(3).~~

40-7-1-.67 Facility Operation and Maintenance. Repealed

~~(1) Repairing. The physical facilities shall be maintained in good repair.~~

~~(2) Cleaning, Frequency and Restrictions.~~

~~(a) The physical facilities shall be cleaned as often as necessary to keep them clean.~~

~~(b) Cleaning shall be done during periods when the least amount of food is exposed such as after closing. This requirement does not apply to cleaning that is necessary due to a spill or other accident.~~

~~(3) Cleaning Floors, Dustless Methods.~~

~~(a) Except as specified in paragraph (b) of this section, only dustless methods of cleaning shall be used, such as wet cleaning, vacuum cleaning, mopping with treated dust mops, or sweeping using a broom and dust-arresting compounds.~~

~~(b) Spills or drippage on floors that occur between normal floor cleaning times may be cleaned:~~

- ~~1. Without the use of dust-arresting compounds; and~~
- ~~2. In the case of liquid spills or drippage, with the use of a small amount of absorbent compound such as sawdust or diatomaceous earth applied immediately before spot~~

cleaning.

~~(4) Cleaning Ventilation Systems, Nuisance and Discharge Prohibition.~~

~~(a) Intake and exhaust air ducts shall be cleaned and filters changed so they are not a source of contamination by dust, dirt, and other materials.~~

~~(b) If vented to the outside, ventilation systems may not create a public health nuisance or unlawful discharge.~~

~~(5) Cleaning Maintenance Tools, Preventing Contamination. Food preparation sinks, handwashing lavatories, and warewashing equipment may not be used for the cleaning of maintenance tools, the preparation or holding of maintenance materials, or the disposal of mop water and similar liquid wastes.~~

~~(6) Drying Mops. After use, mops shall be placed in a position that allows them to air-dry without soiling walls, equipment, or supplies.~~

~~(7) Absorbent Materials on Floors, Use Limitation. Except as specified under part 40-7-1-.67(3)(b), sawdust, wood shavings, granular salt, baked clay, diatomaceous earth, or similar materials may not be used on floors.~~

~~(8) Controlling Pests.*~~

~~(a) Insects, rodents, and other pests shall be controlled as specified in paragraph (b) of this section to minimize their presence:~~

- ~~1. Within the physical facility and its contents; and~~
- ~~2. On the contiguous land or property under the control of the permit holder.~~

~~(b) The presence of insects, rodents, and other pests shall be controlled by:~~

- ~~1. Routinely inspecting incoming shipments of food and supplies;~~
- ~~2. Routinely inspecting the premises for evidence of pests;~~
- ~~3. Using methods, if pests are found, such as trapping devices or extermination as specified under paragraph 40-7-1-.69(11) (13); and~~
- ~~4. Eliminating harborage conditions.~~

~~(9) Removing Dead or Trapped Birds, Insects, Rodents, and Other Pests. Dead or trapped birds, insects, rodents, and other pests shall be removed from control devices and the premises at a frequency that prevents their accumulation, decomposition, or the attraction of pests.~~

~~(10) Storing Maintenance Equipment. Maintenance tools such as brooms, mops, vacuum cleaners, and similar equipment shall be:~~

~~(a) Stored so they do not contaminate food, equipment, utensils, linens, and single-service and single-use articles; and~~

~~(b) Stored in an orderly manner that facilitates cleaning of the maintenance equipment storage location.~~

~~(11) Maintaining Premises, Unnecessary Items and Litter. The premises shall be free of:~~

~~(a) Items that are unnecessary to the operation or maintenance of the establishment such as equipment that is nonfunctional or no longer used; and~~

~~(b) Litter.~~

~~(12) Prohibiting Animals.*~~

~~(a) Except as specified in paragraph (b) and (c) of this section, live animals may not be allowed on the premises of a food establishment.~~

~~(b) Live animals may be allowed in the following situations if the contamination of food; clean equipment, utensils, and linens; and unwrapped single-service and single-use articles *can not* result:~~

1. Edible fish or decorative fish in aquariums, shellfish or crustacea on ice or under refrigeration, and shellfish and crustacea in display tank systems;
 2. Patrol dogs accompanying police or security officers in offices, sales, and storage areas, and sentry dogs running loose in outside fenced areas;
 3. In areas that are not used for food preparation and that are usually open for customers, such as dining and sales areas, service animals that are controlled by the disabled employee or person, if a health or safety hazard will not result from the presence or activities of the service animal;
- (c) Live or dead fish bait shall be stored so that contamination of food; clean equipment, utensils, and linens; and unwrapped single service and single use articles cannot result.

