

**TITLE 310. OKLAHOMA STATE DEPARTMENT OF HEALTH  
CHAPTER 257. FOOD ESTABLISHMENTS**

**RULEMAKING ACTION:**

Notice of proposed PERMANENT rulemaking.

**PROPOSED RULES:**

Subchapter 1. Purpose and Definitions

310:257-1-2 Definitions [AMENDED]

310:257-1-3 Incorporated by reference [AMENDED]

310:257-1-4 Exemptions [AMENDED]

Subchapter 3. Management and Personnel

310:257-3-1.1 Certified food protection manager [NEW]

310:257-3-2 Demonstration [AMENDED]

310:257-3-3 Person in charge [AMENDED]

310:257-3-4 Responsibility of the license holder, person in charge, ~~to require reporting by food and employees and applicants~~ [AMENDED]

310:257-3-5 Exclusions and restrictions [AMENDED]

310:257-3-6 Removal, adjustment, or retention of exclusions and restrictions [AMENDED]

310:257-3-10 Cleaning procedure [AMENDED]

310:257-3-12 When to wash [AMENDED]

310:257-3-13 Where to wash [AMENDED]

310:257-3-14 Hand antiseptics [AMENDED]

310:257-3-18 Eating, drinking, or using tobacco [AMENDED]

310:257-3-19.1 Use of bandages, finger cots, or finger stalls [NEW]

310:257-3-20 Effectiveness of hair restraints [AMENDED]

310:257-3-22. Clean-up of vomiting and diarrheal events [NEW]

310:257-3-23. Availability of educational materials [NEW]

Subchapter 5. Food

310:257-5-2 Compliance with food law [AMENDED]

310:257-5-8 Game Animals [AMENDED]

310:257-5-10 Additives [AMENDED]

310:257-5-11 Eggs [AMENDED]

310:257-5-12 Eggs and milk products, pasteurized [AMENDED]

310:257-5-18 Juice treated [AMENDED]

310:257-5-19 Molluscan shellfish, original container [AMENDED]

310:257-5-21 Preventing contamination from hands [AMENDED]

310:257-5-22 Preventing contamination when tasting [AMENDED]

310:257-5-23 Packaged and unpackaged food-separation, packaging, and segregation [AMENDED]

310:257-5-25 Pasteurized eggs, substitute for raw eggs for certain recipes [AMENDED]

310:257-5-27 Washing fruits and vegetables [AMENDED]

310:257-5-29 Storage or display of food in contact with water or ice [AMENDED]

310:257-5-30 Food contact with equipment and utensils [AMENDED]

310:257-5-31 In-use utensils, between-use storage [AMENDED]

310:257-5-33 Wiping cloths, use limitation [AMENDED]

310:257-5-34 Gloves, use limitation [AMENDED]

310:257-5-36 Refilling returnables [AMENDED]

310:257-5-37 Food storage [AMENDED]

310:257-5-40 Food preparation [AMENDED]

310:257-5-46 Raw animal foods [AMENDED]

- 310:257-5-48 Plant food cooking for hot holding [AMENDED]  
310:257-5-50 Records, creation and retention [AMENDED]  
310:257-5-52 Reheating for hot holding [AMENDED]  
310:257-5-53 Treating juice [AMENDED]  
310:257-5-56 Thawing [AMENDED]  
310:257-5-57 Cooling [AMENDED]  
310:257-5-60 Ready-to-eat, Time/Temperature Control for Safety Food, date marking [AMENDED]  
310:257-5-61 Ready-to-eat, Time/Temperature Control for Safety Food, disposition [AMENDED]  
310:257-5-63 Variance requirement [AMENDED]  
310:257-5-64 Reduced oxygen packaging without a variance, criteria [AMENDED]  
310:257-5-65 Standards of identity [AMENDED]  
310:257-5-67 Food labels [AMENDED]  
310:257-5-69 Consumption of animal foods that are raw, undercooked, or not otherwise processed to eliminate pathogens [AMENDED]  
310:257-5-71 Pasteurized foods, prohibited re-service, and prohibited food [AMENDED]  
Subchapter 7. Equipment, Utensils and Linens  
310:257-7-1 Characteristics [AMENDED]  
310:257-7-13 Equipment and utensils [AMENDED]  
310:257-7-15 Food-contact surfaces [AMENDED]  
310:257-7-23 Temperature measuring devices, food [AMENDED]  
310:257-7-24 Temperature measuring devices, ambient air and water [AMENDED]  
310:257-7-25 Pressure measuring devices, mechanical warewashing equipment [AMENDED]  
310:257-7-28 Dispensing equipment, protection of equipment and food [AMENDED]  
310:257-7-35 Molluscan shellfish tanks [AMENDED]  
310:257-7-36 Vending machines, automatic shutoff [AMENDED]  
310:257-7-37 Temperature measuring devices [AMENDED]  
310:257-7-51 Manual warewashing, sink compartment requirements [AMENDED]  
310:257-7-58.1. Cleaning agents and sanitizers, availability [NEW]  
310:257-7-60 Fixed equipment, spacing or sealing [AMENDED]  
310:257-7-64 Microwave ovens [REVOKE]  
310:257-7-65 Warewashing equipment, cleaning frequency [AMENDED]  
310:257-7-75 Manual and mechanical warewashing equipment, chemical sanitization - temperature, pH, concentration, and hardness [AMENDED]  
310:257-7-83 Equipment food-contact surfaces and utensils [AMENDED]  
310:257-7-84 Cooking and baking equipment [AMENDED]  
310:257-7-86 Dry cleaning [AMENDED]  
310:257-7-87 Precleaning [AMENDED]  
310:257-7-90 Washing, procedures for alternative manual warewashing equipment [AMENDED]  
310:257-7-91 Rinsing procedures [AMENDED]  
310:257-7-101 Equipment and utensils, Air-drying required [AMENDED]  
Subchapter 9. Water, Plumbing and Waste  
310:257-9-1 Approved System [AMENDED]  
310:257-9-3 Bottled drinking water [REVOKE]  
310:257-9-4 Quality, standards [REVOKE]  
310:257-9-5 Nondrinking water [AMENDED]  
310:257-9-6 Sampling [AMENDED]  
310:257-9-7 Sample report [AMENDED]  
310:257-9-9 Pressure [AMENDED]  
310:257-9-10 Distribution, delivery, and retention, system [AMENDED]  
310:257-9-14 Handwashing facility, installation [AMENDED]  
310:257-9-15 Backflow prevention, air gap [AMENDED]

- 310:257-9-18 Numbers and capacities, handwashing facilities [AMENDED]  
310:257-9-19 Toilets and urinals [AMENDED]  
310:257-9-20 Service sink [AMENDED]  
310:257-9-22 Backflow prevention device, carbonator [AMENDED]  
310:257-9-26 Using a handwashing facility [AMENDED]  
310:257-9-27 Prohibiting a cross connection [AMENDED]  
310:257-9-31 Materials, approved [AMENDED]  
310:257-9-32 Enclosed system, sloped to drain [AMENDED]  
310:257-9-37 Hose, construction and identification [AMENDED]  
310:257-9-41 System flushing and disinfection [AMENDED]  
310:257-9-45 Capacity and drainage [AMENDED]  
310:257-9-47 Backflow prevention [AMENDED]  
310:257-9-48 Grease trap [AMENDED]  
310:257-9-49 Conveying sewage [AMENDED]  
310:257-9-52 Approved sewage disposal system [AMENDED]  
310:257-9-53 Other liquid wastes and rainwater [AMENDED]  
310:257-9-58 Receptacles in vending machines [AMENDED]  
310:257-9-63 Storage areas, redeeming machines, receptacles and waste handling units, location [AMENDED]  
310:257-9-66 Outside storage prohibitions [AMENDED]  
310:257-9-70 Cleaning receptacles [AMENDED]
- Subchapter 11. Physical Facilities
- 310:257-11-1 Indoor areas, surface characteristics [AMENDED]  
310:257-11-2 Outdoor areas, surface characteristics [AMENDED]  
310:257-11-3 Floors, walls, and ceilings [AMENDED]  
310:257-11-4 Floors, walls, and ceilings, utility lines [AMENDED]  
310:257-11-5 Floor and wall junctures, coved, and enclosed or sealed [AMENDED]  
310:257-11-6 Floor carpeting, restrictions and installation [AMENDED]  
310:257-11-10 Walls and ceilings, studs, joists, and rafters [AMENDED]  
310:257-11-13 Insect control devices, design and installation [AMENDED]  
310:257-11-14 Toilet rooms, enclosed [AMENDED]  
310:257-11-15 Outer openings, protected [AMENDED]  
310:257-11-20 Outdoor refuse areas graded to drain [RENAME & AMENDED]  
310:257-11-21 Private homes and living or sleeping quarters, use prohibition [AMENDED]  
310:257-11-23 Handwashing facilities, minimum number [REVOKE]  
310:257-11-24 Handwashing cleanser, availability [AMENDED]  
310:257-11-25 Hand drying provision [AMENDED]  
310:257-11-26 Handwashing aids and devices, use restrictions [AMENDED]  
310:257-11-28 Disposable towels, waste receptacle [REVOKE]  
310:257-11-29 Toilets and urinals, minimum number [REVOKE]  
310:257-11-34 Service sinks, availability [REVOKE]  
310:257-11-35 Handwashing facilities, conveniently located [REVOKE]  
310:257-11-37 Employee accommodations, designated areas [AMENDED]  
310:257-11-39 Receptacles, waste handling units, and designated storage areas [REVOKE]  
310:257-11-42 Cleaning floors, dustless methods [AMENDED]  
310:257-11-44 Cleaning maintenance tools, preventing contamination [AMENDED]  
310:257-11-50 Controlling pests [AMENDED]  
310:257-11-54 Prohibiting animals [AMENDED]
- Subchapter 13. Poisonous or Toxic Materials
- 310:257-13-1 Identifying information, prominence [AMENDED]  
310:257-13-4 Presence and use, restriction [AMENDED]

- 310:257-13-5 Conditions of use [AMENDED]
- 310:257-13-6 Poisonous or toxic material containers [AMENDED]
- 310:257-13-8 Chemicals for washing, treatment, storage, and processing of fruits and vegetables, criteria [AMENDED]
- 310:257-13-10 Drying agents, criteria [AMENDED]
- 310:257-13-14 Tracking powders, pest control and monitoring [AMENDED]
- 310:257-13-16 Refrigerated medicines, storage [AMENDED]
- Subchapter 15. Compliance and Enforcement
- 310:257-15-1 Public health protection [REVOKE]
- 310:257-15-2 Preventing health hazards, provision for conditions not addressed [REVOKE]
- 310:257-15-2.1 Public Health Protection [NEW]
- 310:257-15-3 Modifications and waivers [REVOKE]
- 310:257-15-3.1 Variances and waivers [NEW]
- 310:257-15-4 Documentation of proposed waiver or variance and justification [AMENDED]
- 310:257-15-5 Conformance with approved procedures [AMENDED]
- 310:257-15-6 When Plans are required [AMENDED]
- 310:257-15-7 Contents of the Plans and Specifications [AMENDED]
- 310:257-15-8 When a HACCP plan is required [AMENDED]
- 310:257-15-9 Contents of a HACCP plan [AMENDED]
- 310:257-15-10 Trade secrets [AMENDED]
- 310:257-15-11 Preoperational inspections [AMENDED]
- 310:257-15-13 Form of submission and contents of application [AMENDED]
- 310:257-15-14 Qualifications and responsibilities of applicants [AMENDED]
- 310:257-15-15 Contents of the application [REVOKE]
- 310:257-15-16 New, converted or remodeled establishments [AMENDED]
- 310:257-15-17 Existing establishments, license renewal, and change of ownership [AMENDED]
- 310:257-15-18 Denial of application for license, notice [AMENDED]
- 310:257-15-19 Responsibilities of the Department regulatory authority [AMENDED]
- 310:257-15-20 Responsibilities of the license holder [AMENDED]
- 310:257-15-21 Licenses not transferable [AMENDED]
- 310:257-15-22 Competency of inspectors [AMENDED]
- 310:257-15-23 Allowed at reasonable times after due notice [AMENDED]
- 310:257-15-24 Refusal, notification of right to access, and final request for access [AMENDED]
- 310:257-15-25 Refusal, reporting [AMENDED]
- 310:257-15-26 ~~Inspection order~~ Order to gain access [AMENDED]
- 310:257-15-27 Documenting information and observations [AMENDED]
- 310:257-15-28 Specifying time frame for corrections [REVOKE]
- 310:257-15-29 Issuing report and obtaining acknowledgment of receipt [AMENDED]
- 310:257-15-30 Refusal to sign acknowledgment [AMENDED]
- 310:257-15-31 Public information [AMENDED]
- 310:257-15-32 Ceasing operations and reporting [AMENDED]
- 310:257-15-34 Timely correction [AMENDED]
- 310:257-15-35 Verification and documentation of correction [AMENDED]
- 310:257-15-36 Time frame for correction [AMENDED]
- 310:257-15-37 Obtaining information: personal history of illness, medical examination, and specimen analysis [AMENDED]
- 310:257-15-38 Restriction or exclusion of food employee; or conditional employee, or summary suspension of license [AMENDED]
- 310:257-15-39 Restriction or exclusion order: warning or hearing not required, information required in order [AMENDED]
- 310:257-15-41 Priority items and priority foundation items [AMENDED]

**Subchapter 17. Mobile Pushcarts Units, Mobile Food establishments, and Mobile Retail Food Establishments**

- 310:257-17-1 General requirements [AMENDED]
- 310:257-17-2 Mobile pushcarts [AMENDED]
- 310:257-17-3 Mobile food establishments [REVOKEOKED]
- 310:257-17-3.1 Operations of mobile units [NEW]
- 310:257-17-4 Mobile retail food establishments [AMENDED]
- 310:257-17-5 Commissary and servicing area requirements [AMENDED]
- 310:257-17-6 Storage [REVOKEOKED]

**SUMMARY:**

A summary of the contents and purpose of the rule are provided here.

**Subchapter 1. Purpose and Definitions**

257-1-2 Definitions: The current rule provides definitions of terms in the chapter. The proposed rule adds, removes and modifies some definitions.

257-1-3 Incorporated by reference: The current rule lists Code of Federal Regulations sections (CFRs). The proposed rule updates the effective dates of the referenced CFRs.

257-1-4 Exemption: The current rule gives exemptions to the chapter. The proposed rule corrects language and updates citations.

**Subchapter 3. Management and Personnel**

257-3-1.1 Certified Food Protection Manager: There is no current rule. The proposed rule adopts a portion of the FDA Voluntary National Retail Food Regulatory Program Standards.

257-3-2 Demonstration: The current rule describes how the person in charge can demonstrate knowledge. The proposed rule amends the language to match the FDA Voluntary National Retail Food Regulatory Program Standards.

257-3-3 Person in charge: The current rule describes the responsibilities of the person in charge. The proposed rule amends the language to match the FDA Voluntary National Retail Food Regulatory Program Standards.

257-3-4 Responsibility of the license holder, person in charge, to require reporting by food and employees and applicants: The current rule describes the responsibilities of the person in charge to require employees to report sicknesses. The proposed rule amends the language to match the FDA Voluntary National Retail Food Regulatory Program Standards.

257-3-5 Exclusions and restrictions: The current rule describes the conditions for requiring exclusion or restriction of employees. The proposed rule amends the language to match the FDA Voluntary National Retail Food Regulatory Program Standards.

257-3-6 Removal, adjustment, or retention of exclusions and restrictions: The current rule describes the amendment of restrictions or exclusions on employees. The proposed rule amends the language to match the FDA Voluntary National Retail Food Regulatory Program Standards.

257-3-10 Cleaning procedure: The current rule describes how a person shall wash their hands. The proposed rule corrects citations and grammar.

257-3-12 When to wash: The current rule details when an employee must wash their hands. The proposed rule deletes repetitive language.

257-3-13 Where to wash: The current rule describes where an employee may wash hands. The proposed rule updates grammar.

257-3-14 Hand antiseptics: The current rule describes the use of hand sanitizers. The proposed rule is the same except the last paragraph is removed. It is combined with other similar language in 257-3-23 to eliminate repetitive language.

257-3-18 Eating, drinking, or using tobacco: The current rule describes where an employee may eat, drink, or use tobacco. The proposed rule adds vapes and marijuana to the list of items.

257-3-19.1 Use of bandages, finger cots, or finger stalls: There is no current rule. The proposed rule describes the proper use of PPE on hands and matches the FDA Voluntary National Retail Food Regulatory Program Standards.

257-3-20 Effectiveness of hair restraints: The current rule describes hair restraints. The proposed rule adds the term to the title of the section.

257-3-22. Clean-up of vomiting and diarrheal events: No current rule exists. The proposed rule is excerpted from 257-3-14 because it did not fit into the section subject.

310:257-3-23. Availability of educational materials. No current rule exists. The proposed rule is a condensed combination of 257-3-4(b), 3-5(b), and 3-6(b).

## Subchapter 5. Food

257-5-2 Compliance with food law: The current rule describes the approved sources of foods. The proposed rule corrected grammar and citations.

257-5-8 Game Animals: The current rule describes the approved sources of game animals. The proposed rule corrects grammar and eliminates duplicate wording.

257-5-10 Additives: The current rule describes unapproved additives. The proposed rule corrects citations.

257-5-11 Eggs: The current rule describes the approved source of eggs. The proposed rule corrects grammar.

257-5-12 Eggs and milk products, pasteurized: The current rule describes the approved source of pasteurized egg and milk products. The proposed rule condenses the section as multiple products cite the same law.

257-5-18 Juice treated: The current rule describes how juice must be processed for 5 log reduction in bacteria. The proposed rule corrects grammar.

257-5-19 Molluscan shellfish, original container: The current rule describes the label and container restrictions for molluscan shellfish. The proposed rule corrects citations.

257-5-21 Preventing contamination from hands: The current rule describes how to prevent contamination from hands and allows for a plan to use bare hands vs gloves. The proposed rule amends language to match the FDA Voluntary National Retail Food Regulatory Program Standards.

257-5-22 Preventing contamination when tasting: The current rule describes tasting food as it is cooking. The proposed rule corrects grammar.

257-5-23 Packaged and unpackaged food-separation, packaging, and segregation: The current rule describes how packaged and unpackaged food must be segregated. The proposed rule amends language to match the FDA Voluntary National Retail Food Regulatory Program Standards.

257-5-25 Pasteurized eggs, substitute for raw eggs for certain recipes: The current rule describes the use of pasteurized eggs for certain recipes. The proposed rule corrects a citation.

257-5-27 Washing fruits and vegetables: The current rule describes the proper way to wash vegetables. The proposed rule corrects grammar.

257-5-29 Storage or display of food in contact with water or ice: The current rule describes restrictions on storage of food in direct contact with ice. The proposed rule corrects grammar.

257-5-30 Food contact with equipment and utensils: The current rule describes the characteristics of food contact surfaces. The proposed rule corrects citations.

257-5-31 In-use utensils, between-use storage: The current rule describe the proper storage of in-use utensils. The proposed rule corrects grammar.

257-5-33 Wiping cloths, use limitation: The current rule describes the limitations to wiping cloths. The proposed rule corrects grammar.

257-5-34 Gloves, use limitation: The current rule describes glove use limitations. The proposed rule corrects citations.

257-5-36 Refilling returnables: The current rule describes the way returnables must be processed. The proposed rule corrects citations and eliminates unneeded language.

257-5-37 Food storage: The current rule describes proper food storage. The proposed rule eliminates a portion of the section which duplicates other sections.

257-5-40 Food preparation: The current rule describes how food must be protected from contamination during preparation. The proposed rule moves a portion to another section which is relative to the topic.

257-5-46 Raw animal foods: The current rule describes the final cook temperature of animal foods. The

proposed rule amends language to match the FDA Voluntary National Retail Food Regulatory Program Standards.

257-5-48 Plant food cooking for hot holding: The current rule describes the cook temperature for fruits and vegetables which will be held hot. The proposed rule changes fruits and vegetables to plant foods.

257-5-50 Records, creation and retention: The current rule describes records used to show parasite destruction. The proposed rule corrects citations.

257-5-52 Reheating for hot holding: The current rule describes the process of reheating to hold hot. The proposed rule corrects grammar.

257-5-53 Treating juice: The current rule describes the treatment of juice to remove pathogens. The proposed rule corrects citations.

257-5-56 Thawing: The current rule describes the process of thawing. The proposed rule corrects citations.

257-5-57 Cooling: The current rule describes the process of cooling. The proposed rule removes duplicated language.

257-5-60 Ready-to-eat, Time/Temperature Control for Safety Food, date marking: The current rule describes the process of date marking ready to eat foods. The proposed rule corrects citations.

257-5-61 Ready-to-eat, Time/Temperature Control for Safety Food, disposition: The current rule describes what must happen to food which is beyond the service date. The proposed rule corrects grammar.

257-5-63 Variance requirement: The current rule describes when a variance is required. The proposed rule corrects grammar.

257-5-64 Reduced oxygen packaging without a variance, criteria: The current rule describes the process or ROP without a variance. The proposed rule corrects grammar and citations.

257-5-65 Standards of identity: The current rule describes the standards of identity. The proposed rule reduced duplicated wording.

257-5-67 Food labels: The current rule describe the requirements of food labels. The proposed rule corrects citations.

257-5-69 Consumption of animal foods that are raw, undercooked, or not otherwise processed to eliminate pathogens: The current rule describes the requirements of a consumer advisory. The proposed rule corrects citations.

257-5-71 Pasteurized foods, prohibited re-service, and prohibited food: The current rule describes the use of pasteurized products. The proposed rule corrects grammar.

#### Subchapter 7. Equipment, Utensils and Linens

257-7-1 Characteristics: The current rule describes acceptable characteristics of Food Contact Surfaces. The proposed rule corrects the spelling of the word corrosion.

257-7-13 Equipment and utensils: The current rule describes the commercial standards of equipment. The proposed rule incorporates OAC 310:257-7-64 in Rule Reduction and adds Custom built smokers, and residential freezers for long term storage to the list of acceptable equipment.

257-7-15 Food-contact surfaces: The current rule describes the characteristics of food contact surfaces. The proposed rule corrects grammar.

257-7-23 Temperature measuring devices, food: The current rule describes the characteristics of a food temperature measuring device. The proposed rule corrects grammar.

257-7-24 Temperature measuring devices, ambient air and water: The current rule describes the characteristics of an ambient temperature measuring device. The proposed rule corrects grammar.

257-7-25 Pressure measuring devices, mechanical warewashing equipment: The current rule describes the characteristics of a warewashing equipment temperature measuring device. The proposed rule corrects grammar.

257-7-28 Dispensing equipment, protection of equipment and food: The current rule describes protections of food dispensing equipment. The proposed rule corrects a code citation.

257-7-35 Molluscan shellfish tanks: The current rule describes the characteristics of shellfish tank. The proposed rule corrects grammar.

- 257-7-36 Vending machines, automatic shutoff: The current rule describes the characteristics of a vending machine shutoff. The proposed rule corrects grammar.
- 257-7-37 Temperature measuring devices: The current rule describes the proper location of a temperature measuring device. The proposed rule corrects grammar.
- 257-7-51 Manual warewashing, sink compartment requirements: The current rule describes the characteristics of a manual warewash sink. The proposed rule corrects grammar and eliminates duplicative language.
- 257-7-58.1 Cleaning agents and sanitizers, availability: A current rule does not exist. The proposed rule will match the FDA model code.
- 257-7-60 Fixed equipment, spacing or sealing: The current rule describes the characteristics of equipment spacing. The proposed rule corrects grammar.
- 257-7-64 Microwave ovens: The current rule describes the characteristics of microwave ovens. There is no proposed rule.
- 257-7-65 Warewashing equipment, cleaning frequency: The current rule describes the cleaning frequency of warewashing equipment. The proposed rule corrects grammar.
- 257-7-75 Manual and mechanical warewashing equipment, chemical sanitization - temperature, pH, concentration, and hardness: The current rule describes the chemical sanitation characteristics of a dish machine. The proposed rule corrects citations.
- 257-7-83 Equipment food-contact surfaces and utensils: The current rule describes the cleaning and sanitization schedule for food contact surfaces. The proposed rule corrects grammar.
- 257-7-84 Cooking and baking equipment: The current rule describes the cleaning and sanitization schedule for food cooking and baking surfaces. The proposed rule corrects grammar.
- 257-7-86 Dry cleaning: The current rule describes the dry cleaning limitations. The proposed rule corrects grammar.
- 257-7-87 Precleaning: The current rule describes the precleaning limitations. The proposed rule corrects grammar.
- 257-7-90 Washing, procedures for alternative manual warewashing equipment: The current rule describes alternative warewashing equipment. The proposed rule corrects grammar.
- 257-7-91 Rinsing procedures: The current rule describes the process of removal of cleaning chemicals. The proposed rule corrects grammar.
- 257-7-101 Equipment and utensils, Air-drying required: The current rule describes the air drying of cleaned utensils. The proposed rule corrects a code citation.
- Subchapter 9. Water, Plumbing and Waste**
- 257-9-1 Approved System: The current rule describes sources of potable water. The proposed rule simplifies language.
- 257-9-3 Bottled drinking water: The current rule describes bottled water standards. There is no proposed rule.
- 257-9-4 Quality, standards: The current rule describes water quality standards. There is no proposed rule.
- 257-9-5 Nondrinking water: The current rule describes nondrinking water standards. The proposed rule clarifies language.
- 257-9-6 Sampling: The current rule describes water sampling requirements. The proposed rule simplifies language.
- 257-9-7 Sample report: The current rule describes the retention requirements of sample reports. The proposed rule clarifies language.
- 257-9-9 Pressure: The current rule describes water pressure requirements. The proposed rule clarifies language.
- 257-9-10 Distribution, delivery, and retention, system: The current rule describes water delivery systems. The proposed rule clarifies language.
- 257-9-14 Handwashing facility, installation: The current rule describes hand wash sink requirements. The proposed rule defines tempered faucet characteristics.

- 257-9-15 Backflow prevention, air gap: The current rule describes backflow prevention devices. The proposed rule clarifies language.
- 257-9-18 Numbers and capacities, handwashing facilities: The current rule describes required number of handwashing facilities. The proposed rule eliminates duplicate language.
- 257-9-19 Toilets and urinals: The current rule describes toilet and urinal requirements. The proposed rule clarifies language.
- 257-9-20 Service sink: The current rule describes mop sink requirements. The proposed rule allows for alternate floor cleaning methods.
- 257-9-22 Backflow prevention device, carbonator: The current rule describes carbonator requirements. The proposed rule clarifies language.
- 257-9-26 Using a handwashing facility: The current rule describes where a hand sink must be located. The proposed rule clarifies language.
- 257-9-27 Prohibiting a cross connection: The current rule describes the prohibitions to a cross connection. The proposed rule clarifies language.
- 257-9-31 Materials, approved: The current rule describes materials that may be used to create a water tank. The proposed rule clarifies language.
- 257-9-32 Enclosed system, sloped to drain: The current rule describes the construction of a tank and how it shall be sloped to the drain. The proposed rule clarifies language.
- 257-9-37 Hose, construction and identification: The current rule describes the design requirements of hoses used to carry potable water. The proposed rule clarifies language.
- 257-9-41 System flushing and disinfection: The current rule describes the flushing and sanitization of a water system. The proposed rule clarifies language.
- 257-9-45 Capacity and drainage: The current rule describes waste tank requirements. The proposed rule clarifies language.
- 257-9-47 Backflow prevention: The current rule describes backflow prevention. The proposed rule clarifies language.
- 257-9-48 Grease trap: The current rule describes grease trap requirements. The proposed rule clarifies language.
- 257-9-49 Conveying sewage: The current rule describes sewage disposal. The proposed rule clarifies language.
- 257-9-52 Approved sewage disposal system: The current rule describes sewage disposal systems. The proposed rule clarifies language.
- 257-9-53 Other liquid wastes and rainwater: The current rule describes non-sewage waste water. The proposed rule clarifies language.
- 257-9-58 Receptacles in vending machines: The current rule describes receptacles in vending machines. The proposed rule clarifies language.
- 257-9-63 Storage areas, redeeming machines, receptacles and waste handling units, location: The current rule describes standards for the areas used to store redeemed items. The proposed rule clarifies language.
- 257-9-66 Outside storage prohibitions: The current rule describes items that are prohibited from being stored outside. The proposed rule clarifies language.
- 257-9-70 Cleaning receptacles: The current rule describes requirement for waste receptacles. The proposed rule corrects citations.
- Subchapter 11. Physical Facilities
- 257-11-1 Indoor areas, surface characteristics: The current rule describes interior surface characteristics of the establishment. The proposed rule expands the characteristics to all toilet rooms and requires that walls protect from windblown debris.
- 257-11-2 Outdoor areas, surface characteristics: The current rule describes exterior surface characteristics of the establishment. The proposed rule corrects grammar.
- 257-11-3 Floors, walls, and ceilings: The current rule describes surface characteristics of the establishment. The proposed rule corrects grammar.