40-7-1-.68 Labeling and Identification (Poison or Toxic Materials). Repealed

- (1) Identifying Information, Prominence. Containers of poisonous or toxic materials and personal care items shall bear a legible manufacturer's label.
- (2) Common Name. Working containers used for storing poisonous or toxic materials such as cleaners and sanitizers taken from bulk supplies shall be clearly and individually identified with the common name of the material.

40-7-1-.69 Operational Supplies and Applications. Repealed

- (1) Separation (Storage).^{*} Poisonous or toxic materials shall be stored so they may not contaminate food, equipment, utensils, linens, and single service and single use articles by:
- (a) Separating the poisonous or toxic materials by spacing or partitioning; and
 - (b) Locating the poisonous or toxic materials in an area that is not above food, equipment, utensils, linens, and single service or single use articles. This paragraph does not apply to equipment and utensil cleaners and sanitizers that are stored in warewashing areas for availability and convenience, if the materials are stored to prevent contamination of food, equipment, utensils, linens, and single service and single use articles.
- (2) Presence and Use Restriction.^{*}
- (a) Only those poisonous or toxic materials that are required for the operation and maintenance of a food establishment, such as for the cleaning and sanitizing of equipment and utensils and the control of insects and rodents, shall be allowed in a food establishment.
 - (b) Paragraph (a) of this section does not apply to packaged poisonous or toxic materials that are for retail sale.
- (3) Conditions of Use.^{*} Poisonous or toxic materials shall be:
- (a) Used according to:
 1. Law and these regulations,
 2. The manufacturers' use directions included in the labeling and for a pesticide,

manufacturer's label instructions that state use is allowed in a food establishment.

3. The conditions of certification, if certification is required, for use of the pest control materials, and

4. Additional conditions that may be established by the Department; and

(b) Applied so that:

1. A hazard to employees or other persons is not constituted; and

2. Contamination including toxic residues due to spray, drip, drain, or splash on food, equipment, utensils, linens, and single-service and single-use articles is prevented, and for a restricted-use pesticide this is achieved by:

(i) Removing the item;

(ii) Covering the item with impermeable covers; or

(iii) Taking other appropriate actions, and

(iv) Cleaning and sanitizing equipment and utensils after the application.

(c) Restricted-use pesticides shall be applied only by an applicator certified as defined in 7 USC 136(e) certified Applicator, of the Federal Insecticide, Fungicide, and Rodenticide Act, or a person under the direct supervision of certified applicator.

(4) Food Containers (Use Prohibited).^{*} A food container may not be used to store, transport, or dispense poisonous or toxic materials.

(5) Poisonous or Toxic Material Containers.^{*} A container previously used to store poisonous or toxic materials may not be used to store, transport, or dispense food.

(6) Sanitizers, Criteria.^{*} Chemical sanitizers and other chemical antimicrobials applied to FOOD CONTACT SURFACES shall meet the requirements specified in 21 CFR 178.1010 Sanitizing solutions.

(7) Chemicals for Washing Fruits and Vegetables, Criteria.^{*} Chemicals used to wash or peel raw, whole fruits and vegetables shall meet the requirements specified in 21 CFR 173.315 Chemicals used in washing or to assist in the lye peeling of fruits and vegetables.

(8) Boiler Water Additives, Criteria.^{*} Chemicals used as boiler water additives shall meet the requirements specified in 21 CFR 173.310 Boiler water additives.

(9) Drying Agents, Criteria.^{*} Drying agents used in conjunction with sanitization shall:

(a) Contain only components that are listed as one of the following;

1. Generally recognized as safe for use in food as specified in 21 CFR 182—Substances Generally Recognized As Safe, or 21 CFR 184—Direct Food Substances Affirmed As Generally Recognized As Safe;

2. Generally Recognized As Safe for the intended use as specified in 21 CFR 186—Indirect Food Substances Affirmed as Generally Recognized as safe;

3. Approved for use as a drying agent under a prior sanction specified in 21 CFR 181—Prior-Sanctioned food ingredients.

4. Specifically regulated as an indirect food additive use as a drying agent as specified in 21 CFR Parts 175–178,

5. Approved for use as a drying agent under the threshold of regulation process established by 21 CFR 170.39 Threshold of regulation for substances used in food contact articles and;

(b) When sanitization is with chemicals, the approval required in paragraph (a) 3 or (a) 5 of this section or the regulation as an indirect food additive required in paragraph (a) 4 of this section shall be specifically for use with chemical sanitizing solutions.

(10) Lubricants Incidental Food Contact, Criteria.^{*} Lubricants shall meet the

requirements specified in 21 CFR 178.3570 Lubricants with incidental food contact, if they are used on food contact surfaces, on bearings and gears located on or within food contact surfaces, or on bearings and gears that are located so that lubricants may leak, drip, or be forced into food or onto food contact surface.

(11) Pesticides Application.*

(a) A pesticide shall be applied in a food establishment only by a *certified applicator* except that the manual or automatic spraying of a general use insecticide that only contains pyrethrins, piperonyl butoxide, and N-octyl bicycloheptene dicarboximide *need not* be done by a certified applicator.

(b) A pesticide shall be applied so that direct or indirect contact with food, equipment, utensils, linens, and single service and single use articles is prevented by protecting those items from toxic residues due to spray, drip, drain, or splash and:

1. From application of a restricted use pesticide by:

(i) Removing the items;

(ii) Covering the items with impermeable covers; or

(iii) Taking other appropriate preventive actions; and

2. Cleaning and sanitizing equipment and utensils after the application.

(12) Bait Stations.* Rodent bait shall be contained in a covered tamper-resistant bait station.

(13) Tracking Powders.*

(a) Tracking powder pesticide *may not* be used in a food establishment.

(b) If used, a non-toxic tracking powder such as talcum or flour may not contaminate food, equipment, utensils, linens, and single service and single use articles.

(14) Medicines Restriction and Storage.*

(a) Only those medicines that are necessary for the health of employees shall be allowed in a food establishment. This section does not apply to medicines that are stored or displayed for retail sale.

(b) Medicines that are in a food establishment for the employees' use shall be labeled as specified under 40-7-1-.68(1) and located to prevent the contamination of food, equipment, utensils, linens, and single service and single use articles.

(15) Refrigerated Medicines, Storage.* Medicines belonging to employees that require refrigeration and are stored in a food refrigerator shall be:

(a) Stored in a package or container and kept inside a covered, leakproof container that is identified as a container for the storage of employees' medicines; and

(b) Located on the lowest shelf.

(16) First Aid Supplies Storage.* First aid supplies that are in a food establishment for the employees' use shall be:

(a) Labeled as specified under 40-7-1-.68(1); and;

(b) Stored in a kit or a container that is located to prevent the contamination of food, equipment, utensils, and linens, and single service and single use articles.

(17) Other Personal Care Items Storage. Employees shall store their other personal care items as specified under paragraph 40-7-1-.66(3)(a)2.

(18) Stock and Retail Sale (Storage and Display), Separation.* Poisonous or toxic materials shall be stored and displayed for retail sale so they may not contaminate food, equipment, utensils, linens, and single service and single use articles by:

(a) Separating the poisonous or toxic materials by spacing or partitioning; and

~~(b) Locating the poisonous or toxic materials in an area that is not above food, equipment, utensils, linens, and single-service or single-use articles.~~

40-7-1-.70 Applicability of Regulation. Repealed

~~(1) Intended Purpose — Public Health Protection.~~

~~(a) The Department shall apply these regulations, promote its underlying purpose, as specified in part 40-7-1-.01, of safeguarding public health and assuring that food is safe, unadulterated, and honestly presented when offered to the consumer.~~

~~(b) In enforcing the provisions of these regulations, the Department shall assess existing facilities or equipment that were in use before the effective date of these regulations relative to this assessment and may modify or waive the requirement of these regulations if in the opinion of the Commissioner a health hazard will not result from such action.~~