257-11-4 Floors, walls, and ceilings, utility lines: The current rule describes surface characteristics of the establishment. The proposed rule corrects grammar.

257-11-5 Floor and wall junctures, coved, and enclosed or sealed: The current rule describes surface characteristics of the establishment. The proposed rule corrects grammar.

257-11-6 Floor carpeting, restrictions and installation: The current rule describes exterior surface characteristics of the establishment. The proposed rule corrects grammar.

257-11-10 Walls and ceilings, studs, joists, and rafters: The current rule describes exterior surface characteristics of the establishment. The proposed rule corrects grammar.

257-11-13 Insect control devices, design and installation: The current rule describes insect control devices within the establishment. The proposed rule corrects grammar.

257-11-14 Toilet rooms, enclosed: The current rule describes types of acceptable restrooms. The proposed rule clarifies language and adds offset entrance maze as an approved type.

257-11-15 Outer openings, protected: The current rule describes how insects shall be excluded from a food establishment. The proposed rule clarifies language and allows weather or other limiting conditions as approved methods.

257-11-20 Outdoor refuse areas graded to drain: The current rule describes the curbing around outside facilities. The proposed rule corrects grammar.

257-11-21 Private homes and living or sleeping quarters, use prohibition: The current rule prohibits

257-11-23 Handwashing facilities, minimum number: The current rule is not necessary as it refers to another rule. No new rule exists.

257-11-24 Handwashing cleanser, availability: The current rule describes availability of handwashing sinks. The proposed rule corrects grammar.

257-11-25 Hand drying provision: The current rule describes ways to dry hands. The proposed rule corrects grammar.

257-11-26 Handwashing aids and devices, use restrictions: The current rule describes ways to dry hands. The proposed rule corrects grammar.

257-11-28 Disposable towels, waste receptacle: The current rule is not necessary as it refers to another rule. No new rule exists.

257-11-29 Toilets and urinals, minimum number: The current rule is not necessary as it refers to another rule. No new rule exists.

257-11-34 Service sinks, availability: The current rule is not necessary as it refers to another rule. No new rule exists.

257-11-35 Handwashing facilities, conveniently located: The current rule is not necessary as it refers to another rule. No new rule exists.

257-11-37 Employee accommodations, designated areas: The current rule describes employee break areas. The proposed rule adds vape and marijuana.

257-11-39 Receptacles, waste handling units, and designated storage areas: The current rule is not necessary as it refers to another rule. No new rule exists.

257-11-42 Cleaning floors, dustless methods: The current rule describes ways to clean spills. The proposed rule adds vomit and diarrheal events.

257-11-44 Cleaning maintenance tools, preventing contamination: The current rule describes ways to clean maintenance tools. The proposed rule corrects grammar.

257-11-50 Controlling pests: The current rule describes ways to control insects. The proposed rule corrects grammar.

257-11-54 Prohibiting animals: The current rule describes how to allow animals in a food establishment. The proposed rule corrects grammar.

#### Subchapter 13. Poisonous or Toxic Materials

257-13-1 Identifying information, prominence: The current rule requires labels on toxic items. The proposed rule includes first aid supplies and medicine.

257-13-4 Presence and use, restriction: The current rule describes the types of toxics that can be stored. The proposed rule adds the ability to store lawn care chemicals as well.

257-13-5 Conditions of use: The current rule describes how chemicals can be used. The proposed rule corrects the legal citation.

257-13-6 Poisonous or toxic material containers: The current rule prohibits the use of a chemical container to store food. The proposed rule corrects grammar.

257-13-8 Chemicals for washing, treatment, storage, and processing of fruits and vegetables, criteria: The current rule describes chemicals that can be used to wash vegetables. The proposed rule removes an obsolete CFR that no longer exists.

257-13-10 Drying agents, criteria: The current rule describes chemicals that can be used as drying agents. The proposed rule corrects the legal citations.

257-13-14 Tracking powders, pest control and monitoring: The current rule prohibits the use of chemical tracking powder. The proposed rule corrects grammar.

257-13-16 Refrigerated medicines, storage: The current rule describes the storage of personal medicines. The proposed rule adds schools as a possible setting and corrects grammar.

#### Subchapter 15. Compliance and Enforcement

257-15-1 Public health protection: The current rule describes public health protections. There is no proposed rule.

257-15-2 Preventing health hazards, provision for conditions not addressed: The current rule describes preventing hazards. There is no proposed rule.

257-15-2.1 Public health protection: There is no current rule. The proposed rule merges 257-15-1 with 257-15-1 and reduces language.

257-15-3 Modifications and waivers: The current rule describes the requirements involved in obtaining a variance or waiver. There is no proposed rule.

257-15-3.1 Variances and waivers: There is no current rule. The proposed rule describes the requirements involved in obtaining a variance or waiver clarifies language.

257-15-4 Documentation of proposed waiver or variance and justification: The current rule describes documentation requirements for a variance or waiver.

The proposed rule clarifies language.

257-15-5 Conformance with approved procedures: The current rule describes requirements to conform to an approved procedure. The proposed rule clarifies language.

257-15-6 When Plans are required: The current rule describes when plans are required. The proposed rule clarifies language.

257-15-7 Contents of the Plans and Specifications: The current rule describes the contents of required plans. The proposed rule reduces duplicated language.

257-15-8 When a HACCP plan is required: The current rule describes when a HACCP plan is required. The proposed rule clarifies language.

257-15-9 Contents of a HACCP plan: The current rule describes the contents of a HACCP plan. The proposed rule updates the language to match the FDA Voluntary National Retail Food Regulatory Program Standards.

257-15-10 Trade secrets: The current rule describes confidentiality requirements of trade secrets. The proposed rule eliminates duplicated language.

257-15-11 Preoperational inspections: The current rule describes preoperational inspections. The proposed rule clarifies language.

257-15-13 Form of submission and contents of application: The current rule describes the form of submission of applications. The proposed rule combines 257-15-15 Contents of the application into the section.

257-15-14 Qualifications and responsibilities of applicants: The current rule describes the responsibility of the applicants. The proposed rule clarifies language.

257-15-15 Contents of the application: The current rule describes the content of the application. There is no proposed rule. It was combined with 257-15-13.

257-15-16 New, converted or remodeled establishments: The current rule describes new establishment requirements. The proposed rule clarifies language.

- 257-15-17 Existing establishments, license renewal, and change of ownership: The current rule describes existing establishment requirements. The proposed rule clarifies language.
- 257-15-18 Denial of application for license, notice: The current rule describes the process of license denial. The proposed rule eliminates redundant language.
- 257-15-19 Responsibilities of the Department: The current rule describes the responsibility of the regulatory authority. The proposed rule clarifies language.
- 257-15-20 Responsibilities of the license holder: The current rule describes the responsibilities of the license holder. The proposed rule clarifies and reduces language.
- 257-15-21 Licenses not transferable: The current rule describes restrictions on license transfer. The proposed rule clarifies and reduces language.
- 257-15-22 Competency of inspectors: The current rule describes the requirements of the inspectors. The proposed rule corrects citations.
- 257-15-23 Allowed at reasonable times after due notice: The current rule describes when inspections are allowed. The proposed rule clarifies language.
- 257-15-24 Refusal, notification of right to access, and final request for access: The current rule describes what happens when access is refused. The proposed rule clarifies language.
- 257-15-25 Refusal, reporting: The current rule describes what happens when access is refused. The proposed rule clarifies language.
- 257-15-26 Order to gain access: The current rule describes an inspection order. The proposed rule clarifies language.
- 257-15-27 Documenting information and observations: The current rule describes how violations are documented. The proposed rule clarifies language.
- 257-15-28 Specifying time frame for corrections: The current rule describes time frames for corrections. There is no proposed rule.
- 257-15-29 Issuing report and obtaining acknowledgment of receipt: The current rule describes issuing an inspection report. The proposed rule clarifies language.
- 257-15-30 Refusal to sign acknowledgment: The current rule describes what the inspector shall do if a signature is refused. The proposed rule clarifies language.
- 257-15-31 Public information: The current rule describes what public information is. The proposed rule clarifies language.
- 257-15-32 Ceasing operations and reporting: The current rule describes when an establishment must cease operations. The proposed rule clarifies language.
- 257-15-34 Timely correction: The current rule describes the time frame to correct violations. The proposed rule matches the FDA Model Retail Food Code.
- 257-15-35 Verification and documentation of correction: The current rule describes HACCP Verification  
The proposed rule clarifies language.
- 257-15-36 Time frame for correction: The current rule describes the time frame for correction of violations. The proposed rule matches the FDA Voluntary National Retail Food Regulatory Program Standards.
- 257-15-37 Obtaining information: personal history of illness, medical examination, and specimen analysis: The current rule describes obtaining illness information on an employee. The proposed rule matches the FDA Voluntary National Retail Food Regulatory Program Standards.
- 257-15-38 Restriction or exclusion of food employee, or conditional employee, or summary suspension of license: The current rule describes restriction on employees. The proposed rule matches the FDA Voluntary National Retail Food Regulatory Program Standards.
- 257-15-39 Restriction or exclusion order: warning or hearing not required, information required in order: The current rule describes hearing requirements in cases of restriction of employees. The proposed rule matches the FDA Voluntary National Retail Food Regulatory Program Standards.
- 257-15-41 Priority items and priority foundation items: The current rule describes which code citations

are priority and priority foundation violations. The proposed rule will update the citations to match the updated code.

**Subchapter 17. Mobile Pushcarts Units, Mobile Food establishments, and Mobile Retail Food Establishments:**

257-17-1 General requirements: The current rule describes general requirements of a mobile unit. The proposed rule includes on all forms of mobile units by incorporating items transplanted from other sections.

257-17-2 Mobile pushcarts: The current rule describes mobile pushcarts. The proposed rule clarifies language and incorporates items transplanted from other sections.

257-17-4 Mobile food establishments: The current rule describes operational restrictions on mobile units. There is no proposed rule.

257-17-3 Operations of mobile units: There is no current rule. The proposed rule renames the section and clarifies remaining language.

257-17-4 Mobile retail food establishments: The current rule describes operational restrictions on mobile retail food establishments. The proposed rule clarifies remaining language.

257-17-5 Commissary and servicing area requirements: The current rule describes requirements of commissaries. The proposed rule clarifies remaining language.

257-17-6 Storage: The current rule describes storage in a mobile unit. There is no proposed rule.

**AUTHORITY:**

Commissioner of Health, Title 63 O.S. § 1-104; Food, Title 63 O.S. § 1-1101 et seq.; and Sellers of Food, Title 63 O.S. § 1-1118

**COMMENT PERIOD:**

January 15, 2021 through the close of the Department's normal business hours, 5 PM, on February 16, 2021. Interested persons may informally discuss the proposed rules with the contact person identified below; or may, through the close of the Department's normal business hours, 5 PM, on February 16, 2021, submit written comment to the contact person identified below, or may, at the hearing, ask to present written or oral views.

**PUBLIC HEARING:**

Pursuant to 75 O.S. § 303(A), the public hearing for the proposed rulemaking in this chapter shall be on February 16, 2021, via WebEx accessible from the site

<https://oklahoma.gov/health/organization/public-hearings.html>, from 9AM to noon.

The meeting may adjourn earlier if all attendees who signed up to comment have completed giving their comments. The alternate date and time in the event of extreme inclement weather or technical difficulties disrupting or preventing the meeting is February 23, 2021, via WebEx accessible from the site <https://oklahoma.gov/health/organization/public-hearings.html>, from 9AM to noon. Those wishing to present oral comments should be registered to speak by 9:15 a.m. Directions for comment registration will be provided on the website. The hearing will close at the conclusion of comments from those registered to speak. Interested persons may attend for the purpose of orally submitting data, views, or concerns about the rule proposal described and summarized in this Notice.

**REQUESTS FOR COMMENTS FROM BUSINESS ENTITIES:**

Business entities affected by these proposed rules are requested to provide the agency with information, in dollar amounts if possible, on the increase in the level of direct costs such as fees, and indirect costs such as reporting, recordkeeping, equipment, construction, labor, professional services, revenue loss, or other costs expected to be incurred by a particular entity due to compliance with the proposed rule. Business entities may submit this information in writing through the close of the Department's normal business hours, 5 PM, on February 16, 2021, to the contact person identified below.

**COPIES OF PROPOSED RULES:**

The proposed rules may be obtained for review from the contact person identified below or via the agency website at [www.ok.gov/health](http://www.ok.gov/health).

**RULE IMPACT STATEMENT:**

Pursuant to 75 O.S., § 303(D), a rule impact statement is available through the contact person identified below or via the agency website at [www.ok.gov/health](http://www.ok.gov/health).

**CONTACT PERSON:**

Audrey C. Talley, Agency Rule Liaison, Oklahoma State Department of Health, 123 Robert S. Kerr Avenue, Oklahoma City, OK 73102, phone (405) 426-8563, e-mail [AudreyT@health.ok.gov](mailto:AudreyT@health.ok.gov).

## **INITIAL RULE IMPACT STATEMENT**

### **TITLE 310. OKLAHOMA STATE DEPARTMENT OF HEALTH CHAPTER 257. FOOD ESTABLISHMENTS**

#### **1. DESCRIPTION:**

The rules amended and created in this chapter reflect the updates of the 2019 FDA Voluntary National Retail Food Regulatory Program Standards from the 2017 version. In addition, many existing rules were revoked or combined into other rules of similar topic to reduce duplicative language.

#### **2. DESCRIPTION OF PERSONS AFFECTED AND COST IMPACT RESPONSE:**

The persons affected by the changed rules will be any food establishment operator licensed to operate in the state. There are no associated costs for the food establishment operators.

#### **3. DESCRIPTION OF PERSONS BENEFITING, VALUE OF BENEFIT AND EXPECTED HEALTH OUTCOMES:**

The persons benefitting by the changed rules will be any food establishment operator licensed to operate in the state. They will benefit by updated, relaxed, and simplified rules. The change is expected to have no measurable outcomes for health

#### **4. ECONOMIC IMPACT, COST OF COMPLIANCE AND FEE CHANGES:**

There is no economic impact of compliance with the updated rules.

#### **5. COST AND BENEFITS OF IMPLEMENTATION AND ENFORCEMENT TO THE AGENCY:**

There are no costs associated with implementation.

#### **6. IMPACT ON POLITICAL SUBDIVISIONS:**

There will be no impact on political subdivisions and it will not require their cooperation in implementing or enforcing the proposed amendment.

#### **7. ADVERSE EFFECT ON SMALL BUSINESS:**

There is no known adverse economic effect on small business as provided by the Oklahoma Small Business Regulatory Flexibility Act.

#### **8. EFFORTS TO MINIMIZE COSTS OF RULE:**

There are no less costly means currently identified.

**9. EFFECT ON PUBLIC HEALTH AND SAFETY:**

The rule change will not reduce significant risks to the public.

**10. DETERRIMENTAL EFFECTS ON PUBLIC HEALTH AND SAFETY WITHOUT ADOPTION:**

If the updated rule is not adopted, Oklahoma will no longer be in conformance with the FDA Voluntary National Retail Food Regulatory Program Standards. This would negatively affect the ability to apply for grants from the FDA.

**11. PREPARATION AND MODIFICATION DATES:**

This rule impact statement was prepared on November 20, 2020.

**TITLE 310. OKLAHOMA STATE DEPARTMENT OF HEALTH  
CHAPTER 257. FOOD ESTABLISHMENTS**

**SUBCHAPTER 1. PURPOSE AND DEFINITIONS**

**310:257-1-2. Definitions**

The following words and terms, when used in this Chapter, shall have the following meaning, unless the context clearly indicates otherwise.

**"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. These The American National Standards Institute - Conference for Food Protection (ANSI-CFP) Accreditation programs include but are not limited to: National Restaurant Association Solutions; LLC (ServeSafe); Prometric, Inc.; 360training.com; and National Registry of Food Safety Professionals.

(A) 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.

(B) Accredited program does not refer to training functions or educational programs.

**"Additive"** as used in this Chapter shall have the same meaning for the following terms:

(A) **"Color additive"** has the meaning stated in the Federal Food, Drug, and Cosmetic Act, Section 201(t) and 21 CFR, Part 70.

(B) **"Food additive"** has the meaning stated in the Federal Food, Drug, and Cosmetic Act, Section 201(s) and 21 CFR, Part 170.

**"Adulterated"** means the definition in 63 O.S. Section 1-1109.

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

**"Asymptomatic"** means without obvious symptoms; not showing or producing indications of a disease or other medical conditions, such as an individual infected with a pathogen but not exhibiting or producing any signs or symptoms of vomiting, diarrhea, or jaundice. Asymptomatic includes not showing symptoms because symptoms have resolved or subsided, or because symptoms never manifested.

**"aw aw"** means water activity which is 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 aw.

**"Balut"** means an embryo inside a fertile egg that has been incubated for a period sufficient for the embryo to reach a specific state of development after which it is removed from incubation before hatching.

**"Beverage"** means a liquid for drinking, including water.

**"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.

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

**"Certified applicator"** means any individual who is certified under Title 7 of the United States Code the Federal Insecticide, Fungicide, and Rodenticide Act, 7 U.S.C. Section 136(+) et seq. and/or by the Oklahoma State Department of Agriculture Food and Forestry as authorized to use or supervise the use of any pesticide that is classified for restricted use. Any applicator who holds or applies registered pesticides or uses dilutions of registered pesticides consistent with the product labeling only to provide a service of controlling pests without delivering any unapplied pesticide to any person so served is not deemed to be a seller or distributor of pesticides.

**"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.

**"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. It does not include the cleaning of equipment such as bandsaws, slicers, or mixers that are subjected to in-place manual cleaning without the use of a CIP system.~~

**"CFR"** means Code of Federal Regulations. Citations in this Chapter to the CFR refer sequentially to the Title, Part, and Section numbers, such as 21 CFR 178.1010 refers to Title 21, Part 178, Section 1010.

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

**"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 which is published annually by the U.S. Government Printing Office; and contains FDA rules in 21 CFR, USDA rules in 7 CFR and 9 CFR, EPA rules in 40 CFR, and Wildlife and Fisheries rules in 50 CFR.

**"Commingle"** means to combine shellstock harvested on different days or from different growing areas as identified on the tag or label, or to combine shucked shellfish from containers with different container codes or different shucking dates.

**"Comminuted"** means reduced in size by methods including chopping, flaking, grinding, or mincing and includes fish or meat products that are reduced in size and restructured or reformulated such as gefilte fish, gyros, ground beef, 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.

**"Commissary"** means a facility used to maintain safe and sanitary operations for the cleaning and servicing of pushcarts, ~~and mobile retail units, or~~ mobile food establishments; and for the storage of food and single service articles used in those units.

**"Common dining area"** means a central location in a group residence where people gather to eat at mealtime but does not apply to a kitchenette or dining area located within private living quarters.

**"Community water system"** means ~~any public water supply system, which serves at least 15 service connections, used year round or regularly serves 25 customers per day.~~

**"Conditional employee"** means a potential food employee to whom a job offer is made, conditional on responses to subsequent medical questions or examinations designed to identify potential food employees who may be suffering from a disease that can be transmitted through food and done in compliance with Title 1 of the Americans with Disabilities Act of 1990.

**"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.

**"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.

**"Cook/Chill"** means ~~the process of placing food, heated to a temperature as required in OAC 310:257-5-46 or OAC 310:257-5-48, and held at a temperature of 135°F or hotter, into an impermeable bag, then cooling the food to a temperature of 41°F or less as required under OAC 310:257-5-57.~~

**"Co-Op"** means an establishment meeting the requirements in the Cooperative Corporations Chapter at 18 O.S. §§ 421 et seq. and selling food products produced as described in the Home Bakery Act of 2013 ~~under~~ at 2 O.S. §§ 5-4.1 et seq.

**"Core item"** means a provision of this Chapter that is not designated as a priority item or priority foundation item and includes an item that usually relates to general sanitation, operational controls,

sanitation standard operating procedures (SSOPs), facilities or structures, equipment design or general maintenance.

**"Corrosion-resistant material"** means a material that maintains acceptable surface cleanability 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.

**"Counter-mounted equipment"** means equipment that is not portable and is designed to be mounted off the floor on a table, counter, or shelf.

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

**"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.

**"Customer self-service"** means customer selection and packaging of a bulk food product from a product module.

**"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 leafy 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.

**"Dealer"** means a person who is authorized by a shellfish control authority for the activities of shellstock shipper, shucker-packer, repacker, reshipper, or depuration processor of molluscan shellfish according to the provisions of the National Shellfish Sanitation Program.

**"Department"** means the Oklahoma State Department of Health and a health department designated in writing by the State Commissioner of Health to perform official duties or other acts authorized under 63 O.S. § 101 et seq. the Oklahoma Public Health Code and this Chapter, or an authorized agent thereof.

**"Disclosure"** means a written statement that clearly identifies the animal-derived foods which are, or can be ordered, raw, undercooked, or without otherwise being processed to eliminate pathogens, or items that contain an ingredient that is raw, undercooked, or without otherwise being processed to eliminate pathogens.

**"Display area"** means a location or locations, including physical facilities and equipment, where bulk food is offered for customer self-service.

**"Drinking water"** means water that meets criteria as specified in 40 CFR, Part 141 National Primary Drinking Water Regulations. It is traditionally known as "potable water." Drinking water does not mean includes the term "water" except where the term used connotes that the water is not potable, such as "boiler water," "mop water," "rainwater," "wastewater," and "nondrinking" water.

**"Dry storage area"** means a room or area designated for the storage of packaged or containerized bulk food that are not potentially hazardous Time Temperature Control for Safety food Foods and dry goods such as single-service items.

**"Easily cleanable"** means a characteristic of a surface that allows effective removal of soil by normal cleaning methods; is dependent on the material, design, construction, and installation of the surface; and 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. Easily cleanable includes a tiered application of the criteria that qualify the surface as easily cleanable to different situations in which varying degrees of cleanability are required such as 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 the need for a different degree of cleanability for a utilitarian attachment or accessory in the kitchen as opposed to a decorative attachment or accessory in the consumer dining area.

**"Easily movable"** means portable; mounted on casters, gliders, or rollers; or provided with a mechanical means to safely tilt a unit of equipment for cleaning; and has 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.

**"Egg"** means the shell egg of avian species such as chicken, duck, goose, guinea, quail, ratites, or turkey. Egg does not include a balut; ~~the egg of and it does not include~~ reptile species such as alligator or an egg product.

**"Egg product"** means all, or a portion of, the contents found inside eggs separated from the shell and pasteurized in a food processing plant, with or without added ingredients, intended for human consumption, such as dried, frozen or liquid eggs. Egg product does not include food which contains eggs only in a relatively small proportion such as cake mixes.

**"Employee"** means the license holder, person in charge, food employee, 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 establishment.

**"EPA"** means the U.S. Environmental Protection Agency.

**"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 for ambient air, vending machine, or warewashing machine. It does not include items used for handling or storing large quantities of packaged foods that are received from a supplier in a cased or overwrapped lot, such as hand trucks, forklifts, dollies, pallets, racks, and skids.

**"Event or celebration"** means ~~a~~ an occasional scheduled social gathering, with a designated event organizer in charge, which is open to the general public, and that has been organized for a special occasion or purpose, having a limited time or serves serving a specific function.

**"Exclude"** means to prevent a person from working as a food employee or entering a food establishment as an employee.

**"Farmers Hub"** means a designated area as described under 2 O.S. Section 5-3A.1 et seq.

**"Farmers Market"** means a designated area in which farmers, growers, or producers from a defined region gather on a regularly scheduled basis to sell at retail ~~non potentially hazardous Non-Time/Temperature Control for Safety~~ farm food products and whole shell eggs to the public as described under 2 O.S. Section 5-3A.1 et seq. A portion of the raw food ingredients used by the individual vendor to produce a product must have been grown or raised by the vendor. The individual vendors wishing to process food as defined by Good Manufacturing Practice, OAC 310:260 of the regulations must obtain a state food processor's license. A Farmers' Market must have written operational guidelines and a minimum of six vendors along with a designated market manager or advisory board who will be responsible for distribution of a copy of the guidelines to the vendors. Farmers' Markets must be registered by the Oklahoma Department of Agriculture, Food and Forestry and comply with the Food Establishments, OAC 310:257, and/or Good Manufacturing Practice, OAC 310:260. This definition does not include individual farmers who grow and sell unprocessed fruit and/or vegetables from the farm, roadside, or truck. Any vendors who prepare or sell any Time/Temperature Control for Safety Foods at the Farmers' Markets must abide by all applicable sections of Food Establishments, OAC 310:257 of the regulations including acquiring a license from the department.

**"FDA"** means the U.S. Food and Drug Administration.

**"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. Fish includes an edible human food product derived in whole or in part from fish, including fish that have been processed in any manner.

**"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.

**"Foodborne disease outbreak"** means the occurrence of two or more cases of a similar illness resulting from the ingestion of a common food.

**"Food-contact surface"** means a surface of equipment or a utensil with which food normally comes into contact; or a surface of equipment or a utensil from which food may drain, drip, or splash into a food, or onto a surface normally in contact with food.

**"Food employee"** means an individual working with unpackaged food, food equipment or utensils, or food-contact surfaces.

**"Food establishment"** means an operation that stores, prepares, packages, serves, vends food directly to the consumer, or otherwise provides food for human consumption such as a restaurant; satellite, commissary, or catered feeding location; catering operation if the operation provides food directly to a consumer or to a conveyance used to transport people; market; vending location; conveyance used to transport people; institution; or food bank; and that relinquishes possession of food to a consumer directly, or indirectly through a delivery service such as home delivery of grocery orders or restaurant takeout orders, or delivery service that is provided by common carriers.

(A) Food establishment includes: An element of the operation such as a transportation vehicle or a central preparation facility that supplies a vending location or satellite feeding location unless the vending or feeding location is permitted by the Department; or an operation that is conducted in a mobile, stationary, temporary, or permanent facility or location; where consumption is on or off the premises.

(B) Food establishment does not include:

- (i) Food processing plant; including those that are located on the premises of a food establishment;
- (ii) A kitchen in a private home if only food that is not potentially hazardous Time/Temperature Control for Safety is prepared for sale or service at a function such as a religious or charitable organization's bake sale if allowed by law and if the consumer is informed by a clearly visible placard at the sales or service location that the food is prepared in a kitchen that is not subject to regulation and inspection by the Department;
- (iii) An area where food that is prepared as specified in paragraph (B)(ii) of this definition is sold or offered for human consumption;
- (iv) A kitchen in a private home, such as a small family day-care provider; or a bed-and-breakfast operation that prepares and offers food to guests if the home is owner occupied, the number of available guest bedrooms does not exceed 3 the number allowed by 63 O.S. §§ 1201 et seq., and breakfast is the only meal offered;
- (v) A private home that receives catered or home-delivered food;
- (vi) Incidental sales; or
- (vii) A produce stand that offers only whole, uncut and unprocessed fresh fruits, melons, vegetables and legumes and/or whole uncracked and unprocessed tree nuts.

**"Food establishment - fee exempt"** means a food establishment that utilizes non-paid persons by a nonprofit, civic, charitable, or religious organization primarily for benevolent purposes.

(A) Fee exempt licensees shall comply with the applicable sections of these rules depending upon the type of operation involved; e.g., food service, retail food, combination, temporary, or mobile.