~~(c) If necessary to protect against public health hazards, the Commissioner may impose specific requirements in addition to the requirements contained in these regulations that are authorized by law.~~

~~(2) Modifications and Waivers. The Department may grant a variance by modifying or waiving the requirements of these regulations; if in the opinion of the Commissioner, a health hazard will not result from the variance. Technological innovations relating to equipment and product procedures, product quality attributes as well as product control (HACCP) documentation as furnished by the person in charge, will be considered by the Department in granting a variance. If a variance is granted, the Department may require the person in charge to furnish information as specified in 40-7-1-.70(3) to be maintained in its records for the food establishment.~~

~~(3) Documentation of Proposed Variance and Justification. Before a variance from a requirement of these regulations is approved by the Department, the information referred to in 40-7-1-.70(2), shall include:~~

~~(a) A statement of the proposed variance of the regulatory requirement citing relevant regulation section numbers;~~

~~(b) An analysis of the rationale for how the potential public health hazards addressed by the relevant regulation sections will be alternatively addressed by the proposal; and~~

~~(c) A HACCP plan, if required as specified in 40-7-1-.72(1) that includes the information specified in 40-7-1-.72(2) as it is relevant to the variance requested.~~

~~(4) Conformance with Approved Procedures. If the regulatory authority grants a variance or a HACCP plan is otherwise required, the permit holder shall:~~

~~(a) Comply with the HACCP plans and procedures that are submitted and approved as specified in 40-7-1-.72(1) as a basis for the modification or waiver; and~~

~~(b) Maintain and provide to the Department, upon request, records specified in part 40-7-1-.72(2)(d) and (e) that demonstrate that the following are routinely employed:~~

~~1. Procedures for monitoring critical control points,~~

~~2. Monitoring of the critical control points,~~

~~3. Verification of the effectiveness of an operation or process, and~~

~~4. Necessary corrective actions if there is failure at a critical control point.~~

40-7-1-.71-Plan Review and Approval. Repealed

~~(1) Facility and Operating Plans. A permit application or permit holder shall, to the satisfaction of the Department, demonstrate, either by the submission of properly prepared plans and specifications for review and/or site inspection; that the proposed food sales establishment will be constructed and equipped adequately to permit the establishment to operate in compliance with these regulations.~~

~~(2) Approvals Granted Prior to. Where situations permit, plan reviews and/or site inspections shall be conducted and approvals granted prior to:~~

~~(a) The construction of a food establishment;~~

~~The conversion of an existing structure for use as a food establishment; or~~

~~(c) The remodeling of a food establishment or a change of type of food establishment or food operation if the Department determines that plans and specifications are necessary to assure compliance with these regulations.~~

~~(3) Additional Information. A permit applicant or permit holder shall, at the request of the Department, furnish additional information which may be required for the proper review of the proposed construction, conversion or modification, and procedures for operating the food establishment.~~

40-7-1-.72-When a HACCP Plan Is Required. Repealed

~~(1) HACCP Plan Shall be Submitted. Before engaging in an activity that requires a HACCP plan, a permit applicant or permit holder shall submit to the Department for approval a properly prepared HACCP plan as specified under 40-7-1-.72(2) and the relevant provisions of these regulations if:~~

~~(a) Submission of a HACCP plan is required by the Department;~~

~~(b) A variance is required as specified under paragraph 40-7-1-.21(1), 40-7-1-.32(6)(b), or 40-7-1-.17(1)(b); or~~

~~(c) The Department determines that a food preparation or processing method requires a variance based on a plan review, an inspectional finding, or a variance request.~~

~~(d) A permit applicant or permit holder shall have a properly prepared HACCP plan as specified under 40-7-1-.21(2) when engaged in Reduced Oxygen Packaging operations.~~

~~(2) Contents of a HACCP Plan. For a food establishment that is required under 40-7-1-.72(1) to have a HACCP plan, the plan and specifications shall indicate:~~

~~(a) A categorization of the types of products that are to be produced, or of other foods that are specified by the Department;~~

~~(b) A flow diagram by specific food or category type identifying critical control points and providing information on the following:~~

~~1. Ingredients, materials, and equipment used in the preparation of that food, and~~

~~2. Formulations or recipes that delineate methods and procedural control measures that~~

~~address the food safety concerns involved;~~

~~(c) Food employee and supervisory training plan specified in paragraph that addresses the food safety issues of concern.~~

~~(d) A statement of standard operating procedures for the plan under construction including clearly identifying:~~

~~1. Each critical control point,~~

~~2. The critical limits for each critical control point,~~

~~3. The method and frequency for monitoring and controlling each critical control point by the food employee designated by the person in charge,~~

~~4. The method and frequency for the person in charge to routinely verify that the food employee is following standard operating procedures and monitoring critical control points;~~

~~5. Action to be taken by the person in charge if the critical limits for each critical control point are not met, and~~

~~6. Records to be maintained by the person in charge to demonstrate that the HACCP plan is properly operated and managed; and~~

~~(e) Additional scientific data or other information, as required by the Department, supporting the determination that food safety is not compromised by the proposal.~~

~~40-7-1-.73 Trade Secrets — Confidentiality. Repealed~~

~~The Department shall treat as confidential in accordance with law, information that meets the criteria under law for a trade secret and is contained on inspection report forms and in the plans and specifications submitted as required in conformance to these regulations.~~

~~40-7-1-.74 Inspection Frequency. Repealed~~

~~Inspections shall be conducted as often as the Department deems necessary to insure compliance with these regulations and at a minimum as established by Departmental directives.~~

~~40-7-1-.75 License to Operate. Repealed~~

~~(1) Prerequisite for Operation. A person may not operate a food establishment without a valid license to operate issued by the Department.~~

~~(2) Form of Submission. A person desiring to operate a food sales establishment shall submit to the Department a written application for a LICENSE on a form provided by the Department. (a) The Commissioner shall charge the following fees for the licenses issued pursuant to 26-2-25.~~

~~(a). The fee structure shall be based on the level of risk, procedural effort and inspection time~~

needed for each food sales establishment. Tier 1 \$100.00, Tier 2 \$150.00, Tier 3 \$200.00, Tier 4 \$250.00 and Tier 5 \$300.00. The license shall be renewed annually on July 1. License fees shall be increased by 50 percent for the renewal of a license not renewed by September 1.

Firm Code	Firm Type	Tier
264	Syrup Processing (Seasonal)	1
271	Honey Processing (Seasonal)	1
304	Retail/ Convenience Store	1
309	Shrimp Dock	1
349	Raw Agricultural Commodities (unprocessed)	1
503	Drug Store	1
504	Food Sales Area (with Potentially Hazardous Foods)	1
525	Food Banks	1
564	Wholesale Produce Dealer	1
590	Alcoholic Beverage Warehouse	1
604	Health Food Store	1
641	Small Egg Producer	1
701	Prepackaged Food Only (Nonpotentially Hazardous)	1
801	Roadside Fresh Vegetable/Fruit Stand	1
862	Rolling Stores/Mobile Vending	1
867	Out of State Rolling Stores/Mobile Vending	1
904	Retail Ice Manufacturing/Pro cessing	1
Firm Code	Firm Type	Tier

101	Retail Store with Meat Market	2
108	Retail Seafood	2
140	Bottling Plants— Warehouse	2
154	Bulk Water Supplier	2
214	Retail Bakery	2
216	Bakery Outlet/Distribution Center	2
Firm Code	Firm Type	Tier
242	Retail Candy Processing	2
301	Retail Beverage Dispensary	2
303	Kiosk— Prepackaged Food Sales (No Food Service Component)	2
305	Retail/ Convenience Store with Deli	2
306	Retail/ Convenience Store with Bakery	2
307	Retail/ Convenience Store with Deli, Bakery	2
354	Pecan Processing— Seasonal	2
403	Shared Time/ Community Kitchen	2
500	Food Storage Warehouse	2
505	Food Sales Area with Deli	2
510	Pub Food Storage Warehouse Not Refrigerated	2
552	Retail Coffee/Tea Processing	2
565	Wholesale Produce Dealer	2