(B) Fee exempt licenses, except temporary licenses, shall not expire but shall remain in full force and effect until revoked, suspended, annulled, or withdrawn by the Commissioner in accordance with applicable law.

(C) A license is not required for a non-profit civic, charitable or religious organization, using non-paid persons to prepare or serve food on its behalf, for occasional fund-raising events sponsored and conducted by the organization.

**"Food processing plant"** means a commercial operation that manufactures, packages, labels, or stores food for human consumption and provides food for sale or distribution to other business entities such as food processing plants or food establishments.

**"Game animal"** means an animal, the products of which are food, that is not included in the definitions of 2 O.S. Section 6-183 et seq. (cattle, bison, sheep, swine and goats). Equines are not included due to the provisions of Title 2 O.S. Section 6-192 (prohibits the use of equine for food), 2 O.S. Section 6-251 et seq. (poultry, including any domestic bird whether live or dead), 2 O.S. Section 6-280.1 et seq. (domesticated rabbits whether live or dead), 2 O.S. Section 6-290.3 et seq. (exotic livestock

including commercially raised livestock and including but not limited to animals of the families bovidae, cervidae, antilocapridae or in the definitions of fish in this Section).

**"General use pesticide"** means a pesticide that is not classified by EPA for restricted use as specified in 40 CFR 152.175 Pesticides classified for restricted use.

**"Grade A standards"** means the requirements of the United States Public Health Service/FDA "Grade A Pasteurized Milk Ordinance" with which certain fluid and dry milk and milk products comply.

**"Group residence"** means a private or public housing corporation or institutional facility that provides living quarters and meals or includes a domicile for unrelated persons.

**"HACCP"** means Hazard Analysis Critical Control Point.

**"HACCP plan"** means a written document that delineates the formal procedures for following the Hazard Analysis Critical Control Point principles developed by The National Advisory Committee on Microbiological Criteria for Foods.

**"Handwashing sink"** means a lavatory, a basin or vessel for washing, a wash basin, or a plumbing fixture especially placed for use in personal hygiene and designed for washing of the hands. Handwashing sink includes an automatic handwashing facility.

**"Hazard"** means a biological, chemical, or physical property that may cause an unacceptable consumer health risk.

**"Health practitioner"** means a physician licensed to practice medicine, a nurse practitioner, physician assistant, or similar medical professional.

**"Hermetically sealed container"** means a container that is designed and intended to be secure against the entry of microorganisms and, in the case of low acid canned foods, to maintain the commercial sterility of its contents after processing.

**"Highly susceptible population"** means persons who are more likely than other people in the general population to experience foodborne disease because they are:

(A) immunocompromised; preschool age children; or older adults; and

(B) obtaining food at a facility that provides services such as custodial care, health care, or assisted living, such as a child or adult day care center, kidney dialysis center, hospital or nursing home, or nutritional or socialization services such as a senior center.

**"Imminent health hazard"** means a significant threat or danger to health that is considered to exist when there is evidence sufficient 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 the number of potential injuries, and the nature, severity, and duration of the anticipated injury.

**"Impermeable"** means incapable of allowing liquids to pass through the covering.

**"Incidental sale"** means the sale of food on the premises where food is not a primary reason to frequent the establishment, but where prepackaged, non-Time/Temperature Control for Safety Food from an approved source is offered for purchase as a convenience to the customer, and no product is kept in back stock.

**"Injected"** means manipulating meat in which a solution has been introduced into its interior by processes which are referred to as "injecting," "pump marinating," or "stitch pumping."

**"Intact Meat"** means a cut of whole muscle(s) meat that has not undergone comminution, injection, mechanical tenderization or reconstruction.

**"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 does not include, for purposes of HACCP, liquids, purees, or concentrates that are not used as beverages or ingredients of beverages.

**"Kitchenware"** means food preparation and storage utensils.

**"Law"** means applicable local, state, and federal statutes, regulations, and ordinances.

**"License"** means the document issued by the Department that authorizes a person to operate a food establishment.

**"License holder"** means the entity that is legally responsible for the operation of the food establishment such as the owner, the owner's agent, or other person; and possesses a valid license to operate a food establishment.

**"Linens"** means fabric items such as cloth hampers, cloth napkins, table cloths, wiping cloths, and work garments including cloth gloves.

**"Major food allergen"** means milk, egg, shellfish fish (such as bass, flounder, cod, and including crustacean, such as crab, lobster, or shrimp), tree nuts (such as almonds, pecans, or walnuts), wheat, peanuts, and soybeans; or a food ingredient that contains protein derived from a food specified above.

(A) Major food allergen does not include: Any highly refined oil derived from a food specified in Major Food Allergen definition and any ingredient derived from such highly refined oil; or

(B) Any ingredient that is exempt under the petition or notification process specified in the Food Allergen Labeling and Consumer Protection Act of 2004 (Public Law 108-282).

**"Meat"** means the flesh of animals used as food including the dressed flesh of cattle, bison, swine, sheep, or goats and other edible animals, except fish, poultry, and wild game animals.

**"Mechanically tenderized"** means meat manipulated with deep penetration by processes which may be referred to as: "blade tenderizing," "jaccarding," "pinning," "needling," or using blades, pins, needles, or any mechanical device. Mechanically tenderized does not include processes by which solutions are injected into meat. See the definition for injected.

**"mg/L"** means milligrams per liter, which is the metric equivalent of parts per million (ppm).

**"Misbranding"** means the definition contained in 63 O.S. Section 1-1110.

**"Mobile food establishment"** means a facility that prepares food and is vehicle mounted (is Department of Transportation road approved, including wheels and axles), is readily moveable and remains at one physical address for no more than 42 twelve (12) hours at one time.

**"Mobile pushcart"** means a non-self propelled food unit that can be manually moved by one (1) average adult person.

**"Mobile retail food establishment"** means a unit which sells packaged foods from a stationary display at a location some distance that is away from the unit but still at the same physical address, such as a table at a fair or farmer's market, for no more than 42 twelve (12) hours, provided the licensed unit is on premise and readily available for inspection and the food has been prepared in a facility that is regulated by the Good Manufacturing Practices in Title 21 of the CFR or regulated as a license holder pursuant to OAC 310:260, Good Manufacturing Practice Regulations, Oklahoma Department of Agriculture, Food and Forestry, the United States Department of Agriculture, or this Chapter. Mobile food establishments selling only prepackaged foods and engaging in no preparation are not required to pay a plan review fee.

**"Molluscan shellfish"** means any edible species of fresh or frozen oysters, clams, mussels, and scallops or edible portions thereof, except when the scallop product consists only of the shucked adductor muscle.

**"Non-community water system"** means any public water supply system, which serves an average of at least 25 individuals at least 60 days per year and is not a community water system.

**"Non-continuous cooking"** means the cooking of food in a food establishment using a process in which the initial heating of the food is intentionally halted so that it may be cooled and held for complete cooking at a later time prior to sale or service. Non-continuous cooking does not include cooking procedures that only involve temporarily interrupting or slowing an otherwise continuous cooking process.

**"Non-transient non-community water system"** means any public water supply system that is not a community water system and that regularly serves at least 25 of the same persons over 6 months per year.

**"OAC"** means Oklahoma Administrative Code.

**"Occasional"** means not habitual; random, irregularly or infrequent and used for special, occasional social gatherings for an event or celebration acting in a specified capacity from time to time, that does not exceed more than four (4) times per year, unless approved by the Department.

**"Occasional fund-raising event"** means a re occurring event that occurs four times a year or less.

**"O.S."** means Oklahoma Statute.

**"Packaged"** means bottled, canned, cartoned, bagged, or wrapped, whether packaged in a food establishment or a food processing plant. Packaged does not include wrapped or placed in a carry-out container to protect the food during service or delivery to the consumer, by a food employee upon consumer request.

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

**"Person in charge"** means the individual present at a food establishment who is responsible for the operation at the time of the inspection.

**"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. It may include items such as medicines; first aid supplies; other items such as cosmetics; and toiletries such as toothpaste and mouthwash.

**"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. Values between 0 and 7 indicate acidity and values between 7 and 14 indicate alkalinity. The value for pure distilled water is 7, which is considered neutral.

**"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.

**"Plumbing fixture"** means a receptacle or device that is permanently or temporarily connected to the water distribution system of the premises and demands a supply of water from the system; or discharges used water, waste materials, or sewage directly or indirectly to the drainage system of the premises.

**"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.

**"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, except sanitizers, which include substances such as insecticides and rodenticides;
- (C) Substances 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.

**"Poultry"** means any domesticated bird (chickens, turkeys, ducks, geese, ratites, guineas or squabs), whether live or dead, as defined in 9 CFR, Part 381 ~~Poultry Products Inspection Regulations~~; and any migratory waterfowl, game bird, such as pheasant, partridge, quail, grouse, or pigeon, whether live or dead, as defined in 9 CFR, Part 362 ~~Voluntary Poultry Inspection Regulations, Definitions~~.

**"Premises"** means:

- (A) The physical facility, its contents, and the contiguous land or property under the control of the license holder; or
- (B) The physical facility, its contents, and the land or property not under the control of the license holder, unless its facilities and contents are under the control of the license holder and may impact food establishment personnel, facilities, or operations, and a food establishment is only one component of a larger operation such as a health care facility, hotel, motel, school, recreational camp, or prison.

**"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.

**"Priority item"** means a provision in this Chapter the application of which contributes directly to the elimination, prevention, or reduction to an acceptable level of hazards associated with foodborne illness

or injury and there is no other provision that more directly controls the hazards. Priority item includes an item with a quantifiable measure to show control of hazards such as cooking, reheating, cooling or handwashing.

**"Priority foundation item"** means a provision in this Chapter whose application supports, facilitates, or enables one or more priority items. "Priority foundation item" includes an item that requires the purposeful incorporation of specific actions, equipment, or procedures by industry management to attain control of risk factors that contribute to foodborne illness or injury such as personnel training, infrastructure, or necessary equipment, HACCP plans, documentation or record keeping, and labeling.

**"Ratite"** means a flightless bird such as an emu, ostrich, or rhea.

**"Ready-to-eat food"** means

(A) food that is in a form that is edible without additional preparation to achieve food safety, as specified under OAC 310:257-5-46(a)-(c) or OAC 310:257-5-47 or OAC 310:257-5-48.149, or is a raw or partially cooked animal food and the consumer is advised as specified under OAC 310:257-5-46(d)(1) and (32); or is prepared in accordance with a variance that is granted as specified under OAC 310:257-5-46(d)(1) and (3)(4); and may receive additional preparation for palatability or aesthetic, epicurean, gastronomic, or culinary purposes. and

**"Ready-to-eat food"** (B) includes raw animal food that is cooked as specified under OAC 310:257-5-46 or OAC 310:257-5-47, or frozen as specified under OAC 310:257-5-48.149; raw fruits and vegetables that are washed as specified under OAC 310:257-5-27; fruits and vegetables that are cooked for hot holding, as specified under OAC 310:257-5-48; All Time/Temperature Control for Safety Food that is cooked to the temperature and time required for the specific food under OAC 310:257-5-46 through 310:257-5-48.1 and cooled as specified under OAC 310:257-5-57; 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; substances derived from plants such as spices, seasonings, and sugar; a bakery item such as bread, cakes, pies, fillings, or icing for which further cooking is not required for food safety; 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; dried meat and poultry products, such as jerky or beef sticks; and foods manufactured according to 21 CFR Part 113, Thermally Processed Low-Acid Foods Packaged in Hermetically Sealed Containers.

**"Reduced oxygen packaging"** means:

(A) 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 atmosphere (approximately 21%) at sea level;

(B) A process as specified in paragraph (A) of this definition that involves a food for which hazards Clostridium botulinum or Listeria monocytogenes requires require control in the final packaged form;

(C) Reduced oxygen packaging includes 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;

(D) 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

(E) 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.;

(F) Cook chill packaging, as described in OAC 310:257-5-64(d)(E); and

(G) Sous vide packaging, as described in OAC 310:257-5-64(d)(D).

"Refuse" means solid waste not carried by water through the sewage system.

"Regulatory authority" means ~~the a representative, such as an onsite inspector, of the Department Oklahoma State Department of Health and a health department designated in writing by the State Commissioner of Health to perform official duties or other acts authorized under the Oklahoma Public Health Code and this Chapter.~~

"Reminder" means a written statement concerning the health risk of consuming animal foods raw, undercooked, or without otherwise being processed to eliminate pathogens.

"Re-Service" means the transfer of food that is unused and returned by a consumer after being served or sold and in the possession of the consumer, to another person.

"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.

"Restricted egg" means any check, dirty egg, incubator reject, inedible, leaker, or loss as defined in 9 CFR, Part 590.

"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.

"Risk" means the likelihood that an adverse health effect will occur within a population as a result of a hazard in a food.

"Safe material" 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 Section 409 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.

"Sanitization" means the application of cumulative heat or chemicals on cleaned food-contact surfaces that, when evaluated for efficacy, is sufficient to yield a reduction of 5 logs, which is equal to a 99.999% reduction of representative disease microorganisms of public health importance.

"Sealed" means free of cracks or other openings that allow the entry or passage of moisture.

"Seasonal food establishment" means a facility that is open no more than 180 consecutive days per physical address per year. The seasonal food establishment is limited to serving coffee and snow cones with use of liquid milk, individually packaged ice cream products, ~~eat uncut~~ raw fruits, ~~eat uncut~~ raw vegetables, nuts in the shell, and commercially bottled syrup, sorghum, honey, sweet cider, and other non-Time/Temperature Control for Safety Foods. Seasonal food establishments selling only prepackaged foods and engaging in no preparation are not required to pay a plan review fee.

"Service animal" means an animal such as a guide dog, signal dog, or other animal as allowed by the ADA, individually trained to provide assistance to an individual with a disability. Service animals are working animals, not pets. The work or task an animal has been trained to provide must be directly related to the person's disability. Animals whose sole function is to provide comfort or emotional support do not qualify as service animals under the ADA.

"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.

"Sewage" means liquid waste containing animal or vegetable matter in suspension or solution and may include liquids containing chemicals in solution.

**"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.

**"Shellstock"** means raw, in-shell molluscan shellfish.

**"Shiga toxin-producing *Escherichia coli* (STEC)"** means any *E. coli* capable of producing Shiga toxins (also called verocytotoxins or "Shiga-like" toxins). STEC infections can be asymptomatic or may result in a spectrum of illness ranging from mild non-bloody diarrhea, to hemorrhagic colitis (i.e., bloody diarrhea) to hemolytic uremic syndrome (HUS-a type of kidney failure). Examples of serotypes of STEC include: *E. coli* O157:H7; *E. coli* O157:NM; *E. coli* O26:H11; *E. coli* O145:NM; *E. coli* O103:H2; and *E. coli* O111:NM. STEC are sometimes referred to as VTEC (verocytotoxigenic *E. coli*) or as EHEC (Enterohemorrhagic *E. coli*). EHEC are a subset of STEC which can cause hemorrhagic colitis or HUS.

**"Shucked shellfish"** means molluscan shellfish that have one or both shells removed.

**"Single-service articles"** means tableware, carry-out utensils, and other items such as bags, containers, placemats, stirrers, straws, toothpicks, and wrappers that are designed and constructed for one time, one person use after which they are intended for discard.

**"Single-use articles"** means utensils and bulk food containers designed and constructed to be used once and discarded. "Single-use articles" includes items such as wax paper, butcher paper, plastic wrap, formed aluminum food containers, jars, plastic tubs or buckets, bread wrappers, pickle barrels, ketchup bottles, and number 10 cans which do not meet the materials, durability, strength, and cleanability specifications under OAC 310:257-7-1, OAC 310:257-7-13 and OAC 310:257-7-15 for multiuse utensils.

**"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 shrimp.

**"Smooth"** means a food-contact surface having a surface free of pits and inclusions with a cleanability equal to or exceeding that of (100 grit) number 3 stainless steel; A nonfood-contact surface of equipment having a surface equal to that of commercial grade hot-rolled steel free of visible scale; and a floor, wall, or ceiling having an even or level surface with no roughness or projections that render it difficult to clean.

**"Sous Vide"** means a method of cooking in which raw or partially cooked food is vacuum packaged in an impermeable bag, cooked in the bag, rapidly chilled, and refrigerated at temperatures that inhibit the growth of psychrotrophic pathogens.

**"Tableware"** means eating, drinking, and serving utensils for table use such as flatware including forks, knives, and spoons; hollowware including bowls, cups, serving dishes, and tumblers; and plates.

**"Temperature measuring device"** means a thermometer, thermocouple, thermistor, or other device that indicates the temperature of food, air, or water.

**"Temporary food establishment"** means a food establishment where food is offered for sale or sold at retail from a fixed, temporary facility in conjunction with a single event or celebration not to exceed the duration of the event or celebration fourteen (14) consecutive days.

**"Tempered"** means a mixture of hot and cold water between 100°F and 120°F.

**"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) Time/Temperature Control for Safety Food includes:

(i) 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 that results in mixtures so that do not they are unable to support pathogenic microorganism growth or toxin formation; and

(ii) Except as specified in subparagraph (B)(4)-(iv) of this definition, a food that because of the interaction of its ~~aw aw~~ and pH values is as designated in the Product Assessment Required (PA) in Tables 1 and/or or 2 of Appendix A of this Chapter:

(B) Time/Temperature Control for Safety Food does not include:

- (i) An air-cooled hard-boiled egg with shell intact, or ~~a shell egg~~ an egg with shell intact that is not hard-boiled, but has been pasteurized to destroy all viable *Salmonellae*;
- (ii) 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;
- (iii) A food that because of its  ~~$a_w$   $a_w$~~  or pH ~~values~~ value, or interaction of  $a_w$  and pH value, is designated as a non-TCS food as listed in Table 1 ~~and/or~~ or 2 of Appendix A of this Chapter;
- (iv) A food that is designated as Product Assessment Required (PA) in Table 1 ~~and/or~~ or 2 of Appendix A of this Chapter ~~and~~ has undergone a Product Assessment showing that the growth or toxin information 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
- (v) A food that does not support the growth or toxin formation of pathogenic microorganisms in accordance with ~~subparagraphs~~ (b)(1)-(B)(i) - (b)(4)-(B)(iv) of this definition above, even though the food may contain a pathogenic microorganism or chemical or physical contaminant at a level sufficient to cause illness or injury.

"**USDA**" means the U.S. Department of Agriculture.

"**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.

"**Variance**" means a written document issued by the Department that authorizes a modification or waiver of one or more requirements of this Chapter, if, in the opinion of the ~~Department regulatory authority~~, a health hazard or nuisance will not result from the modification or waiver.

"**Vending machine**" means a self-service device that, upon insertion of a coin, paper currency, token, card, ~~or~~ key, or by electronic transaction, 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.

"**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.

"**Warewashing**" means the cleaning and sanitizing of utensils and food-contact surfaces of equipment.

"**Whole-muscle, intact beef**" means whole muscle beef that is not injected, mechanically tenderized, reconstructed, or scored and marinated, from which beef steaks may be cut.

### **310:257-1-3. Incorporated by reference**

(a) The following Code of Federal Regulation (CFR) citations are incorporated by reference as published on July 1, ~~2015~~-2019:

- (1) Title 9 CFR, Part 424, Subpart (C);
- (2) Title 21 CFR, Part 129;
- (3) Title 21 CFR, Part 170;
- (4) Title 21 CFR, Part 171;
- (5) Title 21 CFR, Part 172;
- (6) Title 21 CFR, Part 173;

- (7) Title 21 CFR, Part 174;
- (8) Title 21 CFR, Part 175;
- (9) Title 21 CFR, Part 176;
- (10) Title 21 CFR, Part 177;
- (11) Title 21 CFR, Part 178;
- (12) Title 21 CFR, Part 179;
- (13) Title 21 CFR, Part 180;
- (14) Title 21 CFR, Part 181;
- (15) Title 21 CFR, Part 182;
- (16) Title 21 CFR, Part 184;
- (17) Title 21 CFR, Part 186;
- (18) Title 21 CFR, Part 333, Subpart E; and
- (19) Title 21 CFR, Section 1240.60 (d).

(b) The following publications are adopted by reference:

- (1) United States Food and Drug Administration: National Shellfish Sanitation Program (NSSP), Guide for the Control of Molluscan Shellfish, 2009 2017 Revision is adopted by reference;
- (2) United States Food and Drug Administration: Interstate Certified Shellfish Shipper's List, as published on July 1, 2011.

#### **310:257-1-4. Exemptions**

(a) The food establishment definition does not include a food processing plant; a facility that sells only commercially pre-packaged, non-Time/Temperature Control for Safety Foods, from an approved source, which are incidental to the business, and does not have food in storage; a kitchen in a private home if only food that is not potentially hazardous Non-Time/Temperature Control for Safety food is prepared for sale or service at a function such as a religious or charitable organization's bake sale; a kitchen in a private home, such as a bed-and-breakfast operation that prepares and offers food to guests if the number of available guest bedrooms does not exceed three (3) the number allowed by 63 O.S. §§ 1201 et seq. and breakfast is the only meal offered; a lodging facility that is serving food according to OAC 310:285-3-14, Lodging Establishments; a private home that receives catered or home-delivered food; or individual farmers' market vendors that are in compliance with the definition of a farmers' market and hold a food processors license from the Oklahoma Department of Health, small egg packer license, licensed by the Oklahoma Department of Agriculture, Food and Forestry and/or a produce stand that offers only whole, uncut and unprocessed fresh fruits, melons, vegetables and legumes and/or whole uncracked and unprocessed tree nuts.

(b) Persons engaged solely in the sale of food products at a Registered Farmers Market as defined by Title 2 O.S. § 5-193 are not subject to the provisions of this Chapter.

- (1) These persons are not exempted from Title 63 O.S. § 1-1118(B)(3) in regards to licensure.
- (2) The consumer shall be informed by a clearly visible placard, at least eight (8) inches by eleven (11) inches, at the sales or service location, which states "This food is prepared in a kitchen that is not inspected by the Oklahoma Department of Health".

(b)(e) Persons engaged solely in the sale of food products at a County Free fair as defined by Title 2 O.S. §§ 15-67 et seq. are not subject to the provisions of this Chapter.

- (1) These persons are not exempted from Title 63 O.S. § 1-1118(B)(3) in regards to licensure.
- (2) The consumer shall be informed by a clearly visible placard, at least eight (8) inches by eleven (11) inches, at the sales or service location, which states "This food is prepared in a kitchen that is not inspected by the Oklahoma Department of Health".

#### **SUBCHAPTER 3. MANAGEMENT AND PERSONNEL**

##### **310:257-3-1.1 Certified food protection manager**

- (a) At least one person may be a certified food protection manager who has shown proficiency of required information through passing a test that is part of an Accredited Program.
- (b) This section does not apply to certain types of food establishments deemed by the regulatory authority to pose minimal risk of causing, or contributing to, foodborne illness based on the nature of the operation and extent of food preparation.

### **310:257-3-2. Demonstration**

Based on the risks inherent to the food operation, during inspections and upon request a the certified food manager or person in charge shall demonstrate to the Department regulatory authority knowledge of foodborne disease prevention, application of the Hazard Analysis Critical Control Point principles, and the requirements of this Chapter. The person in charge at the time of the inspection shall demonstrate this knowledge by:

- (1) Complying with this Chapter by having no priority items during the current inspection; or
- (2) 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
- (3) Documenting or demonstrating the implementation of operating procedures as specified in 310:257-15-7(5) and 310:257-15-7(6): Responding correctly to the inspector's questions as they relate to the specific food operation. The areas of knowledge include:
  - (A) Employees are trained to comply with this Chapter, including awareness of major food allergens, as necessary to perform their assigned duties; and Describing the relationship between the prevention of foodborne disease and the personal hygiene of a food employee;
  - (B) Food preparation activities are directed and corrective action is taken as needed to protect the health of the consumer; and 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;
  - (C) In-house self inspections of daily operations are conducted on at least a daily basis to ensure that food safety policies and procedures are followed. Describing the symptoms associated with the diseases that are transmissible through food;
  - (D) Explaining the significance of the relationship between maintaining the time and temperature of Time/Temperature Control for Safety Food and the prevention of foodborne illness;
  - (E) Explaining the hazards involved in the consumption of raw or undercooked meat, poultry, eggs, and fish;
  - (F) Stating the required food temperatures and times for safe cooking of Time/Temperature Control for Safety Food including meat, poultry, eggs, and fish;
  - (G) Stating the required temperatures and times for the safe refrigerated storage, hot holding, cooling, and reheating of Time/Temperature Control for Safety Food;
  - (H) Describing the relationship between the prevention of foodborne illness and the management and control of the following:
    - (i) Cross contamination,
    - (ii) Hand contact with ready-to-eat foods,
    - (iii) Handwashing, and
    - (iv) Maintaining the food establishment in a clean condition and in good repair;
  - (I) Describing foods identified as major food allergens and the symptoms that a major food allergen could cause in a sensitive individual who has an allergic reaction.
  - (J) Explaining the relationship between food safety and providing equipment that is:
    - (i) Sufficient in number and capacity, and
    - (ii) Properly designed, constructed, located, installed, operated, maintained, and cleaned;
  - (K) Explaining correct procedures for cleaning and sanitizing utensils and food contact surfaces of equipment;

- (L) 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;
- (M) 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;
- (N) 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;
- (O) Explaining the details of how the person in charge and food employees comply with the HACCP Plan if a plan is required by law, this Code, or an agreement between the Department and the food establishment;
- (P) Explaining the responsibilities, rights, and authorities assigned by this code to the:
  - (i) Food employee,
  - (ii) Conditional employee,
  - (iii) Person in charge,
  - (iv) Regulatory authority; and
- (Q) Explaining how the person in charge, food employees, and conditional employees comply with reporting responsibilities and exclusion or restriction of food employees.

### **310:257-3-3. Person in charge**

The person in charge shall ensure that:

- (1) Food establishment operations are not conducted in a private home or in a room used as living or sleeping quarters ~~as specified under OAC 310:257 11-24;~~
- (2) 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;
- (3) 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 Chapter;
- (4) Employees are effectively cleaning their hands, by routinely monitoring the employees' handwashing;
- (5) 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, unadulterated, and accurately presented, by routinely monitoring the employees' observations and periodically evaluating foods upon their receipt;
- (6) Employees are verifying that foods delivered to the food establishment during non-operating hours are from approved sources and are placed into appropriate storage locations such that they are maintained at the required temperatures, protected from contamination, unadulterated, and accurately presented;
- (7) Employees are properly cooking 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 comminuted meats, through daily oversight of the employees' routine monitoring of the cooking temperatures using appropriate temperature measuring devices properly scaled and calibrated ~~as specified under OAC 310:257 7-23 and OAC 310:257 7-78(b);~~
- (8) Employees are using proper methods to rapidly cool Time/Temperature Control for Safety Foods that are not held hot or are not for consumption within four (4) hours, through daily oversight of the employees' routine monitoring of food temperatures during cooling;
- (9) Employees are properly maintaining the temperatures of Time/Temperature Control for Safety Foods during hot and cold holding through daily oversight of the employees' routine monitoring of food temperatures;

- (9) (10) Consumers who order raw or partially cooked ready-to-eat foods of animal origin are informed as specified under OAC 310:257-5-69 that the food is not cooked sufficiently to ensure its safety;
- (10) (11) 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;
- (11) (12) Consumers are notified that clean tableware is to be used when they return to self-service areas such as salad bars and buffets as specified under OAC 310:257-5-35;
- (12) (13) Except when otherwise approved as specified under OAC 310:257-5-21(b), 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;
- (13) (14) Employees are properly trained in food safety, including food allergy awareness, as it relates to their assigned duties;
- (14) (15) Food employees and conditional employees are informed, in a verifiable manner, of their responsibility to report, in accordance with law, to the person in charge, information about their health and activities as they relate to diseases that are transmissible through food, as specified under OAC 310:257-3-4(a); and
- (15) (16) Written procedures and plans, where specified by this Chapter and as developed by the food establishment, are maintained and implemented as required.

#### **310:257-3-4. Responsibility of the license holder, person in charge, to require reporting by food and employees and applicants**

(a) **Employee reporting.** The license holder shall require food employees and conditional 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 conditional employee shall report the information in a manner that allows the person in charge to reduce the risk of foodborne disease transmission, including providing necessary additional information, such as the date of onset of symptoms and an illness, or of a diagnosis without symptoms, if the food employee or conditional employee:

- (1) **Reportable symptoms.** Has any of the following symptoms:
- (A) Vomiting,
  - (B) Diarrhea,
  - (C) Jaundice,
  - (D) Sore throat with fever; or
  - (E) A lesion containing pus such as a boil or infected wound that is open or draining any part of the body, and is:
    - (i) 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,
    - (ii) On exposed portions of the arms, unless the lesion is protected by an impermeable cover, or
    - (iii) On other parts of the body, unless the lesion is covered by a dry, durable, tight-fitting bandage;

- (2) **Reportable diagnosis.** Has an infection illness diagnosed by a health practitioner or identified by the Department due to:

- (A) Norovirus,
- (B) Hepatitis A virus,
- (C) *Shigella* species,
- (D) Shiga toxin-producing *Escherichia coli*,
- (E) *Salmonella* Typhi Typhoid fever (caused by *Salmonella* Typhi), or
- (F) *Salmonella* species, non-typhoidal (non-typhoidal);

- (3) **Reportable past illness.** Has been ill within the past three months due to diagnosed *Salmonella* Typhi but did not receive antibiotic therapy; or Had Typhoid fever, diagnosed by a health practitioner,

within the past three (3) months, without having received antibiotic therapy, as determined by a health practitioner;

(4) **Reportable history of exposure.** Has been exposed to or is the suspected source of, a recent confirmed disease outbreak related to an infection listed in (a)(2) of this Section, because the food employee or conditional employee consumed or prepared food implicated in the outbreak, or consumed food at an event prepared by a person who is infected or ill with:

- (A) Norovirus within the past forty-eight (48) hours of the last exposure,
- (B) Shiga Toxin-Producing *Escherichia coli* or *Shigella* spp. within the past three (3) days of the last exposure,
- (C) Typhoid fever within the past fourteen (14) days of the last exposure, or
- (D) Hepatitis A virus within the past thirty (30) days of the last exposure; or

(5) **Reportable history of exposure.** Has been exposed by attending or working in a setting where there is a confirmed disease outbreak, or living in the same household as, and has knowledge about, an individual who works or attends a setting where there is a confirmed disease outbreak, or living in the same household as, and has knowledge about, an individual diagnosed with an illness caused by:

- (A) Norovirus within the past forty-eight (48) hours of the last exposure,
- (B) Shiga Toxin-Producing *Escherichia coli* or *Shigella* spp. within the past three (3) days of the last exposure,
- (C) Typhoid fever (caused by *Salmonella* Typhi) within the past fourteen (14) days of the last exposure, or
- (D) Hepatitis A virus within the past thirty (30) days of the last exposure.

(b) **Availability of educational materials.** The Department shall make available educational materials, employee interview forms, and employee reporting agreements to assist license holders, persons in charge, and employees in complying with the requirements in (a) of this Section. The materials and forms shall include guidance in gathering and reporting exposure related information as necessary to assess the employee's level of risk for transmitting disease as a result of illness under (a)(3) of this Section or exposure under (a)(4) of this Section.

(e) **Responsibility of person in charge to notify the regulatory authority Department.** The person in charge shall notify the regulatory authority Department within twenty-four (24) hours or the next business day, if the facility or regulatory authority Department is not open the following day, when a food employee is:

- (1) Jaundiced, or
- (2) diagnosed Diagnosed with an illness due to a pathogen as specified under (a)(2) (A) through (F) of this Section.

(d) **Responsibility of the person in charge to prohibit a conditional employee from becoming a food employee.** The person in charge shall ensure that a conditional employee:

(1) **Has symptoms or diagnosis.** Who exhibits or reports a symptom, or who reports a diagnosed illness as specified under (a)(1) through (a)(3) of this Section, is prohibited from becoming a food employee until the conditional employee meets the criteria for the specific symptoms or diagnosed illness as specified under OAC 310:257-3-6; and

(2) **Had exposure.** Who will work as a food employee in a food establishment that serves a highly susceptible population and reports a history of exposure as specified under (a)(4) through (a)(5) of this Section, is prohibited from becoming a food employee until the conditional employee meets the criteria as specified under OAC 310:257-3-6(a)(10).

(e) **Responsibility of the person in charge to exclude or restrict.** The person in charge shall ensure that a food employee who exhibits or reports a symptom, or who reports a diagnosed illness or a history of exposure as specified under (a)(1) through (a)(5) of this Section is:

(1) **Exclusions.** Excluded as specified under OAC 310:257-3-5 (relating to exclusions and restrictions) and in compliance with OAC 310:257-3-6 (relating to removal, adjustment, or retention of exclusions and restrictions); or

(2) **Restrictions.** Restricted as specified under OAC 310:257-3-5 and in compliance with the provisions specified under OAC 310:257-3-6.

(f) (e) **Responsibility of food employees and conditional employees to report.** A food employee or conditional employee shall report to the person in charge, prior to beginning duties in the food establishment, the information as specified under (a) of this Section.

(g) (f) **Responsibility of food employees to comply.** A food employee shall:

(1) **Comply with exclusion.** Comply with the exclusion as specified under OAC 310:257-3-5 and with the provisions specified under OAC 310:257-3-6.

(2) **Comply with restrictions.** Comply with the restrictions as specified under OAC 310:257-3-5 and comply with the provisions specified under OAC 310:257-3-6.

### **310:257-3-5. Exclusions and restrictions**

(a) **Conditions for exclusion or restriction.** The person in charge shall exclude or restrict a food employee from a food establishment in accordance with the following:

(1) **Symptomatic with vomiting or diarrhea.** Except when the symptom is from a noninfectious condition, exclude a food employee if the food employee is:

(A) Symptomatic with vomiting or diarrhea; or

(B) Symptomatic with vomiting or diarrhea and diagnosed with an infection from Norovirus, *Shigella spp.*, ~~non typhoidal~~ *Salmonella* (~~nontyphoidal~~), *Shigella spp.*, or Shiga toxin-producing *E. coli*.

(2) **Jaundiced or diagnosed with hepatitis A infection.** Exclude a food employee who is:

(A) Jaundiced and the onset of jaundice occurred within the last seven (7) calendar days, unless the food employee provides to the person in charge written medical documentation from a health practitioner specifying that the jaundice is not caused by hepatitis A virus or other fecal orally transmitted infection.

(B) Diagnosed with an infection from hepatitis A virus within fourteen (14) calendar days from the onset of any illness symptoms, or within seven (7) calendar days of the onset of jaundice; or

(C) Diagnosed with an infection from hepatitis A virus without developing symptoms.

(3) **Diagnosed or reported previous infection illness due to *Salmonella* with Typhoid fever.**

Exclude a food employee who is diagnosed with an infection from *Salmonella* *Typhi* *Typhoid* *fever* or reports a previous untreated infection from having had *Salmonella* *Typhi* *Typhoid* *fever* within the past three (3) months as specified under OAC 310:257-3-4(a)(3).

(4) **Diagnosed with an asymptomatic infection from Norovirus.** If a food employee is diagnosed with an infection from Norovirus and is asymptomatic:

(A) Exclude the food employee who works in a food establishment serving a highly susceptible population; or

(B) Restrict the food employee who works in a food establishment not serving a highly susceptible population.

(5) **Diagnosed with *Shigella* spp. infection and asymptomatic.** If a food employee is diagnosed with an infection from *Shigella* spp., and is asymptomatic:

(A) Exclude the food employee who works in a food establishment serving a highly susceptible population; or

(B) Restrict the food employee who works in a food establishment not serving a highly susceptible population.

(6) **Diagnosed with Shiga toxin-producing *E. coli* (STEC) and asymptomatic.** If a food employee is diagnosed with an infection from Shiga Toxin Producing *E. coli* *E. coli* and is asymptomatic:

(A) Exclude the food employee who works in a food establishment serving a highly susceptible population; or

(B) Restrict the food employee who works in a food establishment not serving a highly susceptible population.

**(7) Diagnosed with nontyphoidal *Salmonella* and asymptomatic.** If a food employee is diagnosed with an infection from *Salmonella* (nontyphoidal) and is asymptomatic, restrict the food employee who works in a food establishment serving a highly susceptible population or in a food establishment not serving a highly susceptible population.

**(7)(8) Symptomatic with sore throat with fever.** If a food employee is ill with symptoms of acute onset of sore throat with fever:

- (A) Exclude the food employee who works in a food establishment serving a highly susceptible population; or
- (B) Restrict the food employee who works in a food establishment not serving a highly susceptible population.

**(8)(9) Symptomatic with uncovered infected wound or pustular boil.** If a food employee is infected with a skin lesion containing pus such as a boil or infected wound that is open or draining and not properly covered as specified under OAC 310:257-3-4 (a)(1)(E), restrict the food employee.

**(9)(10) Exposed to foodborne pathogen and works in food establishment serving highly susceptible population.** If a food employee is exposed to a foodborne pathogen as specified in OAC 310:257-3-4 or OAC 310:257-3-5, restrict the food employee who works in a food service establishment serving a highly susceptible population.

**(10) Diagnosed with nontyphoidal *Salmonella* and asymptomatic.** If a food employee is diagnosed with an infection from nontyphoidal *Salmonella* and is asymptomatic, restrict the food employee who works in a food establishment from serving a highly susceptible population.

**(b) Availability of educational materials.** The Department shall make available educational materials, forms, and decision trees or algorithms to assist license holders, persons in charge, and employees in determining when a food employee shall be excluded or restricted.

### **310:257-3-6. Removal, adjustment, or retention of exclusions and restrictions**

**(a) Managing exclusions or restrictions.** The person in charge shall adhere to the following conditions when removing, adjusting, or retaining the exclusion or restriction of a food employee:

**(1) Conditions for diagnosis other than *Typhoid fever* or hepatitis A virus, or *Salmonella*.**

Except when a food employee is diagnosed with *Typhoid fever* or an infection from hepatitis A virus or *Salmonella*:

**(A) Removing exclusion for food employee who was symptomatic and not diagnosed.**

Reinstate a food employee who was excluded as specified in OAC 310:257-3-5(a)(1)(A) if the food employee:

- (i) Is asymptomatic for at least twenty-four (24) hours; or
- (ii) Provides to the person in charge written medical documentation from a health practitioner that states the symptom is from a noninfectious condition.

**(B) Norovirus diagnosis.** If a food employee was diagnosed with an infection from Norovirus and excluded as specified in OAC 310:257-3-5(a)(1)(B):

**(i) Adjusting exclusion for food employee who was symptomatic and is now asymptomatic.** Restrict the food employee, who is asymptomatic for at least twenty-four (24) hours and works in a food service establishment not serving a highly susceptible population, until the conditions for reinstatement as specified in (a)(4)(A) or (a)(4)(B) of this Section are met; or

**(ii) Retaining exclusion for food employee who was asymptomatic and is now asymptomatic and works in food establishment serving highly susceptible population.** Retain the exclusion for the food employee, who is asymptomatic for at least twenty-four (24) hours and works in a food establishment that serves a highly susceptible population, until the conditions for reinstatement as specified in (a)(4)(A) or (a)(4)(B) of this Section are met; or

**(C) *Shigella* spp. diagnosis.** If a food employee was diagnosed with an infection from *Shigella* spp. and excluded as specified in OAC 310:257-3-5(a)(1)(B):

- (i) **Adjusting exclusion for food employee who was symptomatic and is now asymptomatic.** Restrict the food employee, who is asymptomatic for at least twenty-four (24) hours and works in a food service-establishment not serving a highly susceptible population, until the conditions for reinstatement as specified in (a)(5)(A) or (a)(5)(B) of this Section are met; or
- (ii) **Retaining exclusion for food employee who was asymptomatic and is now asymptomatic.** Retain the exclusion for the food employee who is asymptomatic for at least twenty-four (24) hours and works in a food establishment that serves a highly susceptible population, until the conditions for reinstatement as specified in (a)(5)(A) or (a)(5)(B) of this Section, or (a)(5)(A) and (a)(3)(A) of this Section are met.
- (D) **STEC diagnosis.** If a food employee was diagnosed with an infection from Shiga toxin-producing *Escherichia coli* (STEC) and excluded as specified under OAC 310:257-3-5(a)(1)(B):
- (i) **Adjusting exclusion for food employee who was symptomatic and is now asymptomatic.** Restrict the food employee, who is asymptomatic for at least twenty-four (24) hours and works in a food establishment not serving a highly susceptible population, until the conditions for reinstatement as specified in (a)(6)(A) or (a)(6)(B) of this Section are met; or
- (ii) **Retaining exclusion for food employee who was asymptomatic symptomatic and is now asymptomatic and works in food establishment serving highly susceptible population.** Retain the exclusion for the food employee, who is asymptomatic for at least twenty-four (24) hours and works in a food establishment that serves a highly susceptible population, until the conditions for reinstatement as specified in (a)(6)(A) or (a)(6)(B) of this Section are met.
- (E) **Nontyphoidal Salmonella diagnosis.** If a food employee was diagnosed with an infection from *Salmonella* (nontyphoidal) and excluded as specified under OAC 310:257-3-5(a)(1)(B):
- (i) **Adjusting exclusion for food employee who was symptomatic and is now asymptomatic.** Restrict the food employee who is asymptomatic for at least thirty (30) days until conditions for reinstatement as specified under (7)(A) or (B) of this section are met; or
- (ii) **Retaining exclusion for food employee that remains symptomatic.** Retain the exclusion for the food employee who is symptomatic until conditions for reinstatement as specified under (7)(A) or (7)(B) of this section are met.
- (2) **Hepatitis A virus or jaundice diagnosis - removing exclusions.** Reinstate a food employee who was excluded as specified in OAC 310:257-3-5(a)(2) if the person in charge obtains approval from the Department and one of the following conditions ~~are~~ is met;
- (A) **Jaundiced for more than seven (7) days.** The food employee has been jaundiced for more than seven (7) calendar days; or
- (B) **Symptoms other than jaundice.** The anicteric food employee has been symptomatic with symptoms other than jaundice for more than fourteen (14) calendar days; or
- (C) **Medical documentation - free of hepatitis A virus.** The food employee provides to the person in charge written medical documentation from a health practitioner stating that the food employee is free of hepatitis A virus infection.
- (3) ***Salmonella*- Typhoid fever diagnosis - removing exclusions.** Reinstate a food employee who was excluded as specified in OAC 310:257-3-5(a)(3) if:
- (A) **Approval from Department.** The person in charge obtains approval from the Department; and
- (B) **Medical documentation -free from *Salmonella* Typhoid fever.** The food employee provides to the person in charge written medical documentation from a health practitioner that states the food employee is free from *Salmonella* infection-Typhoid fever.
- (4) **Norovirus diagnosis - removing exclusion or restriction.** Reinstate a food employee who was excluded as specified in OAC 310:257-3-5(a)(1)(B) or OAC 310:257-3-5(a)(4)(A) who was restricted

under OAC 310:257-3-5(a)(4)(B) if the person in charge obtains approval from the Department and one of the following conditions ~~are~~ is met:

- (A) **Written medical documentation - free of Norovirus.** The excluded or restricted food employee provides to the person in charge written medical documentation from a health practitioner ~~or public health official~~ stating that the food employee is free of a Norovirus infection;
- (B) **Symptoms resolved and more than ~~seventy-two (72)~~ forty-eight (48) hours.** The food employee was excluded or restricted after symptoms of vomiting or diarrhea resolved, and more than ~~seventy-two (72)~~ forty-eight (48) hours have passed since the food employee became asymptomatic; or
- (C) **Excluded or restricted food employee did not develop symptoms and more than ~~seventy-two (72)~~ forty-eight (48) hours have passed since diagnosis.** The food employee was excluded or restricted and did not develop symptoms and more than ~~seventy-two (72)~~ forty-eight (48) hours have passed since the food employee was diagnosed.

(5) ***Shigella spp.* diagnosis - removing exclusion or restriction.** Reinstate a food employee who was excluded as specified in OAC 310:257-3-5(a)(1)(B) or OAC 310:257-3-5(a)(5)(A) or who was restricted in OAC 310:257-3-5(a)(5)(B) if the person in charge obtains approval from the Department and one of the following conditions is met:

- (A) **Written medical documentation - free of *Shigella spp.*** The excluded or restricted food employee provides to the person in charge written medical documentation from a health practitioner ~~or public health official~~ stating that the food employee is free of a *Shigella spp.* infection based on test results showing two (2) consecutive negative stool specimen cultures that are taken:
  - (i) Not earlier than forty-eight (48) hours after discontinuance of antibiotics, and
  - (ii) At least twenty-four (24) hours apart;
- (B) **Symptoms resolved - more than ~~four (4)~~ seven (7) days passed.** The food employee was excluded or restricted after symptoms of vomiting or diarrhea resolved, and more than ~~four (4)~~ seven (7) calendar days have passed since the food employee became asymptomatic; or
- (C) **Excluded or restricted food employee did not develop symptoms and more than ~~four (4)~~ seven (7) days passed since diagnosis.** The food employee was excluded or restricted and did not develop symptoms and more than ~~four (4)~~ seven (7) calendar days have passed since the food employee was diagnosed.

(6) **STEC diagnosis - removing exclusion or restriction.** Reinstate a food employee who was excluded or restricted as specified in OAC 310:257-3-5(a)(1)(B) or OAC 310:257-3-5(a)(6)(A) or who was restricted in OAC 310:257-3-5(a)(6)(B) if the person in charge obtains approval from the Department and one of the following conditions is met:

- (A) **Written medical documentation - free of infection.** The excluded or restricted food employee provides to the person in charge written medical documentation from a health practitioner ~~or public health official~~ stating that the food employee is free of an infection from Shiga toxin-producing *Escherichia coli* (STEC) based on test results that show 2 consecutive negative stool specimen cultures that are taken:
  - (i) Not earlier than forty-eight (48) hours after discontinuance of antibiotics; and
  - (ii) At least twenty-four (24) hours apart;
- (B) **Symptoms resolved - more than ~~ten (10)~~ seven (7) days passed.** The food employee was excluded or restricted after symptoms of vomiting or diarrhea resolved and more than ~~ten (10)~~ seven (7) calendar days have passed since the food employee became asymptomatic; or
- (C) **Excluded or restricted employee did not develop symptoms and more than ~~ten (10)~~ seven (7) days passed since diagnosis.** The food employee was excluded or restricted and did not develop symptoms and more than ~~ten (10)~~ seven (7) days have passed since the food employee was diagnosed.

**(7) Nontyphoidal *Salmonella* - removing exclusion or restriction.** Reinstate a food employee who was excluded as specified under OAC 310:257-3-5(a)(1)(B) or who was restricted as specified under OAC 310:257-3-5(a)(7) if the person in charge obtains approval from the Department and one of the following conditions is met:

(A) **Written medical documentation - free of infection.** The excluded or restricted food employee provides to the person in charge written medical documentation from a health practitioner stating that the food employee is free of a *Salmonella* (nontyphoidal) infection based on test results showing two (2) consecutive negative stool specimen Cultures that are taken:

- (i) Not earlier than forty-eight (48) hours after discontinuance of antibiotics, and
- (ii) At least twenty-four (24) hours apart;

(B) **Symptoms resolved - more than thirty (30) days passed.** The food employee was restricted after symptoms of vomiting or diarrhea resolved, and more than thirty (30) days have passed since the food employee became asymptomatic; or

(C) **Excluded or restricted employee did not develop symptoms and more than thirty (30) days passed since diagnosis.** The food employee was excluded or restricted and did not develop symptoms and more than thirty (30) days have passed since the food employee was diagnosed.

**(7)(8) Sore throat with fever - removing exclusion or restriction.** Reinstate a food employee who was excluded or restricted as specified in OAC 310:257-3-5(a)(7)(8)(A) or OAC 310:257-3-5(a)(7)(8)(B) if the food employee provides to the person in charge written medical documentation from a health practitioner stating that the food employee meets one of the following conditions:

- (A) Has received antibiotic therapy for *Streptococcus pyogenes* infection for more than twenty-four (24) hours;
- (B) Has at least one (1) negative throat specimen culture for *Streptococcus pyogenes* infection; or
- (C) Is otherwise determined by a health practitioner to be free of a *Streptococcus pyogenes* infection.

**(8)(9) Uncovered infected wound or pustular boil - removing restriction.** Reinstate a food employee who was restricted as specified in OAC 310:257-3-5(a)(8)(9) if the skin, infected wound, cut, or pustular boil is properly covered with one of the following:

- (A) **Impermeable cover - hand, finger, or wrist.** An impermeable cover such as a finger cot or stall and a single-use glove over the impermeable cover if the infected wound or pustular boil is on the hand, finger, or wrist;
- (B) **Impermeable cover - arm.** An impermeable cover on the arm if the infected wound or pustular boil is on the arm; or
- (C) **Impermeable cover - other parts of body.** A dry, durable, tight-fitting bandage if the infected wound or pustular boil is on another part of the body.

**(9)(10) Exposure to foodborne pathogen and works in food establishment serving highly susceptible population - removing restriction.** Reinstate a food employee who was restricted as specified in OAC 310:257-3-5(a)(9)(10) and was exposed to one of the following pathogens as specified in OAC 310:257-3-4(a)(4) or OAC 310:257-3-4(a)(5):

(A) **Norovirus.** Norovirus and one of the following conditions is met:

- (i) More than seventy two (72) forty-eight (48) hours have passed since the last day the food employee was potentially exposed; or
- (ii) More than seventy two (72) forty-eight (48) hours have passed since the food employee's household contact became asymptomatic ~~or was deemed no longer communicable by a public health official~~.

(B) ***Shigella* spp., STEC.** *Shigella* spp. or Shiga toxin-producing *Escherichia coli* (STEC) and one of the following conditions is met:

- (i) More than four (4) three (3) calendar days for *Shigella*, or more than ten (10) calendar days for STEC, have passed since the last day the food employee was potentially exposed; or

(ii) More than ~~four (4)~~ three (3) calendar days for *Shigella*, or more than ~~ten (10)~~ calendar days for *STEC*, have passed since the food employee's household contact became asymptomatic.

(C) ***Salmonella* spp. Typhoid fever.** *Salmonella* spp., with the exception of *Salmonella* *Typhi*, *Typhoid fever* (caused by *Salmonella* *Typhi*) and one (1) of the following conditions is met:

- (i) More than ~~three (3)~~ fourteen (14) calendar days have passed since the last day the food employee was potentially exposed; or
- (ii) More than ~~three (3)~~ fourteen (14) calendar days have passed since the food employee's household contact ~~was deemed no longer communicable by the Department~~ became asymptomatic.

(D) **Hepatitis A virus.** Hepatitis A virus and one of the following conditions is met:

- (i) The food employee is immune to ~~the~~ hepatitis A virus infection because of a prior illness from hepatitis A;
- (ii) The food employee is immune to hepatitis A virus infection because of vaccination against hepatitis A;
- (iii) The food employee is immune to hepatitis A virus infection because of ~~receipt of anti-hepatitis A immunoglobulin or hepatitis A vaccine within fourteen (14) days of exposure IgG administration~~;
- (iv) More than ~~fifty (50)~~ thirty (30) calendar days have passed since the last day the food employee was potentially exposed;
- (v) More than ~~fifty (50)~~ thirty (30) calendar days have passed since the food employee's household contact became jaundiced ~~or is deemed no longer communicable by a public health official~~; or
- (vi) The food employee does not use an alternative procedure that allows bare hand contact with ready-to-eat food until at least ~~fifty (50)~~ thirty (30) days after the potential exposure, as specified in (a)(9)(10)(D)(iv) and (a)(9)(10)(D)(v) of this Section, and the food employee receives additional training about:
  - (I) Hepatitis A symptoms and preventing the transmission of infection,
  - (II) Proper handwashing procedures, and
  - (III) Protecting ready-to-eat food from contamination introduced by bare hand contact.

(b) **Availability of educational materials.** ~~The Department shall make available educational materials, forms, and decision trees or algorithms to assist license holders, persons in charge, employees and health care practitioners in determining when a food employee exclusion or restriction should be removed, adjusted, or retained.~~

### **310:257-3-10. Cleaning procedure**

(a) Except as specified in paragraph (b)(5)(d) of this Section, food employees shall clean their hands and exposed portions of their arms, including surrogate prosthetic devices, for hands or arms, for at least twenty (20) seconds, using a cleaning compound in a handwashing sink that is equipped as specified under OAC 310:257-9-14 and OAC 310:257-11-23 through OAC 310:257-11-28.

(b) Food employees shall use the following cleaning procedure in the order stated to clean their hands and exposed portions of their arms, including surrogate prosthetic devices for hand and arms:

- (1) Rinse under clean, running warm water;
- (2) Apply an amount of cleaning compound recommended by the cleaning compound manufacturer;
- (3) Rub together vigorously for at least ten (10) to fifteen (15) seconds while:
  - (A) Paying particular attention to removing soil from underneath the fingernails during the cleaning procedure; and
  - (B) Creating friction on the surfaces of the hands and arms or surrogate prosthetic devices for hands and arms, finger tips, and areas between the fingers;
- (4) Thoroughly rinse under clean, running warm water; and

- (5) Immediately follow the cleaning procedure with thorough drying using a method as specified in OAC 310:257-11-25.
- (c) To avoid re-contaminating hands or surrogate prosthetic devices, food employees may use disposable paper towels or similar clean barriers when touching surfaces such as manually operated ~~faucets~~ faucet handles on a handwashing sink or the handle of a restroom door.
- (d) 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 or surrogate prosthetic devices.

### **310:257-3-12. When to wash**

Food employees shall clean their hands and exposed portions of their arms ~~as specified under OAC 310:257-3-10~~ immediately before engaging in food preparation including working with exposed food, clean equipment and utensils, and unwrapped single-service and single-use articles and:

- (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 service animals or aquatic animals ~~as specified in OAC 310:257-3-21(b)~~;
- (4) Except as specified in OAC 310:257-3-18(b), after coughing, sneezing, using a handkerchief or disposable tissue, using tobacco, eating, or drinking;
- (5) After handling soiled equipment or utensils;
- (6) During food preparation, as often as necessary to remove soil and contamination and to prevent cross contamination when changing tasks;
- (7) When switching between working with raw food and working with ready-to-eat food;
- (8) Before donning gloves to initiate tasks that involve working with food; and
- (9) After engaging in other activities that contaminate the hands.

### **310:257-3-13. Where to wash**

Food employees shall clean their hands in a handwashing lavatory sink or approved automatic handwashing facility and may not clean their hands in a sink used for food preparation, ~~or~~ warewashing, or in a service sink or a curbed cleaning facility used for the disposal of mop water and similar liquid waste.

### **310:257-3-14. Hand antiseptics**

(a) A hand antiseptic used as a topical application, a hand antiseptic solution used as a hand dip, or a hand antiseptic soap shall:

- (1) Comply with one of the following:
  - (A) 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
  - (B) Have active antimicrobial ingredients that are listed in the FDA monograph for OTC Health-Care Antiseptic Drug Products as an antiseptic handwash, and
- (2) Consist of only components which the intended use of each complies with one of the following:
  - (A) A threshold of regulation exemption pursuant to 21 CFR Section 170.39 - Threshold of regulation for substances used in food-contact articles; or
  - (B) 21 CFR, Part 178 - Indirect Food Additives: Adjuvants; Production Aids, and Sanitizers as regulated for use as a food additive with conditions of safe use; or
  - (C) A determination of generally recognized as safe (GRAS), partial listings of substances with food uses that are GRAS may be found at 21 CFR, Part 182 - Substances Generally Recognized as Safe, 21 CFR, Part 184 - Direct Food Substances Affirmed as Generally Recognized as Safe for use in contact with food, or 21 CFR, Part 186 - Indirect Food Substances Affirmed as Generally Recognized as Safe for use in contact with food, and in FDA's inventory of GRAS notices, or

- (D) A prior sanction listed under 21 CFR, Part 181 - Prior Sanctioned Food Ingredients, or  
(E) A food contact notification that is effective, and
- (3) Be applied only to hands that are cleaned as specified in OAC 310:257-3-10.
- (b) If a hand antiseptic or a hand antiseptic solution used as a hand dip does not meet the criteria specified under (a)(2) of this Section, use shall be:
- (1) Followed by thorough hand rinsing in clean water before hand contact with food or by the use of gloves; or
  - (2) Limited to situations that involve no direct contact with food by the bare hands.
- (c) A hand antiseptic solution used as a hand dip shall be maintained clean and at a strength equivalent to at least 100 mg/L chlorine.
- ~~(d) A food establishment shall have written procedures for employees to follow when responding to vomiting or diarrheal events that involve the discharge of vomitus or fecal matter onto surfaces in the food establishment. The procedures shall address the specific actions employees must take to minimize the spread of contamination and the exposure of employees, consumers, food, and surfaces to vomitus or fecal matter.~~

#### **310:257-3-18. Eating, drinking, or using tobacco**

- (a) Except as specified in (b) of this Section, an employee shall must eat, drink, or use any form of tobacco, medical marijuana, or vape product only in designated areas where the following items cannot be contaminated: contaminated: exposed food; clean equipment, utensils, and linens; unwrapped single-service and single-use articles; or and 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:
- (1) The employee's hands;
  - (2) The container; and
  - (3) Exposed food; clean equipment, utensils, and linens; and unwrapped single-service and single-use articles.