591	Alcoholic Beverage Warehouse	2
605	Health Food Store with Deli	2
900	Water and Ice vending Machine	2
901	Ice vending Machine	2
Firm Code	Firm Type	Tier
102	Retail Store with Seafood, Deli, Bakery, Meat Market	3
103	Retail Store with Seafood, Deli, Meat Market	3
104	Retail Store with Seafood, Meat Market	3
105	Retail Store with Deli, Meat Market	3
106	Retail Store with Bakery, Meat Market	3
107	Retail Store with Deli, Bakery, Meat Market	3
Firm Code	Firm Type	Tier
109	Retail Seafood with Deli	3
110	Fresh/Frozen Seafood Distributor/Wareh ouse	3
150	Bottling Water— Warehouse	3
198	Sushi—Corporate Owned	3
199	Sushi Franchisee	3
201	Chain Store with Meat Market	3
215	Retail Bakery	3
217	Retail Bakery with Deli	3
334	Retail Fresh Fruit /	3

	Vegetable Processing	
335	Fresh Fruit/ Vegetable Processing	3
	Seasonal	
348	Retail Acidified/ Acid Foods Processing	3
384	Retail Juice Processors	3
Firm Code	Firm Type	Tier
402	Retail Multi-Product & Misc. Food Processing	3
501	Food Storage Warehouse	3
511	Pub Food Storage Warehouse Not Refrigerated	3
520	Pub Food Storage Warehouse Refrigerated	3
526	Reclaim Center	3
530	Salvage Food Dealer	3
859	Rolling Stores Commissary Store for Provisions	3
907	Retail Sandwich Manufacturing/Processing	3
Firm Code	Firm Type	Tier
111	Fresh/Frozen Seafood Distributor/Warehouse	4
200	Chain Store with Sushi	4
202	Chain Store with Seafood, Deli, Bakery, Meat Market	4
203	Chain Store with Seafood, Deli, Meat Market	4

204	Chain Store with Seafood, Meat Market	4
205	Chain Store with Deli, Meat Market	4
206	Chain Store with Bakery, Meat Market	4
207	Chain Store with Deli, Bakery, Meat Market	4
502	Food Storage Warehouse (Repacker)	4
521	Pub Food Storage Warehouse— Refrigerated	4

531 Salvage Food Dealer

~~(3) Qualifications and Responsibilities of Applicants. To qualify for licensing, an applicant shall:~~

~~(a) Be an owner of the establishment or an officer of the legal ownership;~~

~~(b) Comply with the requirements of these regulations;~~

~~(c) Agree to, that after the Department Representative presents official credentials and provides notice of the purpose of, and an intent to conduct, an inspection, the person in charge shall allow the Department Representative to determine if the food establishment is in compliance with these Regulations by allowing access to the establishment, allowing inspection, and providing information and records specified in these Regulations and to which the Department is entitled according to law, during the food establishment's hours of operation and other reasonable times.~~

~~(d) Agree to comply with directives of the Department including time frames for corrective actions specified in inspection reports, notices, orders, warnings, and other directives issued by the Department in regard to the license holder's food establishment~~

~~Further, a license holder shall at the time of inspection, correct a critical violation of these regulations and/or implement corrective actions for a HACCP plan provision that is not in compliance with its critical limit.~~

~~(e) Agree to be subject to the administrative, civil, injunctive, and criminal remedies authorized under law for failure to comply with these regulations or a directive of the Department, including time frames for corrective actions specified in inspection reports, notices, orders, warnings, and other directives.~~

~~(4) License Not Transferable. A license may not be transferred from one person to another person, from one food establishment to another, or from one type of operation to another.~~

~~(5) Refusal to Sign Acknowledgment. The regulatory authority shall:~~

~~(a) Inform a person who declines to sign an acknowledgment of receipt of inspectional findings that:~~

~~1. An acknowledgment of receipt is not necessarily an agreement with findings;~~

~~2. Refusal to sign an acknowledgment of receipt will not affect the LICENSE holder's obligation to correct the violations noted in the inspection report within the time frames specified, and~~

3. A refusal to sign an acknowledgment of receipt is noted in the inspection report and conveyed to the Department historical record for the food establishment; and

(b) Make a final request that the person in charge sign an acknowledgment of receipt of inspectional findings.