#### **310:257-3-19.1 Use of bandages, finger cots, or finger stalls**

If used, an impermeable cover such as a bandage, finger cot or finger stall located on the wrist, hand, or finger of a food employee working with exposed food shall be covered with a single-use glove.

#### **310:257-3-20. Effectiveness of hair restraints**

- (a) Except as provided in (b) of this Section, food employees shall wear hair restraints such as hats, hair coverings or nets, beard restraints, and clothing that covers body hair, that are designed and worn to effectively keep their hair from contacting exposed food; clean equipment, utensils, and linens; and unwrapped single-service and single-use articles.
- (b) This Section does not apply to food employees such as counter staff who only serve beverages and wrapped or packaged foods, hostesses, and wait staff if they present a minimal risk of contaminating exposed food; clean equipment, utensils, and linens; and unwrapped single-service and single-use articles.

#### **310:257-3-22. Clean-up of vomiting and diarrheal events**

A food establishment shall have written procedures for employees to follow when responding to vomiting or diarrheal events that involve the discharge of vomitus or fecal matter onto surfaces in the food establishment. The procedures shall address the specific actions employees must take to minimize the spread of contamination and the exposure of employees, consumers, food, and surfaces to vomitus or fecal matter.

#### **310:257-3-23. Availability of educational materials**

The Department shall make available educational materials to assist license holders, persons in charge, and employees in complying with the requirements of this Chapter.

## SUBCHAPTER 5. FOOD

### **310:257-5-2. Compliance with food law**

- (a) Food shall be obtained from sources that comply with this Chapter.
- (b) Food prepared in a private home shall not be used or offered for human consumption in a food establishment.
- (c) Packaged food shall be labeled as specified in 21 CFR, Part 101 Food Labeling, 9 CFR, Part 317 Labeling, Marking Devices, and Containers, and 9 CFR, Part 381 Subpart N Labeling and Containers, and as specified ~~under OAC 310:257-5-15 and OAC 310:257-5-16 in this chapter~~.
- (d) Fish, other than those specified under OAC 310:257-5-48.1(b) ~~49(b)~~, that are intended for consumption in their raw or undercooked form and allowed as specified under OAC 310:257-5-46(d)(1), may be offered for sale or service if they are obtained from a supplier that freezes the fish as specified under OAC 310:257-5-49; or frozen on the premises as specified under OAC 310:257-5-49 and records are retained as specified under OAC 310:257-5-50.
- (e) Whole-muscle, intact beef steaks that are intended for consumption in an undercooked form without a consumer advisory as specified under OAC 310:257-5-46(c) shall be:
- (1) Obtained from a food processing plant that, upon request by the purchaser, packages the steaks and labels them, to indicate that the steaks meet the definition of whole-muscle, intact beef, or
  - (2) Deemed acceptable by the ~~Oklahoma Department of Agriculture, Food and Forestry Department~~ based on other evidence, such as written buyer specifications or invoices that indicates that the steaks explicitly meet the definition of whole-muscle, intact beef, and
  - (3) If individually cut in a food establishment:
    - (A) Cut from whole-muscle intact beef that is labeled by a food processing plant as specified in OAC 310:257-5-2 (e)(1) and (e)(2),
    - (B) Prepared so they remain intact, and
    - (C) If packaged for undercooking in a food establishment, labeled as specified in (e)(1) of this Section or identified as specified in (e)(2) of this Section.
- (f) 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, Section 317.2(l) and 9 CFR, Section 381.125(b).
- (g) 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).

### **310:257-5-8. Game Animals**

- (a) Game animals received for sale or service shall be commercially raised livestock for food and:
- (1) Slaughtered and processed under the Exotic Livestock and Exotic Livestock Products Inspection Act (2 O.S. Section 6-290.1 et seq.) or the Oklahoma Rabbit and Rabbit Products Act (2 O.S. Section 6-280.1 et seq.) ~~as defined in 2 O. S. Section 6-280.3(22), rabbit meaning any domesticated rabbit, whether live or dead~~. The rules for rabbit inspection are included in OAC 35:37-9 (relating to Oklahoma Rabbit and Rabbit Products Inspection Regulations). The meat products shall be marked with the appropriate mark of inspection as required in OAC 35:37-9-18 (relating to Form of inspection mark) and OAC 35:37, Appendix D, (relating to Official Marks of Inspection and Other Identification for Rabbits and Rabbit Products); or
  - (2) Marked with the appropriate mark of inspection as described in OAC 35:37-11-86 (relating to Official marks and devices to identify inspected and passed carcasses and products of exotic livestock) and OAC 35:37, Appendix E (relating to Official Marks of Inspection and Other Identification for Exotic Livestock and Exotic Livestock Products), for exotic livestock that is commercially raised, including but not limited to animals of the families bovidae, cervidae, and

- antelocapridae. The rules for exotic livestock inspection are included in OAC 35:37-11 (relating to Exotic Livestock and Exotic Livestock Products); or
- (3) Slaughtered and processed under a voluntary inspection program administered by the USDA for exotic animals, including reindeer, elk, deer, antelope, water buffalo or bison, that are inspected and passed approved in accordance with 9 CFR Part 352, Exotic Animals and Horses; Voluntary Inspection, or rabbits that are inspected ~~for wholesomeness and certified~~ in accordance with 9 CFR Part 354, Voluntary Inspection of Rabbits and Edible Parts Products Thereof; or
- (4) Slaughtered and processed under the U. S. Department of Agriculture Food Safety and Inspection Service Meat Inspection Program or the Oklahoma Department of Agriculture, Food and Forestry - Meat and Poultry Inspection Program if the meat products are from wild hogs that are live caught. All products eligible for consumption shall be legibly marked by the appropriate regulatory agency with the mark of inspection.
- (b) Meat derived from field dressed wild game animals shall not be received for sale or service and can only be donated to individual consumers from approved donation sites provided:
- (1) The meat has been processed in an establishment that has been approved by the Oklahoma Department of Wildlife Conservation; and
- (2) The meat has been processed in an establishment that has been approved by the Oklahoma Department of Wildlife Conservation and Oklahoma Department of Agriculture, Food and Forestry as a custom processor.
- (c) A game animal shall not be received for sale or service if it is a species of wildlife that is listed in 50 CFR 17 - Endangered and Threatened Wildlife and Plants.

#### **310:257-5-10. Additives**

Food may not contain unapproved food additives or additives that exceed amounts specified in 21 CFR 170-180 relating to food additives, generally recognized as safe or prior sanctioned substances that exceed amounts specified 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~~ Part 180 Tolerances and Exemptions for Pesticides chemicals Pesticide Chemical Residues in food In Food, and exceptions.

#### **310:257-5-11. Eggs**

Eggs shall be received clean and sound and may not exceed the restricted egg tolerances for U.S. Consumer Grade B as specified in United States Standards, Grades, and Weight Classes for Shell Eggs, AMS 56.200 et seq., administered by the Agricultural Marketing Service of USDA.

#### **310:257-5-12. Eggs and milk products, pasteurized**

- (a) Egg products shall be obtained pasteurized.
- (b) Fluid and dry milk and milk products ~~shall be obtained pasteurized and comply with Grade A Standards, frozen milk products, such as ice cream, and cheese shall be as specified in 2 O.S. Section 7-401 et seq.~~
- (c) ~~Frozen milk products, such as ice cream, shall be as specified in 2 O.S. Section 7-401 et seq.~~
- (d) ~~Cheese shall be obtained as specified in 2 O. S. Section 7-401 et seq.~~

#### **310:257-5-18. Juice treated**

- (a) Pre-packaged juice shall:
- (1) Be obtained from a processor with a HACCP system as specified in 21 CFR Part 120 Hazard Analysis and Critical Control (HACCP) Systems; and
- (2) Be obtained pasteurized or otherwise treated to attain a five ~~5~~ (5) log reduction of the most resistant microorganism of public health significance as specified in 21 CFR Part 120.24 Process Controls.

(b) Juices that have not been subjected to processing to achieve a five 5 (5) log destruction of the pathogen of concern shall be restricted to sale at the site of production.

**310:257-5-19. Molluscan shellfish, original container**

(a) Except as specified in (b) through (d) of this Section, molluscan shellfish may not be removed from the container in which they are received other than immediately before sale or preparation for service.

(b) For display purposes, shellstock may be removed from the container in which they are 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:

(1) The source of the shellstock on display is identified as specified under OAC 310:257-5-16 and recorded as specified under OAC 310:257-5-20; and

(2) The shellstock are protected from contamination.

(c) Shucked 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:

(1) The labeling information for the shellfish on display as specified under OAC 310:257-5-15 is retained and correlated to the date when, or dates during which, the shellfish are sold or served; and

(2) The shellfish are protected from contamination.

(d) Shucked shellfish may be removed from the container in which they were received and repacked in consumer self-service containers where allowed by law if:

(1) The labeling information for the shellfish is on each consumer self-service container as specified under OAC 310:257-5-15, OAC 310:257-5-66 67(a) and OAC 310:257-5-66 67 (b)(1) through (5);

(2) The labeling information as specified under OAC 310:257-5-15 is retained and correlated with the date when, or dates during which, the shellfish are sold ~~and~~ or served;

(3) The labeling information and dates specified under Subparagraph (d)(2) of this section are maintained for ninety (90) days; and

(4) The shellfish are protected from contamination.

**310:257-5-21. Preventing contamination from hands**

(a) Food employees shall wash their hands as specified under ~~OAC 310:257-3-9~~ and OAC 310:257-3-10.

(b) Except when washing fruits and vegetables as specified in OAC 310:257-5-27 or (d) of this Section, food employees shall not contact exposed, ready-to-eat food with their bare hands and shall use suitable utensils such as deli-tissue, spatulas, tongs, single-use gloves, or dispensing equipment. This does not apply to a food employee that contacts exposed, ready-to-eat food with bare hands at a time the ready-to-eat food is being added as an ingredient to food that:

(1) Contains a raw animal food and is to be cooked in the food establishment to heat all parts of the food to the minimum temperature as specified in OAC 310:257-5-46 or OAC 310:257-5-47; or

(2) Does not contain a raw animal food but is to be cooked in the food establishment to heat all parts of the food to a temperature of at least 63°C (145°F).

(c) Food employees shall minimize bare hand and arm contact with exposed food that is not in a ready-to-eat form.

(d) Food employees not serving a highly susceptible population may contact exposed, ready-to-eat food with their bare hands if the food establishment obtains prior approval from the regulatory authority and maintains:

(1) A written employee health policy that details how the food establishment complies with OAC 310:257-3-4 through 310:257-3-6 including:

(A) Documentation that food employees and conditional employees acknowledge that they are informed to report information about their health and activities as they relate to gastrointestinal symptoms and diseases that are transmittable through food as specified under OAC 310:257-3-4,

(B) Documentation that food employees and conditional employees acknowledge their responsibilities as specified under OAC 310:257-3-4, and

- (C) Documentation that the person in charge acknowledges the responsibilities as specified under OAC 310:257-3-4(b) through 310:257-3-4(d), OAC 310:257-3-5 and OAC 310:257-3-6;
- (2) Documentation that food employees acknowledge that they have received training in:
- (A) The risks of contacting the specific ready-to-eat foods with bare hands,
  - (B) Proper handwashing as specified under OAC 310:257-3-10;
  - (C) When to wash their hands as specified under OAC 310:257-3-12;
  - (D) Where to wash their hands as specified under OAC 310:257-3-13;
  - (E) Proper fingernail maintenance as specified under OAC 310:257-3-15;
  - (F) Prohibition of jewelry as specified under OAC 310:257-3-16; and
  - (G) Good hygienic practices as specified under OAC 310:257-3-18 and 310:257-3-19.
- (3) Documentation that food employees contacting ready-to-eat food with bare hands use two (2) or more of the following control measures to provide additional safeguards to hazards associated with bare hand contact:
- (A) Double handwashing,
  - (B) Nail brushes,
  - (C) A hand antiseptic after handwashing as specified under OAC 310:257-3-14, or
  - (D) Other control measures approved by the Department, and
- (4) Documentation that corrective action is taken when this Sub-paragraph is not followed.
- (e) The Department shall make available educational materials, forms, and decision trees or algorithms to assist license holders, persons in charge, and employees in complying with this section.

### **310:257-5-22. Preventing contamination when tasting**

A utensil used for tasting shall not be used again until the utensil is washed, rinsed and sanitized or a single use utensil shall be used. A food employee may not use a utensil more than once to taste food that is to be sold or served.

### **310:257-5-23. Packaged and unpackaged food-separation, packaging, and segregation**

- (a) Food shall be protected from cross contamination by:
- (1) Except as specified in (c) of this Section, separating raw animal foods during storage, preparation, holding, and display from:
    - (A) 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 fruits and vegetables; and
    - (B) Cooked ready-to-eat food; and
    - (C) Fruits and vegetables before they are washed.
  - (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:
    - (A) Using separate equipment for each type; or
    - (B) Arranging each type of food in equipment so that cross contamination of one type with another is prevented; and
    - (C) Preparing each type of food at different times or in separate areas;
  - (3) Cleaning equipment and utensils as specified under OAC 310:257-7-83(a) and sanitizing as specified under OAC 310:257-7-95;
  - (4) Except as specified in (b) of this Section, storing the food in packages, covered containers, or wrappings;
  - (5) Cleaning hermetically sealed containers of food of visible soil before opening;
  - (6) Protecting food containers that are received packaged together in a case or overwrap from cuts when the case or overwrap is opened;
  - (7) Storing damaged, spoiled, or recalled food being held in the food establishment as specified under OAC 310:257-11-38; and
  - (8) Separating fruits and vegetables, before they are washed as specified under OAC 310:257-5-27 from ready-to-eat food.

- (b) Paragraph (a)(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;
  - (4) Food being cooled as specified under OAC 310:257-5-58(b)(2); or
  - (5) Shellstock.
- (c) Frozen, commercially processed and packaged raw animal food may be stored or displayed with or above frozen, commercially processed and packaged, ready-to-eat food.

**310:257-5-25. Pasteurized eggs, substitute for raw eggs for certain recipes**

Pasteurized eggs or egg products shall be substituted for raw eggs in the preparation of foods such as Caesar salad, hollandaise or Béarnaise sauce, mayonnaise, meringue, eggnog, ice cream, and egg-fortified beverages that are not:

- (1) Cooked as specified under OAC 310:257-5-46(a)(1) or OAC 310:257-5-46(a)(2); or
- (2) Included in OAC 310:257-5-46(d).

**310:257-5-27. Washing fruits and vegetables**

- (a) Except as specified in (b) of this section and except for whole, uncut, raw fruits and vegetables that are intended for washing by the consumer before consumption, 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.
- (b) Fruits and vegetables may be washed by using chemicals as specified under OAC 310:257-13-8.
- (c) Devices used for on-site generation of chemicals meeting the requirements specified in 21 CFR Section 173.315, chemicals used in the washing or to assist in the peeling of fruits and vegetables, for the washing of raw, whole fruits and vegetables shall be used in accordance with the manufacturer's specifications instructions.

**310:257-5-29. Storage or display of food in contact with water or ice**

- (a) Packaged food shall 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, except that canned and bottled beverages may be stored in self draining ice.
- (b) Except as specified in (c) and (d) of this Section, unpackaged food may not be stored in direct contact with undrained ice.
- (c) Whole, raw fruits or vegetables; cut, raw vegetables such as celery or carrot sticks or cut potatoes; and tofu may be immersed in ice or water.
- (d) Raw ~~chicken~~ poultry and raw fish that are received immersed in ice in shipping containers may remain in that condition while in storage awaiting preparation, display, service, or sale.

**310:257-5-30. Food contact with equipment and utensils**

Food shall only contact surfaces of:

- (1) Equipment and utensils that are cleaned as specified under OAC 310:257-7-82 through OAC 310:257-7-91 of this Chapter and sanitized as specified under OAC 310:257-7-93 through OAC 310:257-7-95 of this Chapter;
- (2) Single service and single-use articles; or
- (3) Linens, such as cloth napkins, as specified under OAC 310:257-5-32 that are laundered as specified under OAC 310:257-7-97 96 through 100.

**310:257-5-31. In-use utensils, between-use storage**

During pauses in food preparation or dispensing, food preparation and dispensing utensils shall be stored:

- (1) Except as specified under (2) of this Section, in the food with their handles above the top of the food and the container;
- (2) In food that is not Time/Temperature Control for Safety Food 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;
- (3) 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 under OAC 310:257-7-83 and OAC 310-257-7-94;
- (4) In running water of sufficient velocity to flush particulates to the drain, if used with moist food such as ice cream or mashed potatoes;
- (5) In a clean, protected location if the utensils, such as ice scoops, are used only with a food that is not Time/Temperature Control for Safety Food; or
- (6) 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 under OAC 310:257-7-83 (d)(7).

#### **310:257-5-33. Wiping cloths, use limitation**

- (a) Cloths in use for wiping food spills from tableware and carry out containers that occur as food is being served shall be:
  - (1) Maintained dry; and
  - (2) Used for no other purpose.
- (b) Cloths in use for wiping counters and other equipment surfaces shall be:
  - (1) Held between uses in a chemical sanitizer solution at a concentration specified under OAC 310:257-7-75; and
  - (2) Laundered daily as specified under OAC 310:257-7-97(d).
- (c) Cloths in use for wiping surfaces in contact with raw animal foods shall be kept separate from cloths used for other purposes.
- (d) Dry wiping cloths and the chemical sanitizing solution specified in (b)(1) of this Section in which wet wiping cloths are held between uses shall be free of food debris and visible soil.
- (e) Containers of sanitizing solutions specified in (b)(1) of this Section in which wet wiping cloths are held between uses ~~may shall~~ be stored off the floor and used in a manner to prevent contamination of food, equipment, utensils, linens, single-service or single-use articles.
- (f) Single use disposable sanitizer wipes shall be used in accordance with EPA approved manufacturer's label use instructions.

#### **310:257-5-34. Gloves, use limitation**

- (a) If used, 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 OAC 310:257-5-46 through OAC 310:257-5-~~53~~ 48.1 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 OAC 310:257-5-46 through OAC 310:257-5-~~53~~ 48.1 such as frozen food or a primal cut of meat.

#### **310:257-5-36. Refilling returnables**

- (a) Except as provided in paragraphs (b) through (e) of this section, empty containers returned to a food establishment for cleaning and refilling with food shall be cleaned and refilled in a regulated ~~which are returned for refilling to a food establishment, shall be cleaned and refilled in the food establishment.~~
- (b) Take-home food containers returned to a food establishment may be refilled at a food establishment with food, if the food container is:
- (1) Designed and constructed for reuse and in accordance with the requirements specified under OAC 310:257-7-1 through 310:257-7-49-15;
  - (2) A container that was initially provided by the food establishment to the consumer, either empty or filled with food by the food establishment, for the purpose of being returned for reuse;
  - (3) ~~Returned to the food establishment by the consumer after use;~~
  - (4) ~~Subject to the following steps prior to being refilled with food:~~
    - (A) ~~Cleaned as specified under OAC 310:257-7-82 through 310:257-7-95;~~
    - (B) ~~Sanitized as specified under OAC 310:257-7-93 through 310:257-7-95; and~~
    - (C) ~~Visually inspected by a food employee to verify that the container, as returned, meets the requirements specified under OAC 310:257-7-1 through 310:257-7-49;~~
- (c) A take-home food container returned to a food establishment may be refilled at a food establishment with beverage if:
- (1) The beverage is not Time/Temperature Control for Safety Food;
  - (2) The design of the container and the rinsing equipment and 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 as specified under OAC 310:257-7-28 (1), (2) and (4) that cannot be bypassed.
- (d) Consumer-owned, personal take-out beverage containers, such as thermally insulated bottles, non-spill coffee cups, and promotional beverage glasses, may be refilled by employees of the food establishment or the consumer if refilling is a contamination-free process as specified under OAC 310:257-7-28 (1), (2) and (4).
- (e) Consumer-owned containers that are not food-specific may be filled at a water vending machine or system.

### **310:257-5-37. Food storage**

- (a) Except as specified in (b) and (c) 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; and
  - (3) At least 15 cm (6 inches) above the floor.
- (b) Food in packages and working containers may be stored less than 15 cm (6 inches) above the floor on case lot handling equipment as specified under OAC 310:257-7-47.
- (c) 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.
- (d) ~~Storage of single service articles and food for mobile food establishments and pushearts shall be stored as specified under (a) of this Section and as specified in OAC 310:257-5-38.~~

### **310:257-5-40. Food preparation**

During preparation, unpackaged food shall be protected from environmental sources of contamination. ~~Pushearts preparing unpackaged food shall be shielded on three sides.~~

### **310:257-5-46. Raw animal foods**

(a) Except as specified under (b), (c), and (d) of this Section, raw animal foods such as eggs, fish, meat, poultry, 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) 63°C (145°F) or above for fifteen (15) seconds for:
  - (A) Raw eggs that are broken and prepared in response to a consumer's order and for immediate service, and
  - (B) Except as specified under (a)(2), (a)(3), (b) and (c) of this Section, fish and intact meat including game animals commercially raised for food as specified under OAC 310:257-5-8 and game animals under a voluntary inspection program as specified under OAC 310:257-5-8;
- (2) 68°C (155°F) for fifteen (15) seventeen (17) seconds or 63°C (145°F) for three (3) minutes or 66°C (150°F) for one (1) minute, or 70°C (158°F) for less than one (1) second or instantaneous, see Table 3 of Appendix A of this Chapter and that corresponds to the holding time for ratites, mechanically tenderized, and injected meats; the following if they are comminuted: fish, meat, game animals commercially raised for food as specified under OAC 310:257-5-8, and game animals under a voluntary inspection program as specified under OAC 310:257-5-8; and raw eggs that are not prepared as specified under (a)(1)(A) of this Section; or
- (3) 74°C (165°F) or above for fifteen (15) seconds less than one (1) second (instantaneous) for poultry, baluts, wild game animals as specified under OAC 310:257-5-8, stuffed fish, stuffed meat, stuffed pasta, stuffed poultry, stuffed ratites, or stuffing containing fish, meat, poultry, or ratites.

(b) Whole meat roasts including beef, corned beef, lamb, pork and cured pork roasts such as ham, shall be cooked:

- (1) ~~In an oven that is preheated to the temperature specified for the roast's weight and is held at that temperature, in accordance with Table 4 of Appendix A of this Chapter; and~~
- (2) As specified in Table 5 of Appendix A of this Chapter, to heat all parts of the food to a temperature and for the holding time that corresponds with the temperature. Holding time may include post-oven heat rise.; and
- (2) ~~If cooked in an oven, use an oven that is preheated to the temperature specified for the roast's weight and that is held at that temperature in accordance with Table 4 of appendix A of this Chapter.~~

(c) A raw or undercooked whole-muscle, intact beef steak may be served or offered for sale in a ready-to-eat form if:

- (1) The food establishment serves a population that is not a highly susceptible population,
- (2) The steak is labeled to indicate that it meets the definition of "whole-muscle, intact beef" as specified under OAC 310:257-5-2(e), and
- (3) The steak is cooked on both the top and bottom to a surface temperature of 63°C (145°F) or above and a cooked color change is achieved on all external surfaces.

(d) A raw animal food such as raw egg, raw fish, raw-marinated fish, raw molluscan shellfish, or steak tartare; or a partially cooked food such as lightly cooked fish, soft cooked eggs, or rare meat other than whole-muscle, intact beef steaks as specified in (c) of this Section, may be served or offered for sale upon consumer request or selection in a ready-to-eat form if:

- (1) As specified under OAC 310:257-5-71(1) ~~(3)(A) and (B) and OAC 310:257-5-71(2)~~, the food establishment serves a population that is not a highly susceptible population;
- (2) The food, if served or offered for service by consumer selection from a children's menu, does not contain comminuted meat; and
- (3) The consumer is informed as specified under OAC 310:257-5-69 that to ensure its safety, the food should be cooked as specified under (a) or (b) of this Section; or
- (4) The Department grants a variance from (a) or (b) of this Section as specified in OAC 310:257-15-3 based on a HACCP Plan that:
  - (A) Is submitted by the license holder and approved as specified under OAC 310:257-15-4,

- (B) Documents scientific data or other information showing that a lesser time and temperature regimen results in a safe food, and
- (C) Verifies that equipment and procedures for food preparation and training of food employees at the food establishment meet the conditions of the variance.

#### **310:257-5-48. Plant food cooking for hot holding**

~~Fruits and vegetables~~ Plant foods that are cooked for hot holding shall be cooked to a temperature of 57°C (135°F).

#### **310:257-5-50. Records, creation and retention**

- (a) Except as specified in OAC 310:257-5-49(b) and ~~OAC 310:257-5-49~~ (b) of this section, if raw, raw-marinated, partially cooked, or marinated-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 of the food establishment for ninety (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 OAC 310:257-5-49 may substitute for the records specified under (a) of this Section.
- (c) If raw, raw marinated, partially cooked, or marinated-partially cooked fish are served or sold in ready-to-eat form, and the fish are raised and fed as specified in ~~OAC 310:257-5-5(b)(3)~~ 310:257-5-49(b)(3), a written agreement or statement from the supplier or aquaculturist stipulating that the fish were raised and fed as specified in OAC 310:257-5-49(b)(3) shall be obtained by the person in charge and retained in the records of the food establishment for ninety (90) calendar days beyond the time of service or sale of the fish.

#### **310:257-5-52. Reheating for hot holding**

- (a) Except as specified under (b) and (c) and in (e) of this Section, 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 74°C (165°F) for fifteen (15) seconds.
- (b) Except as specified under (c) of this Section, Time/Temperature Control for Safety Food reheated in a microwave oven for hot holding shall be reheated so that all parts of the food reach a temperature of at least 74°C (165°F) and the food is rotated or stirred, covered, and allowed to stand covered for two (2) minutes after reheating.
- (c) Ready-to-eat Time/Temperature Control for Safety Food that has been commercially processed and packaged in a food processing plant that is inspected by the Department regulatory authority that has jurisdiction over the plant, shall be heated to a temperature of at least 57°C (135°F) when being reheated for hot holding.
- (d) Reheating for hot holding specified under (a) through (c) of this Section shall be done rapidly and the time the food is between the temperature of 5°C (41°F) and the temperatures specified under (a) through (c) of this Section may not exceed two (2) hours.
- (e) Remaining unsliced portions of meat roasts of beef that are cooked as specified under OAC 310:257-5-46(b) may be reheated for hot holding using the oven parameters and minimum time and temperature conditions specified under OAC 310:257-5-46(b).