~~(6) Ceasing Operations and Reporting – Imminent Health Hazard.~~

~~(a) Except as specified in paragraph (b) of this section, a license holder shall immediately discontinue operations and notify the Department if an imminent health hazard may exist because of an emergency such as a fire, flood, extended interruption of electrical or water service, sewage backup, misuse of poisonous or toxic materials, onset of an apparent foodborne illness outbreak, gross insanitary occurrence or condition, or other circumstance that may endanger public health;~~

~~(b) A LICENSE holder need not discontinue operations in an area of an establishment that is unaffected by the imminent health hazard.~~

~~(7) Resumption of Operations.~~

~~(a) If operations are discontinued as specified under 40-7-1-.75(6) or otherwise according to law, the LICENSE holder shall obtain approval from the Department before resuming operations~~

~~(b) Withhold From Sale (Embargo: Detained) – The removal or disposal of embargoed or detained food is prohibited without official release from the Department.~~

40-7-1-.76 Investigation and Control. Repealed

~~(1) Obtaining Information: personal History of Illness, Medical Examination, and Specimen Analysis. The department shall act when it has reasonable cause to believe that a food employee has possibly transmitted disease; may be infected with a disease in a communicable form that is transmissible through food; may be a carrier of infectious agents that cause a disease that is transmissible through food; or is affected with a boil, an infected wound, or acute respiratory infection, by:~~

~~(a) Securing a confidential medical history of the employee suspected of transmitting disease or making other investigations as deemed appropriate; and~~

~~(b) Requiring appropriate medical examinations, including collection of specimens for laboratory analysis, of a suspected employee and other employees.~~

~~(2) Restriction or Exclusion of Food Employee, or Summary Suspension of License.~~

~~Based on the findings of an investigation related to a food employee who is suspected of being infected or diseased, the department may issue an order to the suspected food employee or license holder instituting one or more of the following control measures:~~

~~(a) Restricting the food employee;~~

~~(b) Excluding the food employee; or~~

~~(c) Closing the food establishment by summarily suspending a license to operate in accordance with law.~~

~~(3) Restriction or Exclusion Order: Warning or Hearing Not Required, Information~~

~~Required in Order. Based on the findings of the investigation as specified in § 40-7-1-~~

~~.76(1) and to control disease transmission, the department may issue an order of restriction or exclusion to a suspected food employee or the license holder without prior warning, notice of a hearing, or a hearing if the order:~~

- ~~(a) States the reasons for the restriction or exclusion that is ordered;~~
- ~~(b) States the evidence that the food employee or license holder shall provide in order to demonstrate that the reasons for the restriction or exclusion are eliminated;~~
- ~~(c) States that the suspected food employee or the license holder may request an appeal hearing by submitting a timely request as provided in law; and~~
- ~~(d) Provides the name and address of the department representative to whom a request for an appeal hearing may be made.~~

~~(4) Release of Food employee from Restriction or Exclusion. The department shall release a food employee from restriction or exclusion according to law and the following conditions:~~

~~(a) A food employee who was infected with *Salmonella Typhi* if the food employee's stools are negative for *S. Typhi* based on testing of at least 3 consecutive stool specimen cultures that are taken:~~

- ~~1. Not earlier than 1 month after onset,~~
- ~~2. At least 48 hours after discontinuance of antibiotics, and~~
- ~~2~~
- ~~3. At least 24 hours apart; and~~

~~(b) If one of the cultures taken as specified in ¶(a) of this section is positive, repeat cultures are taken at intervals of 1 month until at least 3 consecutive negative stool specimen cultures are obtained.~~

~~(c) A food employee who was infected with *Shigella* spp. or Shiga toxin-producing *Escherichia coli* if the employee's stools are negative for *Shigella* spp. or Shiga toxin-producing *Escherichia coli* based on testing of 2 consecutive stool specimen cultures that are taken:~~

- ~~1. Not earlier than 48 hours after discontinuance of antibiotics; and~~
- ~~2. At least 24 hours apart.~~

~~(d) A food employee who was infected with hepatitis A virus if:~~

- ~~1. Symptoms cease; or~~
- ~~2. At least 2 blood tests show falling liver enzymes.~~