#### **310:257-5-53. Treating juice**

Juice packaged in a food establishment shall be:

- (1) Treated under a HACCP Plan as specified in OAC ~~310:257-15-9(2)~~ 310:257-15-9 through ~~310:257-15-9(5)~~ to attain a 5-log reduction, which is equal to a 99.999% reduction, of the most resistant microorganism of public health significance; or
- (2) Labeled, if not treated to yield a 5-log reduction of the most resistant microorganism of public health significance;

- (A) As specified under OAC 310:257-5-67, and
- (B) As specified in 21 CFR, Section 101.17(g) Food labeling, warning, notice, and safe handling statements, juices that have not been specifically processed to prevent, reduce, or eliminate the presence of pathogens with the following: "WARNING: This product has not been pasteurized and, therefore, may contain harmful bacteria that can cause serious illness in children, the elderly, and persons with weakened immune systems."

#### **310:257-5-56. Thawing**

Except as specified in (4) of this Section, Time/Temperature Control for Safety Food shall be thawed:

- (1) Under refrigeration that maintains the food temperature at 5°C (41°F) or less; or
- (2) Completely submerged under running water:
  - (A) At a water temperature of 21°C (70°F) or below,
  - (B) With sufficient water velocity to agitate and float off loose particles in an overflow, and
  - (C) For a period of time that does not allow thawed portions of ready-to-eat food to rise above 5°C (41°F), or
  - (D) For a period of time that does not allow thawed portions of a raw animal food requiring cooking as specified under OAC 310:257-5-46(a) or (b) to be above 5°C (41°F), for more than four (4) hours including:
    - (i) The time the food is exposed to the running water and the time needed for preparation for cooking, or
    - (ii) The time it takes under refrigeration to lower the food temperature to 5°C (41°F);
- (3) As part of a cooking process if the food that is frozen is:
  - (A) Cooked as specified under OAC 310:257-5-46(a), ~~OAC 310:257-5-46~~ or OAC 310:257-5-47 through OAC 310:257-5-48, or
  - (B) Thawed in a microwave oven and immediately transferred to conventional cooking equipment, with no interruption in the process;
- (4) Using any procedure if a portion of frozen ready-to-eat food is thawed and prepared for immediate service in response to an individual consumer's order; or
- (5) Reduced oxygen packaged fish that bears a label indicating that it is to be kept frozen until time of use shall be removed from the reduced oxygen environment:
  - (A) Prior to its thawing under refrigeration as specified in paragraph (1) of this section; or
  - (B) Prior to, or immediately upon completion of its thawing using procedures specified in paragraph (2) of this section.

#### **310:257-5-57. Cooling**

- (a) Cooked Time/Temperature Control for Safety Food shall be cooled:
  - (1) Within 2 hours from 57°C (135°F) to 21°C (70°F); and
  - (2) Within a total of 6 hours from 57°C (135°F) to 5°C (41°F) or less.
- (b) Time/Temperature Control for Safety Food shall be cooled within 4 hours to 5°C (41°F) or less, if prepared from ingredients at ambient temperature, such as reconstituted foods and canned tuna.
- (c) Except as specified in (d) of this Section, a Time/Temperature Control for Safety Food received in compliance with laws allowing a temperature above 5°C (41°F) during shipment from the supplier as specified in 310:257-5-9(b), shall be cooled within 4 hours to 5°C (41°F) or less.
- (d) ~~Raw eggs shall be received as specified under 310:257-5-9(c) and immediately placed in refrigerated equipment that maintains an ambient air temperature of 5°C (41°F) or less.~~

#### **310:257-5-60. Ready-to-eat, Time/Temperature Control for Safety Food, date marking**

- (a) Except when packaging food using a reduced oxygen packaging method as specified in OAC 310:257-5-64, and except as specified in (d) and (e) and (g) of this Section, refrigerated, ready-to-eat, Time/Temperature Control for Safety Food prepared and held in a food establishment for more than twenty-four (24) hours shall be clearly marked to indicate the date or day by which the food shall be

consumed on the premises, sold, or discarded when held at a temperature of 5°C (41°F) or less for a maximum of seven (7) days. The day of preparation shall be counted as day one (1).

(b) Except as specified in (d) through (f) (e) through (g) of this Section, refrigerated, ready-to-eat, Time/Temperature Control for Safety Food prepared and packaged by a food processing plant shall be clearly marked, at the time the original container is opened in a food establishment and if the food is held for more than twenty-four (24) hours, to indicate the date or day by which the food shall be consumed on the premises, sold, or discarded, based on the temperature and time combinations specified in (a) of this Section and:

- (1) The day the original container is opened in the food establishment shall be counted as day one (1); and
- (2) The day or date marked by the food establishment may not exceed a manufacturer's use-by date if the manufacturer determined the use-by date based on food safety.

(c) A refrigerated, ready-to-eat, Time/Temperature Control for Safety Food ingredient or a portion of a refrigerated, ready to eat, 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.

(d) A date marking system that meets the criteria stated in (a) and (b) of this Section may include:

- (1) Using a method approved by the Department for refrigerated, ready-to-eat Time/Temperature Control for Safety Food that is frequently rewrapped, such as lunchmeat or a roast, or for which date marking is impractical, such as soft serve mix or milk in a dispensing machine;
- (2) Marking the date or day of preparation, with a procedure to discard the food on or before the last date or day by which the food must be consumed on the premises, sold, or discarded as specified in (a) of this Section;
- (3) Marking the date or day the original container is opened in a food establishment, with a procedure to discard the food on or before the last date or day by which the food must be consumed on the premises, sold, or discarded as specified in (b) of this Section; or
- (4) Using calendar dates, days of the week, color-coded marks, or other effective marking methods, provided that the marking system is disclosed to the regulatory authority Department upon request.

(e) Subsections (a) and (b) of this Section do not apply to individual meal portions served or repackaged for sale from a bulk container upon a consumer's request.

(f) Subsection (b) of this Section does not apply to the following foods prepared and packaged by a food processing plant inspected by a state or federal agency having jurisdiction over the facility:

- (1) Deli salads, such as ham salad, seafood salad, chicken salad, egg salad, pasta salad, potato salad, and macaroni salad, manufactured in accordance with OAC 310:260, or 21 CFR Part 110;
- (2) Hard cheeses containing not more than 39% Moisture as defined in 21 CFR, Part 133 Cheeses and related cheese products, such as cheddar, gruyere, parmesan and reggiano, and romano;
- (3) Semi-soft cheeses containing more than 39% moisture, but not more than 50% moisture, as defined in 21 CFR, Part 133 Cheeses and related cheese products, such as blue, edam, gorgonzola, gouda, and Monterey jack;
- (4) Cultured dairy products as defined in 21 CFR, Part 131 Milk and cream, such as yogurt, sour cream, and buttermilk;
- (5) Preserved fish products, such as pickled herring and dried or salted cod, and other acidified fish products defined in 21 CFR, Part 114 Acidified foods;
- (6) Shelf stable, dry, fermented sausages, such as pepperoni and Genoa salami; and
- (7) Shelf stable salt-cured products such as prosciutto and Parma (ham).

(g) Paragraph (a) and (b) of this Section shall not apply to Shellstock.

#### **310:257-5-61. Ready-to-eat, Time/Temperature Control for Safety Food, disposition**

(a) A food specified in OAC 310:257-5-60(a) or OAC 310:257-5-60(b) shall be discarded if it:

- (1) Exceeds either of the temperature and time combinations specified in OAC 310:257-5-60 (a), except time that the product is frozen;

- (2) Is in a container or package that does not bear a date or day; or
  - (3) Is ~~appropriately~~ inappropriately marked with a date or day that exceeds a temperature and time combination as specified in OAC 310:257-5-60 (a).
- (b) Refrigerated, ready-to-eat, Time/Temperature Control for Safety Food prepared in a food establishment and dispensed through a vending machine with an automatic shutoff control shall be discarded if it exceeds a temperature and time combination as specified in OAC 310:257-5-60(a).

#### **310:257-5-63. Variance requirement**

A food establishment shall obtain a variance from the Department as specified in OAC 310:257-15-3 and under OAC 310:257-15-4 before:

- (1) Smoking food as a method of food preservation rather than as a method of flavor enhancement;
- (2) Curing food;
- (3) Using food additives or adding components such as vinegar:
  - (A) As a method of food preservation rather than as a method of flavor enhancement, or
  - (B) To render a food so that it is ~~a potentially hazardous~~ Time/Temperature Control for Safety Food;
- (4) Packaging Time/Temperature Control for Safety Food using a reduced oxygen packaging method except where the growth of and toxin formation by Clostridium botulinum and the growth of Listeria monocytogenes are controlled as specified under OAC 310:257-5-64;
- (5) Operating a molluscan shellfish life-support system display tank used to store and display shellfish that are offered for human consumption;
- (6) Custom processing animals that are for personal use as food and not for sale or service in a food establishment;
- (7) Sprouting seeds or beans; or
- (8) Preparing food by another method that is determined by the Department to require a variance.

#### **310:257-5-64. Reduced oxygen packaging without a variance, criteria**

- (a) Except for a food establishment that obtains a variance as specified under OAC 310:257-5-63, a food establishment that packages Time/Temperature Control for Safety Food using a reduced oxygen packaging method shall control the growth and toxin formation of Clostridium botulinum and the growth of *Listeria monocytogenes*.
- (b) Except as specified under paragraph (f) of this Section, a food establishment that packages Time/Temperature Control for Safety Food using a reduced oxygen packaging method shall implement a HACCP plan that contains the information specified under OAC 310:257-15-9(2) and OAC 310:257-15-9(4) and that:
- (1) Identifies the food to be packaged;
  - (2) Except as specified in (c) through (e) of this Section, requires that the packaged food shall be maintained at 5°C (41°F) or less and meet at least one of the following criteria:
    - (A) Has an aw of 0.91 or less,
    - (B) Has a pH of 4.6 or less,
    - (C) Is a meat or poultry product cured at a food processing plant regulated by the USDA using substances specified in 9 CFR, Part 424.21. Use of food ingredients and sources of radiation, and is received in an intact package, or
    - (D) Is a food with a high level of competing organisms such as raw meat or raw poultry or raw vegetables;
  - (3) 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:
    - (A) Maintain the food at 5°C (41°F) or below, and
    - (B) Discard the food if within thirty (30) calendar days of its packaging it is not served for on-premises consumption, or consumed if served or sold for off-premises consumption;

- (4) Limits the refrigerated shelf life to no more than thirty (30) calendar days from packaging to consumption, except the time the product is maintained frozen, or the original manufacturer's "sell by" or "use by" date, whichever occurs first;
- (5) Includes operational procedures that:
  - (A) Prohibit contacting ready-to-eat food with bare hands as specified under OAC 310:257-5-21(b),
  - (B) Identify a designated work 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 limited to responsible trained personnel familiar with the potential hazards of the operation, and
  - (C) Delineate cleaning and sanitization procedures for food-contact surfaces;
- (6) Describes the training program that ensures that the individual responsible for the reduced oxygen packaging operation understands the:
  - (A) Concepts required for a safe operation,
  - (B) Equipment and facilities, and
  - (C) Procedures specified under paragraph (b) (5) of this Section, and OAC 310:257-15-9(2) and OAC 310:257-15-9(4); and
- (7) Is provided to the Department prior to implementation as specified under ~~OAC 310:257-15-9 (4)~~ 310:257-15-(8)(b).
- (c) Except for fish that is frozen before, during, and after packaging and bears a label indicating that it is to be kept frozen until time of use, a food establishment may not package fish using a reduced oxygen packaging method.
- (d) Except as specified under paragraphs (c) and (f) of this Section, a food establishment that packages Time/Temperature Control for Safety Food using a cook-chill or sous vide process shall:
  - (1) Provide to the Department prior to implementation, a HACCP Plan that contains the information as specified under OAC 310:257-15-9;
  - (2) Ensure the food is:
    - (A) Prepared and consumed on the premises, or prepared and consumed off the premises but within the same business entity with no distribution or sale of the packaged product to another business entity or the consumer;
    - (B) Cooked to heat all parts of the food to a temperature and for a time as specified under OAC 310:257-5-46 through 48;
    - (C) Protected from contamination before and after cooking as specified under OAC 310:257-5-21 through OAC 310:257-5-53 45;
    - (D) Placed in a package with an oxygen barrier and sealed before cooking, or placed in a package and sealed immediately after cooking and before reaching a temperature below 57°C (135°F);
    - (E) Cooled to 5°C (41°F) in the sealed package or bag as specified under 310:257-5-57 and:
      - (i) Cooled to 1°C (34°F) within forty-eight (48) hours of reaching 5°C (41°F) and held at that temperature until consumed or discarded within thirty (30) days after the date of packaging;
      - (ii) Held at 5°C (41°F) or less for no more than seven (7) days, at which time the food must be consumed or discarded; or
      - (iii) Held frozen with no shelf life restriction while frozen until consumed or used;
    - (F) Held in a refrigeration unit that is equipped with an electronic system that continuously monitors time and temperature and is visually examined for proper operation twice daily;
    - (G) If transported off-site to a satellite location of the same business entity, equipped with verifiable electronic monitoring devices to ensure that times and temperatures are monitored during transportation; and
    - (H) Labeled with the product name and the date packaged; and
  - (3) Maintain the records required to confirm that cooling and cold holding refrigeration time/temperature parameters are required as part of the HACCP Plan and:

- (A) Make such records available to the regulatory authority Department upon request; and
  - (B) Hold such records for at least six (6) months; and
- (4) Implement written operational procedures as specified in (b)(5) of this Section and a training program as specified in (b)(6) of this Section.
- (e) Except as specified in paragraph (f) of this Section, a food establishment that packages cheese using a reduced oxygen packaging method shall:
  - (1) Limit the cheeses packaged to those that are commercially manufactured in a food processing plant with no ingredients added in the food establishment and that meet the Standards of Identity as specified in 21 CFR 133:150 Hard cheeses, 21 CFR Section 133.169 Pasteurized process cheese or 21 CFR Section 133.187 Semisoft cheeses;
  - (2) Have a HACCP Plan that contains the information specified in OAC 310:257-15-9(2), OAC 310-15-9(4), and specified in (b)(1), (b)(3)(A), (b)(5) and (b)(6) of this Section;
  - (3) Labels the package on the principal display panel with the "use by" date that does not exceed thirty (30) days from its packaging or the original manufacturer's "sell by" or "use by" date, whichever occurs first; and
  - (4) Discards the reduced oxygen packaged cheese if it is not sold for off-premises consumption or consumed within thirty (30) calendar days of its packaging.
- (f) A HACCP Plan is not required when a food establishment uses a reduced oxygen packaging method to package Time/Temperature Control for Safety Food that is always:
  - (1) Labeled with the production time and date;
  - (2) Held at five 5°C (41°F) or less during refrigerated storage; and
  - (3) Removed from its package in the food establishment within forty-eight (48) hours after packaging.

#### **310:257-5-65. Standards of identity**

Packaged food shall comply with standard of identity requirements 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~~.

#### **310:257-5-67. Food labels**

- (a) Food packaged in a food establishment, shall be labeled as specified in law, including 21 CFR, Part 101 - Food Labeling, and 9 CFR, Part 317 Labeling, Marking Devices, and Containers.
- (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 and sub-ingredients in descending order of predominance by weight, including a declaration of artificial colors, artificial flavors, 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.
  - (6) Except as exempted in the Federal Food, Drug, and Cosmetic Act Section ~~403(g)(3)-(5)~~ 403(q)(3)-(5), nutrition labeling as specified in 21 CFR, Part 101 - Food Labeling and 9 CFR, Part 317 Subpart B Nutrition Labeling.
  - (7) For any salmonid fish containing canthaxanthin or astaxanthin 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 or astaxanthin.
- (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 (b)(1), (2), and (5), and (6) 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 state or local laws requiring labeling; and;
  - (3) The food is manufactured or prepared on the premises of the food establishment or at another food establishment or a food processing plant that is owned by the same person and is regulated by the food regulatory agency that has jurisdiction.

**310:257-5-69. Consumption of animal foods that are raw, undercooked, or not otherwise processed to eliminate pathogens**

- (a) Except as specified in OAC 310:257-5-46(c) and OAC 310:257-5-46(d)(3) (4) and under OAC 310:257-5-71 (4) (3), if an animal food such as beef, eggs, fish, lamb, milk, pork, poultry, or shellfish is served or sold raw, undercooked, or without otherwise being processed to eliminate pathogens, either in ready-to-eat form or as an ingredient in another ready-to-eat food, the license holder shall inform consumers of the significantly increased risk of consuming such foods by way of disclosure and reminder, as specified in paragraphs (b) and (c) of this Section, using brochures, deli case or menu advisories, label statements, table tents, placards, or other effective written means.
- (b) Disclosure shall include:
- (1) A description of the animal-derived foods, such as "oysters on the half shell (raw oysters), raw-egg Caesar salad," and "hamburgers" (can be cooked to order); or;
  - (2) Identification of the animal-derived foods by asterisking them to a footnote that states that the items are served raw or undercooked, or contain (or may contain) raw or undercooked ingredients.
- (c) Reminder shall include asterisking the animal-derived foods requiring disclosure to a footnote that states:
- (1) "Regarding the safety of these items, written information is available upon request;"
  - (2) "Consuming raw or undercooked meats, poultry, seafood, shellfish, or eggs may increase your risk of foodborne illness;" or
  - (3) "Consuming raw or undercooked meats, poultry, seafood, shellfish, or eggs may increase your risk of foodborne illness, especially if you have certain medical conditions."

**310:257-5-71. Pasteurized foods, prohibited re-service, and prohibited food**

In a food establishment that serves a highly susceptible population:

- (1) The following criteria apply to juice:
  - (A) For the purposes of this paragraph only, children who are age nine (9) or less and receive food in a school, day care setting or similar facility that provides custodial care are included as highly susceptible populations;
  - (B) Prepackaged juice or a prepackaged beverage containing juice, that bears a warning label as specified in 21 CFR, Section 101.17(g) Food Labeling, (pertaining to warning, notice and safe handling statements for juices that have not been specifically processed to prevent, reduce, or eliminate the presence of pathogens,) or packaged juice or beverage containing juice, that bears a warning label as specified under OAC 310:257-5-53 (2) may not be served or offered for sale; and
  - (C) Unpackaged juice that is prepared on the premises for service or sale in a ready-to-eat form shall be processed under a HACCP plan that contains the information specified in OAC 310:257-15-9~~(2)-(5)~~ and as specified under 21 CFR, Part 120 - Hazard Analysis and Critical Control Point (HACCP) systems, Subpart B Pathogen Reduction, Section 120.24 Process controls.
- (2) Pasteurized eggs or egg products shall be substituted for raw eggs in the preparation of:
  - (A) Foods such as Caesar salad, hollandaise or Béarnaise sauce, mayonnaise, meringue, eggnog, ice cream, and egg-fortified beverages, and

- (B) Except as specified in (6) of this Section, recipes in which more than one egg is broken and the eggs are combined;
- (3) The following foods may not be served or offered for sale in a ready-to-eat form:
  - (A) Raw animal foods such as raw fish, raw-marinated fish, raw molluscan shellfish, and steak tartare,
  - (B) A partially cooked animal food such as lightly cooked fish, rare meat, soft-cooked eggs that are made from raw ~~shell~~ eggs, and meringue, and
  - (C) Raw seed sprouts.
- (4) Food employees may not contact ready-to-eat foods as specified under OAC 310:257-5-21(b) and OAC 310:257-5-21(d).
- (5) Time only, as the public health control as specified in OAC 310:257-5-62(d), shall not be used for raw eggs.
- (6) Subparagraph (2)(B) of this Section does not apply if:
  - (A) The raw eggs are combined immediately before cooking for one consumer's serving at a single meal, cooked as specified under OAC 310:257-5-46(a)(1), and served immediately, such as an omelet, soufflé, or scrambled eggs;
  - (B) The raw eggs are combined as an ingredient immediately before baking and the eggs are thoroughly cooked to a ready-to-eat form, such as a cake, muffin, or bread; or
  - (C) The preparation of the food is conducted under a HACCP plan that:
    - (i) Identifies the food to be prepared,
    - (ii) Prohibits contacting ready-to-eat food with bare hands,
    - (iii) Includes specifications and practices that ensure:
      - (I) *Salmonella* Enteritidis growth is controlled before and after cooking, and
      - (II) *Salmonella* Enteritidis is destroyed by cooking the eggs according to the temperature and time specified in OAC 310:257-5-46(a)(2),
    - (iv) Contains the information specified under OAC 310:257-15-9(4) including procedures that:
      - (I) Control cross contamination of ready-to-eat food with raw eggs, and
      - (II) Delineate cleaning and sanitization procedures for food-contact surfaces, and
    - (v) Describes the training program that ensures that the food employee responsible for the preparation of the food understands the procedures to be used.
- (7) Except as specified in paragraph (8) of this Section, food may be re-served as specified in OAC 310:257-5-44(b).
- (8) Food shall not be re-served under the following conditions:
  - (A) Any food served to patients or clients who are under contact precautions in medical isolation or quarantine, or protective environment isolation shall not be re-served to others outside; and
  - (B) Packages of food from any patients, clients, or other consumers shall not be re-served to persons in protective environment isolation.

## SUBCHAPTER 7. EQUIPMENT, UTENSILS AND LINENS

### **310:257-7-1. 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 use conditions shall be:

- (1) Safe;
- (2) Durable, ~~corrosion~~ corrosion-resistant, and nonabsorbent;
- (3) Sufficient in weight and thickness to withstand repeated warewashing;
- (4) Finished to have a smooth, easily cleanable surface; and;
- (5) Resistant to pitting, chipping, crazing, scratching, scoring, distortion, and decomposition.

### **310:257-7-13. Equipment and utensils**

Equipment used in a food establishment shall be designated as "commercial" or "commercial grade" by the manufacturer if the equipment is used to meet or maintain temperature for time/temperature control for safety food. Equipment and utensils shall be designed and constructed to be durable and to retain their characteristic qualities under normal use conditions. This section does not apply to the following equipment if cleanability and maintenance requirements are met:

- (1) Microwave ovens that meet the safety standards specified in 21 CFR 1030.10 Microwave ovens, used to heat food for immediate service or as part of a continuous cooking process.
- (2) Residential freezers used for long term storage, or
- (3) Custom built large equipment such as a smoker.

### **310:257-7-15. Food-contact surfaces**

(a) Multiuse food-contact surfaces shall be:

- (1) Smooth;
- (2) Free of breaks, open seams, cracks, chips, inclusions, pits, and similar imperfections;
- (3) Free of sharp internal angles, corners, and crevices;
- (4) Finished to have smooth welds and joints; and
- (5) Except as specified in (b) of this Section, be accessible for cleaning and inspection by one of the following methods:
  - (A) Without being disassembled,
  - (B) By disassembling without the use of tools, or
  - (C) 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.

(b) OAC 310:257-7-15 (a) (5) of this Section does not apply to cooking oil storage tanks, distribution lines for cooking oils, or beverage syrup lines or tubes.

### **310:257-7-23. Temperature measuring devices, food**

(a) Food temperature measuring device devices that are scaled only in Celsius or dually scaled in Celsius and Fahrenheit shall be accurate to within 1°C in the intended range of use.

(b) Food temperature measuring devices that are scaled only in Fahrenheit shall be accurate to within 2°F in the intended range of use.

### **310:257-7-24. Temperature measuring devices, ambient air and water**

(a) Ambient air and water temperature measuring devices that are scaled in Celsius or dually scaled in Celsius and Fahrenheit shall be designed to be easily readable and accurate to within 1.5°C in the intended range of use.

(b) Ambient air and water temperature measuring devices that are scaled only in Fahrenheit shall be accurate to within 3°F in the intended range of use.

### **310:257-7-25. Pressure measuring devices, mechanical warewashing equipment**

Pressure measuring devices that display the pressures in the water supply line for the fresh hot water sanitizing rinse shall have increments of seven (7) kilopascals (one (1) pound per square inch) or smaller and shall be accurate to within fourteen (14) kilopascals (two (2) pounds per square inch) in the range indicated on the manufacturer's data plate.

### **310:257-7-28. Dispensing equipment, protection of equipment and food**

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

- (1) 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;

- (2) The delivery tube, chute, and orifice shall be protected from manual contact such as by being recessed;
- (3) 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:
  - (A) 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
  - (B) Available for self-service during hours when it is not under the full-time supervision of a food employee; and
- (4) 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.
- (5) Dispensing equipment in which Time/Temperature Control for Safety Food in a homogenous liquid form is maintained outside of the temperature control requirements as specified under OAC 310:257-~~5-58(a)~~ 5-59(a) shall:
  - (A) Be specifically designed and equipped to maintain the commercial sterility of aseptically packaged food in a homogenous liquid form for a specified duration from the time of opening the packaging within the equipment; and
  - (B) Conform to the requirements for this equipment as specified in American National Standards Institute (ANSI) 18-2006 Manual Food and Beverage Dispensing Equipment.

#### **310:257-7-35. Molluscan shellfish tanks**

- (a) Except as specified under (b) of this Section, molluscan shellfish life support system display tanks may not be used to store or display shellfish that are 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 or 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 OAC 310:257-15-3 and a HACCP plan that:
  - (1) Is submitted by the license holder and approved as specified under OAC 310:257-15-4; and
  - (2) Ensures that:
    - (A) Water used with fish other than molluscan shellfish does not flow into the molluscan tank,
    - (B) The safety and quality of the shellfish as they were received are not compromised by the use of the tank, and;
    - (C) The identity of the source of the shellstock is retained as specified under OAC 310:257-5-20.

#### **310:257-7-36. Vending machines, automatic shutoff**

- (a) A machine vending Time/Temperature Control for Safety Food shall have an automatic control that prevents the machine from vending food:
  - (1) If there is a power failure, mechanical failure, or other condition that results in an internal machine temperature that cannot maintain food temperatures as specified under Subchapter 5; and
  - (2) If a condition specified under (a) (1) of this Section occurs, until the machine is serviced and restocked with food that has been maintained at temperatures specified under Subchapter 5.
- (b) When the automatic shutoff within a vending machine vending that contains Time/Temperature Control for Safety Food is activated:
  - (1) In a refrigerated vending machine, the ambient air temperature may not exceed 5°C (41°F) for more than thirty (30) minutes immediately after the machine is filled, serviced, or restocked; or
  - (2) In a hot holding vending machine, the ambient air temperature may not be less than 57°C (135°F) for more than 120 minutes immediately after the machine is filled, serviced, or restocked.

### **310:257-7-37. 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) Except as specified in (c) of this Section, cold or hot holding equipment used for Potentially Hazardous 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 device's temperature display.
- (c) Paragraph (b) of this Section does not apply to equipment for which the placement of a temperature measuring device is not a practical means for measuring the ambient air surrounding the food because of the design, type, and use of the equipment, such as calrod units, heat lamps, cold plates, bainmaries, steam tables, insulated food transport containers, and salad bars.
- (d) Temperature measuring devices shall be designed to be easily readable.
- (e) Food temperature measuring devices and water temperature measuring devices on warewashing machines shall have a numerical scale, printed record, or digital readout in increments no greater than 1°C or 2°F in the intended range of use.

### **310:257-7-51. Manual warewashing, sink compartment requirements**

- (a) Except as specified in (c) or (f) of this Section, a mechanical warewashing machine or a sink with at least three (3) compartments shall be provided 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 (c) of this Section shall be used. The sink system shall be made of equipment and materials intended for the use of warewashing. ~~The sink system shall be designed and installed so that warewashing of utensils cannot be contaminated by handwashing.~~
- (c) Alternative manual warewashing equipment may be used when there are special cleaning needs or constraints and its use is approved. 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 (d) and (e) of this Section; or
  - (6) Receptacles that substitute for the compartments of a multicompartiment sink in the case of temporary food establishments.
- (d) Before a 2-compartment sink is used:
- (1) The food establishment is shall be a retail establishment that does not serve or prepare unpackaged Time/Temperature Control for Safety Foods;
  - (2) The license holder shall have its use approved; and
  - (3) The license holder shall limit the number of kitchenware items cleaned and sanitized in the 2-compartment sink, and shall limit warewashing to batch operations for cleaning kitchenware at the end of a shift, and shall:
    - (A) Make up the cleaning and sanitizing solutions immediately before use and drain them immediately after use, and
    - (B) Use a detergent-sanitizer to sanitize and apply the detergent-sanitizer in accordance with the manufacturer's label instructions and as specified under OAC 310:257-7-76, or
    - (C) Use a hot water sanitization immersion step as specified under OAC 310:257-7-91(3).
- (e) A 2-compartment sink may not be used for warewashing operations where cleaning and sanitizing solutions are used for a continuous or intermittent flow of kitchenware or tableware in an ongoing warewashing process.

(f) Food establishments that sell only prepackaged foods have no food preparation, and have no equipment or utensils that require cleaning are exempt from the requirements of a warewashing sink.

**310:257-7-58.1. Cleaning agents and sanitizers, availability**

- (a) Cleaning agents that are used to clean equipment and utensils as specified under OAC 310:257-7-82 through OAC 310:257-7-91 shall be provided and available for use during all hours of operation.
- (b) Except for those that are generated on-site at the time of use, chemical sanitizers that are used to sanitize equipment and utensils as specified under OAC 310:257-7-93 through OAC 310:257-7-95 shall be provided and available for use during all hours of operation.

**310:257-7-60. Fixed equipment, spacing or sealing**

- (a) 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 equipment;
  - (2) Spaced from adjoining equipment, walls, and ceilings a distance of not more than 1 millimeter or one thirty-second inch; or
  - (3) Sealed to adjoining equipment or walls, if the equipment is exposed to spillage or seepage.
- (b) Counter-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 counter; or
  - (2) Elevated on legs as specified under OAC 310:257-7-61(d).

**310:257-7-64. Microwave ovens [REVOKE]**

~~Microwave ovens shall meet the safety standards specified in 21 CFR 1030.10 Microwave ovens.~~

**310:257-7-65. Warewashing equipment, cleaning frequency**

A warewashing machine; 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 under OAC 310:257-7-52 shall be cleaned:

- (1) Before use;
- (2) Throughout the day at a frequency necessary to prevent recontamination of equipment and utensils and to ensure that the equipment performs its intended function; and
- (3) If used, at least every twenty-four ~~24~~(24) hours.

**310:257-7-75. 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 under OAC 310:257-7-95(3) shall meet the criteria specified under OAC 310:257-13-7, shall be used in accordance with the EPA registered label use instructions, and shall be used as follows:

- (1) A chlorine solution shall have a minimum temperature based on the concentration and pH of the solution as contained in Table 7 of Appendix A of this Chapter
- (2) An iodine solution shall have a:
  - (A) Minimum temperature of 20°C (68°F),
  - (B) pH of 5.0 or less or a pH no higher than the level for which the manufacturer specifies the solution is effective, and
  - (C) Concentration between 12.5 mg/L and 25 mg/L;
- (3) A quaternary ammonium compound solution shall:
  - (A) Have a minimum temperature of 24°C (75°F),
  - (B) Have a concentration as specified under OAC 310-257-13-7 and as indicated by the manufacturer's use directions included in the labeling, and
  - (C) Be used only in water with 500 mg/L hardness or less or in water having a hardness no greater than specified by the EPA-registered label use instructions;

- (4) If another solution of a chemical specified under (1) through (5)(3) of this Section is used, the license holder shall demonstrate to the ~~Department~~ regulatory authority that the solution achieves sanitization and the use of the solution shall be approved; or
- (5) If a chemical sanitizer other than chlorine, iodine, or a quaternary ammonium compound is used, it shall be applied in accordance with the EPA-registered label use instructions; and
- (6) If a chemical sanitizer is generated by a device located on-site at the food establishment, the chemical sanitizer shall be used as specified in paragraphs (1) through (4) of this Section and shall be produced by a device:
  - (A) Complies with the regulation as specified in Sections 2(q)(1) and 12 of the Federal Insecticide, Fungicide and Rodenticide Act (FIFRA);
  - (B) Complies with 40 CFR Part 152.500 Requirements for Devices and 40 CFR, Section 156.10 Labeling Requirements;
  - (C) Displays the EPA device manufacturing facility registration number on the device; and
  - (D) Is operated and maintained in accordance with manufacturer's instructions.

### **310:257-7-83. Equipment food-contact surfaces and utensils**

- (a) Equipment food-contact surfaces and utensils shall be cleaned and sanitized:
  - (1) Except as specified in (b) of this Section, 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 and vegetables and with 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) Paragraph (a)(1) of this Section does not apply if the food-contact surface or utensil is in contact with a succession of different types of raw meat and poultry each requiring a higher cooking temperature as specified under OAC 310:257-5-46 than the previous type.
- (c) Except as specified in (d) of this Section, if used with Time/Temperature Control for Safety Food, equipment food-contact surfaces and utensils shall be cleaned throughout the day at least every four (4) hours.
- (d) Surfaces of utensils and equipment contacting Time/Temperature Control for Safety Food may be cleaned less frequently than every four (4) hours if:
  - (1) In storage, containers of Time/Temperature Control for Safety Food and their contents are maintained at temperatures specified under Subchapter 5 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 as specified in Table 8 of Appendix A of this Chapter, shall be cleaned at the ~~minimum~~ frequency ~~that corresponds to the temperature~~ established in Table 8 of Appendix A of this Chapter. The cleaning frequency and the ambient temperature of the refrigerated room or area, as established in Table 8 of Appendix A of this Chapter, shall be documented by the food establishment.
  - (3) Containers in serving situations such as salad bars, delis, and cafeteria lines hold ready-to-eat Time/Temperature Control for Safety Food that is maintained at the temperatures specified under Subchapter 5, are intermittently combined with additional supplies of the same food that is at the required temperature, and the containers are cleaned at least every twenty-four (24) hours;
  - (4) Temperature measuring devices are maintained in contact with food, such as when left in a container of deli food or in a roast, held at temperatures specified under Subchapter 5;
  - (5) Equipment is used for storage of packaged or unpackaged food such as a reach-in refrigerator and the equipment is cleaned at a frequency necessary to preclude accumulation of soil residues;
  - (6) The cleaning schedule is approved based on consideration of:
    - (A) Characteristics of the equipment and its use,
    - (B) The type of food involved,
    - (C) The amount of food residue accumulation, and

- (D) The temperature at which the food is maintained during the operation and the potential for the rapid and progressive multiplication of pathogenic or toxigenic microorganisms that are capable of causing foodborne disease; or
- (7) In-use utensils are intermittently stored in a container of water in which the water is maintained at 57°C (135°F) or more and the utensils and container are cleaned at least every twenty-four (24) hours or at a frequency necessary to preclude accumulation of soil residues.
- (e) Except when dry cleaning methods are used as specified under OAC 310:257-7-86, surfaces of utensils and equipment contacting food that is not ~~potentially hazardous~~ Time/Temperature-Control for Safety Food shall be cleaned:
- (1) At any time when contamination may have occurred;
  - (2) At least every twenty-four (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.

#### **310:257-7-84. Cooking and baking equipment**

- (a) The food-contact surfaces of cooking and baking equipment shall be cleaned at least every ~~24~~ twenty-four (24) hours. This Section does not apply to hot oil cooking and filtering equipment if it is cleaned as specified in OAC 310:257-7-83(d)(6).
- (b) The cavities and door seals of microwave ovens shall be cleaned at least every ~~24~~ twenty-four (24) hours by using the manufacturer's recommended cleaning procedure.

#### **310:257-7-86. 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~~ Time/Temperature-Control for Safety Food.
- (b) Cleaning equipment used in dry cleaning food-contact surfaces may not be used for any other purpose.

#### **310:257-7-87. Precleaning**

- (a) Food debris on equipment and utensils shall be ~~scrapped~~ scraped 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.

#### **310:257-7-90. 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 OAC 310:257-7-51(c) in accordance with the following procedures:

- (1) Equipment shall be disassembled as necessary to allow access of the detergent solution to all parts;
- (2) Equipment components and utensils shall be scraped or rough cleaned to remove food particle accumulation; and
- (3) Equipment and utensils shall be washed as specified under OAC 310:257-7-89(a).

### **310:257-7-91. Rinsing procedures**

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:

- (1) Use of a distinct, separate water rinse after washing and before sanitizing if using:
  - (A) A 3-compartment sink as specified in OAC 310:257-7-51,
  - (B) Alternative manual warewashing equipment equivalent to a 3-compartment sink as specified in OAC 310:257-7-51(c), or
  - (C) A 3-step washing, rinsing, and sanitizing procedure in a warewashing system for CIP equipment;
- (2) Use of a detergent-sanitizer as specified under OAC 310:257-7-76 if using:
  - (A) Alternative warewashing equipment as specified in OAC 310:257-7-51(c) that is approved for use with a detergent-sanitizer, or
  - (B) A warewashing system for CIP equipment;
- (3) Use of a nondistinct water rinse that is integrated in the hot water sanitization immersion step of a 2-compartment sink operation;
- (4) If using a warewashing machine that does not recycle the sanitizing solution as specified under (5) of this Section, or alternative manual warewashing equipment such as sprayers, use of a nondistinct water rinse that is:
  - (A) Integrated in the application of the sanitizing solution, and
  - (B) Wasted immediately after each application; or
- (5) 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.

### **310:257-7-101. Equipment and utensils, Air-drying required**

After cleaning and sanitizing, equipment and utensils:

- (1) Shall be air-dried or used after adequate draining as specified in ~~paragraph (a) of 21 CFR 178.1010 sanitizing solutions, 40 CFR 180.940(a)~~, before contact with food. Stacking of wet items shall be prohibited; and
- (2) Shall not be cloth dried except that utensils that have been air-dried may be polished with cloths that are maintained clean and dry.

## **SUBCHAPTER 9. WATER, PLUMBING AND WASTE**

### **310:257-9-1. Approved System**

A license holder shall obtain potable water from:

- (1) A ~~community public~~ water system; or
- (2) ~~A non-community nonpublic water system that is constructed, maintained, and operated according to law; or~~
- ~~(3) A non-transient, non-community water system that is constructed, maintained and operated in accordance with the Oklahoma Water Supply Systems Act, codified at 27A O.S. Section 2-6-301 et seq., and the rules promulgated thereunder.~~

### **310:257-9-3. Bottled drinking water [REVOKE]**

~~Bottled drinking water used or sold in a food establishment shall be obtained from approved sources in accordance with 21 CFR, Part 129—Processing and Bottling of Bottled Drinking Water and OAC 310:225.~~

### **310:257-9-4. Quality, standards [REVOKE]**

~~Except as specified under 310:257-9-5, a license holder shall obtain potable water from a community, non-community or non-transient, non-community water system that meets the requirements promulgated~~

~~at 40 CFR 141—National Primary Drinking Water Regulations and standards in OAC 252:631 Public Water Supply Operation from the Oklahoma Department of Environmental Quality.~~

### **310:257-9-5. Nondrinking water**

- (a) A nondrinking water supply shall be used only if its use is approved.
- (b) Nondrinking water shall be used only for nonculinary purposes such as air conditioning, nonfood equipment cooling, and fire protection, and irrigation.

### **310:257-9-6. Sampling**

Except when used as specified under OAC 310:257-9-5, water from a non-public non-community water system shall be sampled and tested at least annually and as required by ~~the Oklahoma Department of Environmental Quality, OAC 252: 631 Public Water Supply Operation water quality regulations OAC 252:624 Minor Public Water Supply Systems.~~

### **310:257-9-7. Sample report**

The most recent sample report for the non-community non-public water system shall be retained on file in the food establishment ~~or otherwise made available to the regulatory authority upon request the report shall be maintained as specified by the Oklahoma Department of Environmental Quality OAC 252:631 Public Water Supply Operation water quality regulations.~~

### **310:257-9-9. Pressure**

- (a) 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 under OAC 310:257-9-11(1) and (2) to a temporary food establishment or in response to a temporary interruption of a water supply need not be under pressure.
- (b) Mobile and seasonal food establishments shall have a water system under pressure that produces a flow of at least two (2) gallons per minute.

### **310:257-9-10. Distribution, delivery, and retention, system**

Water shall be received from the source through the use of:

- (1) An approved community public water main; or
- (2) One or more of the following that shall be constructed, maintained, and operated according to law:
  - (A) Non-community or non-transient Non-public water main, water pumps, pipes, hoses, connections, and other appurtenances,
  - (B) Water transport vehicles, and
  - (C) Water containers.

### **310:257-9-14. Handwashing facility, installation**

- (a) A handwashing lavatory shall be equipped to provide water at a temperature of at least 38°C (100°F) through a mixing valve or combination faucet.
- (b) A steam mixing valve may shall 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 fifteen (15) seconds without the need to reactivate the faucet.
- (d) An automatic handwashing facility shall be installed in accordance with manufacturer's instructions.
- (e) Where faucets are supplied with tempered water, the maximum water temperature shall be no greater than 120°F.

### **310:257-9-15. 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 shall not be less than 25 mm (1 inch).

### **310:257-9-18. Numbers and capacities, handwashing facilities**

(a) Except as specified in paragraphs (b) and (c) of this Section, at least one (1) handwashing lavatory, a number of handwashing lavatories necessary for their convenient use by employees in areas specified under OAC 310:257-9-23, and not fewer than the number of handwashing lavatories required by law shall be provided. A sink system shall be made of equipment and materials intended for the use of hand washing. The sink system shall be installed so that hand washing cannot contaminate utensil washing clean utensils.

(b) 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 (1) handwashing lavatory.

(c) ~~If approved, when food exposure is limited to prepackaged products where no food preparation takes place and handwashing lavatories are not conveniently available, such as in some mobile or temporary food establishments or at some vending machine locations, employees may use chemically treated towelettes for handwashing.~~

### **310:257-9-19. Toilets and urinals**

At least 4 one (1) toilet and not fewer than the toilets required by law shall be provided. If authorized by law and urinals are substituted for toilets, the substitution shall be done as specified in law. Chemical portable toilets, if approved, may ~~can~~ be substituted for this requirement for temporary, seasonal, and mobile food ~~service~~ establishments.

### **310:257-9-20. Service sink**

(a) At least 4 one (1) service sink or 4 one (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.

(b) ~~A toilet and urinal shall not be used as a service sink for disposal of mop water and similar liquid waste. If alternate floor cleaning methods are approved, and waste mop water is not generated, the service sink specified under (a) of this Section is not required.~~

### **310:257-9-22. Backflow prevention device, carbonator**

(a) If not provided with an air gap as specified under OAC 310:257-9-20 15, a double dual 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 double dual 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.

### **310:257-9-26. Using a handwashing facility.**

(a) A handwashing facility shall be maintained so that it is accessible at all times for employee use.

(b) A handwashing facility may shall not be used for purposes other than handwashing.

(c) An automatic handwashing facility shall be used in accordance with manufacturer's instructions.

### **310:257-9-27. Prohibiting a cross connection**

(a) ~~Except as specified in 9 CFR 308.3(d) for firefighting, a~~ A person may shall 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.

### **310:257-9-31. Materials, approved**

Materials that are used in the construction of a ~~mobile~~ water tank, ~~mobile food establishment~~ water tank, and appurtenances shall be:

- (1) Safe;
- (2) Durable, corrosion-resistant, and nonabsorbent; and
- (3) Finished to have a smooth, easily cleanable surface.

#### **310:257-9-32. Enclosed system, sloped to drain**

A ~~mobile~~ potable water tank shall be:

- (1) Enclosed from the filling inlet to the discharge outlet; and
- (2) Sloped to an outlet that allows complete drainage of the tank; and
- (3) At least the capacity as specified in OAC 310:257-9-8.

#### **310:257-9-37. Hose, construction and identification**

A hose used for conveying ~~drinking~~ potable water ~~to and from a water tank in a mobile food establishment or and mobile pushcart~~ that is to be used for culinary purposes shall be:

- (1) Safe;
- (2) Durable, corrosion-resistant, nonabsorbent and made of food grade materials;
- (3) Resistant to pitting, chipping, crazing, scratching, scoring, distortion, and decomposition;
- (4) Finished with a smooth interior surface; and
- (5) Clearly and durably identified as to its use if not permanently attached.

#### **310:257-9-41. System flushing and ~~disinfection~~ sanitization**

A water tank, pump, and hoses shall be flushed and sanitized before being placed in service after construction, repair, modification, and periods of nonuse.

#### **310:257-9-45. Capacity and drainage**

A sewage holding tank in a mobile or seasonal food establishment shall be:

- (1) Sized fifteen percent (15%) larger in capacity than the water supply tank; ~~and~~
- (2) Sloped to a drain that is twenty-five (25) mm (one (1) inch) in inner diameter or greater, equipped with a shut-off valve.; ~~and~~
- (3) If connected to a permanent water supply, the establishment shall be connected to a permanent sewage system.

#### **310:257-9-47. Backflow prevention**

- (a) Except as specified in (b) through (d) of this Section, a direct connection ~~may~~ shall not exist between the sewage system and a drain originating from equipment in which food, portable equipment, or utensils are placed.
- (b) Subsection (a) of this Section does not apply to floor drains that originate in refrigerated spaces that are constructed as an integral part of the building.
- (c) 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.
- (d) If allowed by law, a warewashing ~~or~~ culinary sink may have a direct connection.

#### **310:257-9-48. Grease trap**

If used, a grease trap or interceptor shall be located to be easily accessible for cleaning.

#### **310:257-9-49. Conveying sewage**

Sewage shall be conveyed to the point of disposal through ~~a sanitary~~ 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.

#### **310:257-9-52. Approved sewage disposal system**

Sewage shall be disposed through an approved facility that is:

- (1) A public sewage treatment plant; or
- (2) An individual ~~on-site~~ sewage disposal system that is sized, constructed, maintained, and operated according to law.

#### **310:257-9-53. Other liquid wastes and rainwater**

Condensate drainage and other non-sewage liquids and rainwater shall be drained from point of discharge to disposal according to law.

#### **310:257-9-58. Receptacles in vending machines**

A refuse receptacle ~~may~~ shall not be located within a vending machine, except that a receptacle for beverage bottle crown closures may be located within a vending machine.

#### **310:257-9-63. 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 so 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~~ shall not create a public health hazard or nuisance or interfere with the cleaning of adjacent space.

#### **310:257-9-66. Outside storage prohibitions**

(a) Except as specified in (b) of this Section, refuse receptacles not meeting the requirements specified under OAC 310:257-9-57(a) such as receptacles that are not rodent-resistant, unprotected plastic bags and paper bags, or baled units that contain materials with food residue ~~may~~ shall not be stored outside.

(b) Cardboard or other packaging material that does not contain food residues and that is awaiting regularly scheduled delivery to a recycling or disposal site may be stored outside without being in a covered receptacle if it is stored so that it does not create a rodent harborage problem.

#### **310:257-9-70. Cleaning receptacles**

(a) Receptacles and waste handling units for refuse, recyclables, and returnables shall be thoroughly cleaned in a way that does not contaminate food, equipment, utensils, linens, or single-service and single-use articles, and waste water shall be disposed of as specified under OAC 310:257-9-~~50~~ 49.

(b) Soiled receptacles and waste handling units for refuse, recyclables, and returnables shall be cleaned at a frequency necessary to prevent them from developing a buildup of soil or becoming attractants for insects and rodents.

### **SUBCHAPTER 11. PHYSICAL FACILITIES**

#### **310:257-11-1. Indoor areas, surface characteristics**

(a) Except as specified in (b) of this Section, 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. In food preparation and warewashing areas, the Light Reflectivity Value (LRV) of walls and ceiling surfaces shall be fifty percent (50%) or greater to aid in thorough cleaning of these areas.
  - (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, ~~employee~~ toilet rooms, mobile food establishment servicing areas, and areas subject to flushing or spray cleaning methods.
- (b) In a temporary food establishment:
- (1) If graded to drain, a floor may be concrete, machine-laid asphalt, or dirt or gravel if it is covered with mats, removable platforms, duckboards, or other suitable approved materials that are effectively treated to control dust and mud; and
  - (2) Walls and ceilings ~~may shall~~ be constructed of a material that protects the interior from the weather and windblown dust and debris.

#### **310:257-11-2. Outdoor areas, surface characteristics**

- (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 buildings and mobile food ~~service~~ establishments shall be of weather-resistant materials and shall comply with law.
- (c) ~~Outdoor storage areas for refuse, recyclables, or returnables shall be of materials specified under OAC 310:257-9-55 and OAC 310:257-9-56.~~

#### **310:257-11-3. Floors, walls, and ceilings**

Except as allowed in OAC 310:257-11-6, and except for antislip floor coverings or applications that may be used for safety reasons, floors, floor coverings, walls, wall coverings, and ceilings shall be designed, constructed, and installed so they are smooth and easily cleanable.

#### **310:257-11-4. Floors, walls, and ceilings, utility lines**

- (a) Utility service lines and pipes ~~may shall~~ 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 shall~~ not be installed on the floor.

#### **310:257-11-5. 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 larger than one (1) mm (one thirty-second 1/32 inch).
- (b) The floors in food establishments in which water flush cleaning methods are used shall be provided with drains, and be graded to drain, and the floor and wall junctures shall be coved and sealed.

#### **310:257-11-6. Floor carpeting, restrictions and installation**

- (a) A floor covering such as carpeting or similar material ~~may shall~~ not be installed as a floor covering in food preparation areas, walk-in refrigerators, warewashing areas, toilet room areas where handwashing lavatories, toilets, and urinals are located, refuse storage rooms, or other areas where the floor is subject to moisture, flushing, or spray cleaning methods.
- (b) If carpeting is installed as a floor covering in areas other than those specified under (a) of this Section, it shall be:
  - (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.

#### **310:257-11-10. Walls and ceilings, studs, joists, and rafters**

Studs, joists, and rafters ~~may shall~~ not be exposed in areas subject to moisture. This requirement does not apply to temporary food establishments.

#### **310:257-11-13. Insect control devices, design and installation**

(a) Insect control devices that are used to electrocute or stun flying insects shall be designed to retain the insect within the device.

(b) Insect control devices 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 being impelled onto or falling on exposed food; clean equipment, utensils, ~~and~~ linens; and unwrapped single-service and single-use articles.

#### **310:257-11-14. Toilet rooms, enclosed**

Except where a toilet room is located outside a food establishment and does not open directly in the food establishment such as a toilet room that is provided by the management of a shopping mall, a ~~A~~ toilet room located on the premises shall be completely enclosed and provided with a tight-fitting and self-closing door, except for the following situations:

- (1) when a toilet room is located outside of the food establishment and does not open directly into the food establishment, such as a toilet room provided by the management of a shopping mall; or
- (2) when a toilet room that utilizes an offset entrance maze:
  - (1) protects exposed food, clean equipment, utensils, linens; and unwrapped single-service and single-use articles to contamination, and
  - (2) offensive odors are controlled.

#### **310:257-11-15. Outer openings, protected**

(a) Except as specified in (b), (c), ~~and~~ (d) and (e) of this Section, outer openings of a food establishment 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.

(b) Paragraph (a) of this Section does not apply if a food establishment opens into a larger structure, such as a mall, airport, or office building, or into an attached structure, such as a porch, and the outer openings from the larger or attached structure are protected against the entry of insects and rodents.

(c) Exterior doors used as exits need not be self-closing if they are:

- (1) Solid and tight-fitting;
- (2) Designated for use only when an emergency exists, by the fire protection authority that has jurisdiction over the food establishment; and
- (3) Limited-use so they are not used for entrance or exit from the building for purposes other than the designated emergency exit use.

(d) Except as specified in (b) and (e) of this Section, if the windows or doors of a food establishment, or of a larger structure within which a food establishment is located, are kept open for ventilation or other purposes or a temporary food establishment is not provided with windows and doors as specified under (a) of this Section, the openings shall be protected against the entry of insects and rodents by:

- (1) 16 mesh to 25.4mm (16 mesh to 1 inch) screens; or
- (2) Properly ~~designed and~~ installed air curtains to control which adequately exclude flying insects; or
- (3) Other effective means.

(e) Paragraph (d) 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 conditions.

**310:257-11-20. Outdoor refuse areas, curbed and graded to drain**

Outdoor refuse areas shall be constructed in accordance with law and shall be and graded to drain to collect and dispose of liquid waste that result from the refuse and from cleaning the area and waste receptacles.

**310:257-11-21. 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 shall may not be used for conducting food establishment operations.

**310:257-11-23. Handwashing facilities, minimum number [REVOKED]**

Handwashing facilities shall be provided OAC 310:257-9-18 as specified.

**310:257-11-24. Handwashing cleanser, availability**

Each handwashing lavatory sink or group of 2 two (2) adjacent lavatories sinks shall be provided with a supply of hand cleaning liquid, powder, or bar soap.

**310:257-11-25. Hand drying provision**

(a) Each handwashing lavatory sink or group of adjacent lavatories sinks shall be provided with at least one of the following:

- (1) Individual, disposable towels;
- (2) A continuous towel system that supplies the user with a clean towel; or
- (3) A heated-air hand drying device; or
- (4) A hand drying device that employs an air-knife system that delivers high velocity, pressurized air at ambient temperatures.

(b) Except as provided in (a)(3) and (a)(4) of this Section, no hand drying device shall be allowed in food preparation areas.

**310:257-11-26. Handwashing aids and devices, use restrictions**

A sink used for food preparation or utensil washing, or a service sink or curbed cleaning facility used for the disposal of mop water or similar wastes, may shall not be provided with the handwashing aids and devices required for a handwashing lavatory sink as specified under OAC 310:257-11-24 and OAC 310:257-11-25 and OAC 310:257-9-60(c).

**310:257-11-28. Disposable towels, waste receptacle [REVOKED]**

A handwashing lavatory or group of adjacent lavatories that is provided with disposable towels shall be provided with a waste receptacle as specified under OAC 310:257-9-60(e).

**310:257-11-29. Toilets and urinals, minimum number [REVOKED]**

Toilets and urinals shall be provided as specified under OAC 310:257-9-19.

**310:257-11-34. Service sinks, availability [REVOKED]**

A service sink or curbed cleaning facility shall be provided as specified under OAC 310:257-9-20.

**310:257-11-35. Handwashing facilities, conveniently located [REVOKED]**

Handwashing facilities shall be conveniently located as specified under OAC 310:257-9-23.

**310:257-11-37. Employee accommodations, designated areas**

- (a) ~~Areas designated for employees to eat, drink, and use tobacco, shall be located so that food, equipment, linens, and single service and single use articles are protected from contamination.~~
- (b) Lockers or other suitable facilities shall be located in a designated room or area where contamination of food, equipment, utensils, linens, and single-service and single-use articles cannot occur.

**310:257-11-39. Receptacles, waste handling units, and designated storage areas-[REVOKED]**

~~Units, receptacles, and areas designated for storage of refuse and recyclable and returnable containers shall be located as specified under OAC 310:257-9-63.~~

**310:257-11-42. Cleaning floors, dustless methods**

- (a) Except as specified in (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, or vomit and diarrheal events 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.

**310:257-11-44. Cleaning maintenance tools, preventing contamination**

Food preparation sinks, handwashing lavatories, and warewashing equipment ~~shall~~ 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.

**310:257-11-50. Controlling pests**

~~The presence of. The premises shall be maintained free of insects, rodents, and other pests, shall be controlled to minimize their presence within the facility and its contents and on the contiguous land or property under the control of the license holder by: Insects, rodents, and other pests shall be controlled to eliminate their presence on the premises 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 other means of pest control as specified under OAC 310:257-13-5, OAC 310:257-13-13, and OAC 310:257-13-14 and
- (4) Eliminating harborage conditions.

**310:257-11-54. Prohibiting animals**

- (a) Except as specified in (b), (c) and (d) of this Section, live animals may ~~shall~~ 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 cannot 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 and dining, 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;
  - (4) Pets in the common dining areas of institutional care facilities such as nursing homes, assisted living facilities, group homes, or residential care facilities at times other than during meals if:
    - (A) Effective partitioning and self-closing doors separate the common dining areas from food storage or food preparation areas,

- (B) Condiments, equipment, and utensils are stored in enclosed cabinets or removed from the common dining areas when pets are present, and
- (C) Dining areas including tables, countertops, and similar surfaces are effectively cleaned before the next meal service; and
- (5) In areas that are not used for food preparation, storage, sales, display, or dining, in which there are caged animals or animals that are similarly confined, such as in a variety store that sells pets or a tourist park that displays animals;
- (c) Live or dead fish bait may be stored if contamination of food; clean equipment, utensils, and linens; and unwrapped single-service and single-use articles cannot result;
- (d) Dogs and cats may be allowed in outdoor dining areas, provided the dog or cat is controlled by the owner or handler of the animal and the following conditions are met:
  - (1) A separate entrance/exit is present where pets do not enter through the food establishment to reach the ~~outdoors~~ outdoor dining area;
  - (2) No food preparation shall be allowed in the outdoor dining area, including the mixing of drinks and ice;
  - (3) Customer multi-use or reusable utensils such as plates, silverware, glasses, and bowls shall not be stored, displayed, or pre-set at the outdoor dining area;
  - (4) ~~Food Containers used to provide food~~ and water, ~~either served or provided~~ to the animal by the food establishment shall only be distributed in single-use, disposable containers;
  - (5) Employees shall be prohibited from having direct contact with the animals;
  - (6) The outdoor dining area shall be cleanable, durable and constructed of impervious materials;
  - (7) The outdoor dining areas shall be maintained to remove and eliminate any animal excrement;
  - (8) In cases where animal excrement or other animal fluids (urine, saliva, vomit) are deposited, an employee shall immediately clean and sanitize the affected areas; and
  - (9) The outdoor dining area shall not be fully enclosed. Any fully enclosed dining area shall be considered a part of the interior of the facility.
  - (10) ~~Signs are conspicuously posted indicating that pet dogs are allowed in the outdoor dining area.~~

## **SUBCHAPTER 13. POISONOUS OR TOXIC MATERIALS**

### **310:257-13-1. Identifying information, prominence**

Containers of poisonous or toxic materials, first aid supplies, medicine, and personal care items shall bear a legible manufacturer's label.

### **310:257-13-4. Presence and use, restriction**

- (a) Only those poisonous or toxic materials that are required for the operation and maintenance of a food establishment and the immediate premise, 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.

### **310:257-13-5. Conditions of use**

Poisonous or toxic materials shall be:

- (1) Used according to:
  - (A) Law and this Chapter,
  - (B) Manufacturer's use directions included in labeling, and, for a pesticide, manufacturer's label instructions that state that use is allowed in a food establishment,
  - (C) The conditions of certification, if certification is required, for use of the pest control materials, and
  - (D) Additional conditions that may be established by the Department; and
- (2) Applied so that:

- (A) A hazard to employees or other persons is not constituted, and
- (B) Contamination including toxic residues due to drip, drain, fog, splash or spray 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 items,
  - (ii) Covering the items with impermeable covers, or
  - (iii) Taking other appropriate preventive actions, and
  - (iv) Cleaning and sanitizing equipment and utensils after the application.
- (3) A restricted use pesticide shall be applied only by an applicator certified as defined in 7 USC Section 136 (e) Certified Applicator, of the Federal Insecticide, Fungicide and Rodenticide Act, or a person under the direct supervision of a certified applicator.

#### **310:257-13-6. Poisonous or toxic material containers**

A container previously used to store poisonous or toxic materials ~~may~~ shall not be used to store, transport, or dispense food.

#### **310:257-13-8. Chemicals for washing, treatment, storage, and processing of fruits and vegetables, criteria**

- (a) Chemicals, including those generated on-site, used to wash or peel raw, whole, uncut fruits and vegetables ~~or used in the treatment, storage, and processing of fruits and vegetables~~ shall:
  - (1) Be an approved food additive listed for this intended use in 21 CFR, Part 173, or
  - (2) Be generally recognized as safe (GRAS) for this intended use, or
  - (3) Be the subject of an effective food contact notification for this intended use (only effective for the manufacturer or supplier identified in the notification), and
  - (4) Meet the requirements in 40 CFR, Part 156 Labeling Requirements for Pesticide and Devices.
- (b) ~~Ozone as an antimicrobial agent used in the treatment, storage, and processing of fruits and vegetables in a food establishment shall meet the requirements specified in 21 CFR Section 173.368 Ozone.~~

#### **310:257-13-10. Drying agents, criteria**

Drying agents used in conjunction with sanitization shall:

- (1) Contain only components that are listed as one of the following:
  - (A) Generally recognized as safe for use in food as specified in 21 CFR, Part 182 - Substances Generally Recognized as Safe, or 21 CFR, Part 184 - Direct Food Substances Affirmed as Generally Recognized as Safe,
  - (B) Generally recognized as safe for the intended use as specified in 21 CFR, Part 186 - Indirect Food Substances Affirmed as Generally Recognized as Safe,
  - (C) Generally recognized as safe for the intended use as determined by experts qualified in scientific training and experience to evaluate the safety of substances added, directly or indirectly, to food as described in 21 CFR Section 170.30 Eligibility for classification as generally recognized as safe (GRAS),
  - (D) Specifically regulated as an indirect food additive for use as a drying agent as specified in 21 CFR Parts ~~175~~174-178, or
  - (E) Approved for use as a drying agent under the threshold of regulation process established by 21 CFR Section 170.39 Threshold of regulation for substances used in food-contact articles,
  - (F) Subject of an effective Food Contact Notification as described in the ~~Federal Food Drug and Cosmetic Act (FFDCA) Section 409(h)~~ 21 USC Section 348, or
  - (G) Approved for use as a drying agent under a prior sanction as described in the ~~Federal Food Drug and Cosmetic Act (FFDCA) section 201(s)(4)~~ 21 USC §301; and
- (2) When sanitization is with chemicals, the approval required as specified under (1)(C) or (1)(E) or (1)(G) of this Section or the regulation as an indirect food additive required as specified under (1)(D) of this Section, shall be specifically for use with chemical sanitizing solutions.

### **310:257-13-14. Tracking powders, pest control and monitoring**

- (a) Except as specified in (b) of this Section, a tracking powder pesticide ~~may shall~~ not be used in a food establishment.
- (b) If used, a nontoxic tracking powder such as talcum or flour ~~may shall~~ not contaminate food, equipment, utensils, linens, and single-service and single-use articles.

### **310:257-13-16. Refrigerated medicines, storage**

Medicines belonging to employees ~~or to children in a school setting~~ that require refrigeration and are stored in a food refrigerator shall be:

- (1) Stored in a package or container and kept inside a covered, ~~leakproof leak-proof~~ container that is identified as a container for the storage of medicines; and
- (2) Located so they are inaccessible to children.

## **SUBCHAPTER 15. COMPLIANCE AND ENFORCEMENT**

### **310:257-15-1. Public health protection [REVOKE]**

- (a) The regulatory authority shall apply this Chapter to promote its underlying purpose, as specified in OAC 310:257 1-2, of safeguarding public health and ensuring that food is safe, unadulterated, and honestly presented when offered to the consumer.
- (b) In enforcing the provisions of this Chapter, the regulatory authority shall assess existing facilities or equipment that were in use before the effective date of this Chapter based on the following considerations:
- (1) Whether the facilities or equipment are in good repair and capable of being maintained in a sanitary condition;
  - (2) Whether food contact surfaces comply with OAC 310:257 7-1 through OAC 310:257 7-1311;
  - (3) Whether the capacities of cooling, heating, and holding equipment are sufficient to comply with OAC 310:257 7-50; and
  - (4) The existence of a documented agreement with the license holder that the facilities or equipment will be replaced as specified under OAC 310:257 15-20(6).

### **310:257-15-2. Preventing health hazards, provision for conditions not addressed [REVOKE]**

- (a) If necessary to protect against public health hazards or nuisances, the Department may impose specific requirements in addition to the requirements contained in this Chapter that are authorized by law.
- (b) The Department shall document the conditions that necessitate the imposition of additional requirements and the underlying public health rationale. The documentation shall be provided to the license applicant or license holder and a copy shall be maintained in the Department file for the food establishment.

#### **310:257-15-2.1. Public health protection**

- (a) The regulatory authority shall apply this Chapter to promote its underlying purpose of safeguarding public health and ensuring that food is safe, unadulterated, and honestly presented when offered to the consumer.
- (b) If necessary to protect against public health hazards or nuisances, the Department may impose specific requirements in addition to the requirements contained in this Chapter that are authorized by law.
- (c) The regulatory authority shall document the conditions that necessitate the imposition of additional requirements and the underlying public health rationale. The documentation shall be provided to the license applicant or license holder and a copy shall be maintained in the Department file for the food establishment.

### **310:257-15-3. Modifications and waivers [REVOKE]**

- (a) Whenever the Department adopts new rules or amends existing language in this Chapter, the owner of a food establishment may request that a variance be granted on any nonconforming use that may then exist, on or before the effective date of the rule change, at the license holder's place of operation. Such variance shall only be granted for the term of the current license period, or less.
- (b) Variances requested pursuant to this Subchapter are subject to approval by the Department. In order to have the variance approved, a license holder must submit a written application on a form provided by the Department. Any variance request shall be deemed denied unless the license holder subsequently receives notice of approval from the Department.
- (c) If the license holder replaces the equipment or reconstructs the portion of the facility that is the subject of the variance, the new equipment or construction must conform to the rules of this Chapter.
- (d) Variances may be reviewed and reconsidered for each successive licensing period. Prior to the expiration of the current license, the licensee must apply in writing for renewal of the variance, on a form provided by the Department. The process for approval of the renewal is the same as the process for granting the original variance. Each "renewal" shall be considered a new, separate variance, and must be independently justified.
- (e) Variances are not considered to be part of the license and may be revoked at any time, for any reason, by the Department. The licensee shall not be entitled to a hearing prior to revocation, but will be provided written notice of any revocation along with instructions that the licensee must come into compliance by a date certain.

### **310:257-15-3.1. Variances and waivers**

(a) Whenever the Department adopts new rules or amends existing language in this Chapter, the owner of a food establishment may request that a waiver be granted on any nonconforming use that may then exist, on or before the effective date of the rule change, at the license holder's place of operation, based on the following considerations:

- (1) Whether the facilities or equipment are in good repair and capable of being maintained in a sanitary condition;
- (2) Whether food-contact surfaces comply with OAC 310:257-7-1 through OAC 310:257-7-13;
- (3) Whether the capacities of cooling, heating, and holding equipment are sufficient to comply with OAC 310:257-7-50; and
- (4) The existence of a documented agreement with the license holder that the facilities or equipment will be replaced as specified under OAC 310:257-15-20(6).

(b) Waivers or variances requested pursuant to this Subchapter are subject to approval by the Department. A license holder must submit a written application on a form provided by the Department. Any request shall be deemed denied unless the license holder subsequently receives notice of approval from the Department.

(c) If the license holder replaces the equipment or reconstructs the portion of the facility that is the subject of the waiver, the new equipment or construction must conform to the rules of this Chapter.

(d) Waivers or variances may be reviewed and reconsidered for each successive licensing period.

(e) Waivers or variances are not considered to be part of the license and may be revoked at any time, for any reason, by the Department. The licensee is not entitled to a hearing prior to revocation, but will be provided written notice of any revocation along with instructions that the licensee must come into compliance by a certain date.

### **310:257-15-4. Documentation of proposed waiver or variance and justification**

(a) Waiver or Variance requests are subject to review by the Department. During this process, the inspector regulatory authority may confirm the following in writing:

- (1) The nature and extent of the any nonconforming use;
- (2) That the equipment or portion of the facility in question is in an operable and sanitary condition, and can be maintained in satisfactory condition during the term of the variance waiver; and

- (3) That no public health threats or food-related illness will result if the waiver or variance is granted.  
(b) If a HACCP plan is required, as specified in OAC 257-15-8, the license holder must supply the inspector regulatory authority with the information specified in OAC 310:257-15-9 as it is relevant to the variance requested. The relevant information must be provided prior to approval of the variance.

#### **310:257-15-5. Conformance with approved procedures**

If the regulatory authority Department grants a variance as specified in OAC 310:257-15-3.1, or a HACCP plan is otherwise required as specified under OAC 310:257-15-8, the license holder shall:

- (1) Comply with the HACCP plans and procedures that are submitted as specified under OAC 310:257-15-9 and approved as a basis for the variance modification or waiver, and
- (2) Maintain and provide to the regulatory authority, upon request, records specified under OAC 310:257-15-9(4) and (5) and 6(B) that demonstrate that the following are routinely employed;
  - (A) Procedures for monitoring critical control points,
  - (B) Monitoring of the critical control points,
  - (C) Verification of the effectiveness of an operation or process, and
  - (D) Necessary corrective actions if there is failure at a critical control point.

#### **310:257-15-6. When Plans are required**

A license applicant or license holder shall submit to the Department, payment of plan review fees and properly prepared plans and specifications for review and approval before:

- (1) The construction of a food establishment;
- (2) The conversion of an existing structure for use as a food establishment; or
- (3) The remodeling of a food establishment or a change of type of food establishment or food operation as specified under OAC 310:257-15-15(3)(C) and (D); or
- (4) If the regulatory authority Department determines that plans and specifications are necessary to ensure compliance with this Chapter.

#### **310:257-15-7. Contents of the Plans and Specifications**

The plans and specifications for a food establishment, including a food establishment specified under OAC 310:257-15-8, shall include, as required by the Department based on the type of operation, type of food preparation, and foods prepared, the following information to demonstrate conformance with Code provisions:

- (1) Intended menu;
- (2) Anticipated volume of food to be stored, prepared, and sold or served;
- (3) Proposed equipment types, manufacturer and model numbers (if available);
- (4) Proposed floor plan;
- (5) Evidence that standard operating procedures that ensure compliance with the requirements of this Chapter are developed or are being developed; and
- (6) Other information that may be required by the Department regulatory authority for the proper review of the proposed construction, conversion or modification, and procedures for operating a food establishment.

#### **310:257-15-8. When a HACCP plan is required**

(a) Before engaging in an activity that requires a HACCP plan, a license applicant or license holder shall submit to the regulatory authority Department for approval a properly prepared HACCP plan as specified under OAC 310:257-15-9 and the relevant provisions of this Chapter if:

- (1) Submission of a HACCP plan is required according to law;
- (2) A variance is required as specified under OAC 310:257-5-63, OAC 310:257-7-35(b), or OAC 310:257-5-46 (d)(3) (4); or

- (3) The Department regulatory authority determines that a food preparation or processing method requires a variance based on a plan submittal specified under OAC 310:257-15-7, an inspectional finding, or a variance request.
- (b) A license applicant or license holder shall have a properly prepared HACCP plan as specified under OAC 310:257-5-64 Before engaging in reduced oxygen packaging without a variance as specified under OAC 310:257-5-64, a license applicant or license holder shall submit a properly prepared HACCP plan to the Department.

### **310:257-15-9. Contents of a HACCP plan**

For a food establishment that is required under OAC 310:257-15-8 to have a HACCP plan, the plan and specifications shall indicate:

- (1) The name of the license applicant or holder, the food establishment address, and contact information.
- (1)(2) A categorization of the types of potentially hazardous Time/Temperature Control for Safety foods that are specified in the menu such as soups and sauces, salads, and bulk, solid foods such as meat roasts, or of other foods that are specified by the Department to be controlled under the HACCP plan;
- (2)(3) A flow diagram or chart for each by specific food or category type identifying that identifies critical control points and providing information on the following:
- (A) Ingredients, materials, and equipment used in the preparation of that food Each step in the process, and
  - (B) Formulations or recipes that delineate methods and procedural control measures that address the food safety concerns involved The hazards and controls for each step in the flow diagram or chart;
  - (C) The steps that are CCPs;
  - (D) The ingredients, materials, and equipment used in the preparation of that food; and
  - (E) Formulations or recipes that delineate methods and procedural control measures that address the food safety concerns involved.
- (3)(4) Food employee and supervisory training plan that addresses the food safety issues of concern;
- (4)(5) A statement of standard operating procedures for the plan under consideration including clearly identifying: A CCP summary for each specific food or category type that clearly identifies:
- (A) Each critical control point CCP,
  - (B) The critical limits for each critical control point CCP,
  - (C) The method and frequency for monitoring and controlling each critical control point CCP by the food employee designated by the person in charge,
  - (D) 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 CCPs,
  - (E) Action to be taken by the person in charge if the critical limits for each critical control point CCP are not met, and
  - (F) Records to be maintained by the person in charge to demonstrate that the HACCP plan is properly operated and managed; and
- (5) Additional scientific data or other information, as required by the Department, supporting the determination that food safety is not compromised by the proposal.
- (6) Supporting documents such as:
- (A) Copies of blank records forms that are necessary to implement the HACCP plan;
  - (B) Additional scientific data or other information, as required by the Department, supporting the determination that food safety is not compromised by the proposal.
- (7) Any other information required by the Department.

### **310:257-15-10. Trade secrets**

The regulatory authority shall treat as confidential ~~in accordance with law~~, information that meets the criteria specified in law for a trade secret and is contained on inspection ~~report reports forms~~ and ~~in the~~ any plans and specifications submitted as specified under OAC 310:257 15-7 and OAC 310:257 15-9.

### **310:257-15-11. Preoperational inspections**

The ~~Department~~ ~~regulatory authority~~ shall ~~may~~ conduct one or more preoperational inspections to verify that the food establishment is constructed and equipped in accordance with the approved plans and approved modifications of those plans, has established standard operating procedures as specified under OAC 310:257-15-7(5), and is in compliance with law and this Chapter.

### **310:257-15-13. Form of submission and contents of application**

A person desiring to operate a food ~~service~~ establishment shall submit to the regulatory authority a written application for a license on a form provided by the ~~regulatory authority Department~~. The application will include at a minimum:

- (1) The name, mailing address, telephone number, e-mail address, and signature of the person applying for the license and the name, mailing address, and physical location of the food establishment;
- (2) Information specifying whether the food establishment is owned by an association, corporation, individual, partnership, or other legal entity.

### **310:257-15-14. Qualifications and responsibilities of applicants**

To qualify for a license, an applicant shall:

- (1) Be an owner of the food establishment or an officer of the legal ownership;
- (2) Comply with the requirements of this Chapter;
- (3) ~~As specified under OAC 310:257 15-23, agree to allow~~ Allow access to the food establishment and ~~to~~ provide required information; and
- (4) Pay the applicable license fees at the time the application is submitted.

### **310:257-15-15. Contents of the application [REVOKE]**

The application shall include:

- (1) ~~The name, mailing address, telephone number, approximate number of employees, and signature of the person applying for the license and the name, mailing address, and location of the food establishment;~~
- (2) Information specifying whether the food establishment is owned by an association, corporation, individual, partnership, or other legal entity;
- (3) ~~The Department shall issue a license to the applicant after:~~
  - (A) ~~A properly completed application is received;~~
  - (B) ~~The required fees are received;~~
  - (C) ~~The plans, specifications, and information, if applicable, are reviewed; and~~
  - (D) ~~A pre-licensing inspection shows that the establishment is built or remodeled in accordance with the approved plans and specifications and that the establishment is in compliance with this Chapter and meets the Department's criteria for a license; or any~~
  - (E) ~~Other information required by the Department.~~

### **310:257-15-16. New, converted, or remodeled establishments**

For food establishments that are required to submit plans as specified under OAC 310:257-15-6 the Commissioner of Health shall issue a license to the applicant after:

- (1) A properly completed application is submitted;
- (2) ~~The All required fee is submitted fees are received;~~
- (3) The required plans, specifications, and information are reviewed and approved; and

(4) A preoperational inspection ~~if required as specified under OAC 310:257-15-11~~ shows that the establishment is built or remodeled in accordance with the approved plans and specifications and that the establishment is in compliance with this Chapter.

#### **310:257-15-17. Existing establishments, license renewal, and change of ownership**

The Commissioner of Health may renew a license for an existing food establishment or may issue a license to a new owner of an existing food establishment after a properly completed application is submitted, reviewed, and approved, the fees are ~~paid received~~, and an inspection shows that the establishment is in compliance with this Chapter.

#### **310:257-15-18. Denial of application for license, notice**

If an application for a license to operate is denied, the regulatory authority shall provide the applicant with a notice that includes:

- (1) The specific reasons and Chapter citations for the license denial; ~~and~~
- (2) The actions, if any, that the applicant must take to qualify for a license; ~~and~~,
- (3) ~~Advisement of the applicant's right of appeal and the process and time frames for appeal that are provided in law.~~

#### **310:257-15-19. Responsibilities of the Department regulatory authority**

(a) ~~At the time a license is first issued, the~~ The regulatory authority Department shall provide make available to the license holder a copy of this Chapter via the Oklahoma State Department of Health website so that the license holder is notified of the compliance requirements and the conditions of retention, ~~as specified under OAC 310:257-15-20,~~ that are applicable to the license.

(b) Failure to provide the information specified in (a) of this Section does not prevent the regulatory authority from taking authorized action or seeking remedies if the license holder fails to comply with this Chapter or an order, warning, or directive of the regulatory authority Department.

#### **310:257-15-20. Responsibilities of the license holder**

Upon acceptance of the license issued by the Commissioner of Health, the license holder in order to retain the license shall:

- (1) Post the license in a conspicuous location in the food establishment ~~that is conspicuous to consumers;~~
- (2) Comply with the provisions of this Chapter ~~including the conditions of a granted variance as specified under OAC 310:257-15-5, and approved plans as specified under OAC 310:257-15-7;~~
- (3) ~~If a food establishment is required under OAC 310:257-15-8 to operate under a HACCP plan, comply with the plan as specified under OAC 310:257-15-5;~~
- (4) ~~Immediately discontinue operations and notify the Department if an imminent health hazard may exist as specified under OAC 310:257-15-32;~~
- (5) ~~Allow representatives of the Department access to the food establishment as specified under OAC 310:257-15-23;~~
- (6) ~~Replace existing facilities and equipment specified in OAC 310:257-15-1 with facilities and equipment that comply with this Chapter if:  
(A) The Department directs the replacement because the facilities and equipment constitute a public health hazard or nuisance or no longer comply with the criteria upon which the facilities and equipment were accepted;  
(B) The Department directs the replacement of the facilities and equipment because of a change of ownership, or  
(C) The facilities and equipment are replaced in the normal course of operation;~~
- (7) ~~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 or in response to community emergencies;~~

(8)(4) Accept notices issued and served by the Department according to law;

(9)(5) Be subject to the administrative, civil, injunctive, and criminal remedies as authorized in by law for failure to comply with this Chapter or a directive of the Department, including time frames for corrective actions specified in inspection reports, notices, orders, warnings, and other directives; and

(10)(6) If applicable, submit the annual renewal application and pay all renewal license and late fees.

### **310:257-15-21. Licenses not transferable**

A license ~~may not~~ cannot be transferred from one ~~person~~ license holder to another ~~person~~, ~~from one food establishment to another~~, from one physical address to another, ~~from one corporation to another~~, ~~from one limited liability company or corporation to another~~, ~~from one partnership to another~~ or from one type of operation to another if the food operation changes from the type of operation specified in the application ~~under OAC 310:257-15-15(3)~~ and the change in operation is not approved.

### **310:257-15-22. Competency of inspectors**

An authorized representative of the Department who inspects a food establishment or conducts plan review for compliance with this Chapter shall have the knowledge, skills, and ability to adequately perform the required duties and be licensed pursuant to 59 O.S. Sections 1150.1 et seq. (Oklahoma Sanitarian and Environmental Specialist Registration Act).

### **310:257-15-23. Allowed at reasonable times after due notice**

After the ~~Department~~ regulatory authority 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~~ regulatory authority to determine if the food establishment is in compliance with this Chapter by allowing access to the establishment, allowing inspection, and providing information and records specified in this Chapter and to which the ~~Department~~ regulatory authority is entitled according to law, during the food establishment's hours of operation and other reasonable times.

### **310:257-15-24. Refusal, notification of right to access, and final request for access**

If a person denies access to the ~~Department~~ the regulatory authority, ~~then the Department~~ the regulatory authority shall:

(1) Inform the person that:

(A) The license holder is required to allow access to the ~~Department~~ regulatory authority as specified under OAC 310:257-15-23 of this Chapter,

(B) Access is a condition of the acceptance and retention of a food establishment license to operate ~~as specified under OAC 310:257-15-20(5)~~, and

(C) If access is denied, an order issued by the appropriate authority allowing access, ~~hereinafter referred to as an inspection order~~, may be obtained according to law; and

(2) Make a final request for access.

### **310:257-15-25. Refusal, reporting**

If after the regulatory authority presents credentials and provides notice ~~as specified under OAC 310:257-15-23~~, explains the authority upon which access is requested, and makes a final request for access ~~as specified in OAC 310:257-15-24~~, the person in charge continues to refuse access, the regulatory authority shall provide record details of the denial of access on an inspection report form.

### **310:257-15-26. Inspection order Order to gain access**

If denied access to a food establishment for an authorized purpose and after complying with OAC 310:257-15-24, the Department may issue, or apply for the issuance of, an inspection order to gain access as provided in law.

### **310:257-15-27. Documenting information and observations**

The regulatory authority Department shall document on an inspection report form:

- (1) Administrative information about the food establishment's legal identity, ~~street and mailing addresses physical location, type of establishment and operation as specified~~, inspection date, and other information such as type of water supply and sewage disposal, status of the license, and personnel certificates that may be required; and
- (2) Specific factual observations of violative conditions or other deviations from this Chapter that require correction by the license holder including:
  - (A) Failure of the person in charge to demonstrate the knowledge of foodborne illness prevention, application of HACCP principles, and the requirements of this Chapter ~~specified under OAC 310:257-3-2~~,
  - (B) Failure of food employees to demonstrate their knowledge of their responsibility to report a disease or medical condition ~~as specified under OAC 310:257-3-7~~,
  - (C) Nonconformance with priority or priority foundation items of this Chapter,
  - (D) Failure of the appropriate food employees to demonstrate their knowledge of, and ability to perform in accordance with, the procedural, monitoring, verification, and corrective action practices required by the Department ~~as specified under OAC 310:257-15-5~~,
  - (E) Failure of the person in charge to provide records required by the Department regulatory authority for determining conformance with a HACCP plan ~~as specified under OAC 310:257-15-9(4)(F)~~, and
  - (F) Nonconformance with critical limits of a HACCP plan.

### **310:257-15-28. Specifying time frame for corrections [REVOKE]**

~~The regulatory authority shall specify on the inspection report form the time frame for correction of the violations as specified under OAC 310:257-15-32, OAC 310:257-15-34, and OAC 310:257-15-36.~~

### **310:257-15-29. Issuing report and obtaining acknowledgment of receipt**

At the conclusion of the inspection ~~and according to law~~, the regulatory authority shall provide a copy of the completed inspection report ~~and the notice to correct violations~~ to the license holder or to the person in charge, and request a signed acknowledgment of receipt.

### **310:257-15-30. Refusal to sign acknowledgment**

The Department regulatory authority shall:

- (1) Inform a person who declines to sign an acknowledgment of receipt of inspectional findings as specified under OAC 310:257-15-29:
  - (A) An acknowledgment of receipt is not an agreement with findings,
  - (B) Refusal to sign an acknowledgment of receipt ~~will~~ does not affect the license holder's obligation to correct the violations noted in the inspection report within the required timeframes specified, and
  - (C) A refusal to sign an acknowledgment of receipt is noted in the inspection report and conveyed to the Department's historical record for the food establishment; and
- (2) Make a final request that the person in charge sign an acknowledgment receipt of inspectional findings.

### **310:257-15-31. Public information**

Except as specified in OAC 310:257-15-10, the regulatory authority Department shall treat the inspection report as a public document and shall make it available for disclosure to a person who requests it as provided in law.

### **310:257-15-32. Ceasing operations and reporting**

(a) Except as specified in (b) of this Section, a license holder shall immediately discontinue operations and notify the regulatory authority if an imminent health hazard ~~exists may exist~~ because of an emergency such as a fire, flood, sewage backup, ~~no hot water in the facility~~, insufficient refrigeration and/or hot food storage facilities available, substantial evidence or presence of a large number of insects, or evidence of rodents in food or on food preparation surfaces, interruption of safe potable water supply to the facility, misuse of poisonous or toxic materials, onset of an apparent foodborne illness outbreak, interruption of electrical service for more than ~~4 four (4)~~ hours, severe structural damage in the facility, an employee working with a *Salmonella*, *Shigella*, *E. coli* 0157:H7 *Shiga toxin-producing Escherichia coli* or Hepatitis A infection, gross unsanitary occurrence or condition, or other circumstance as determined by the Commissioner of Health, or his designee, that ~~shall 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.

(c) Considering the nature of the potential hazard involved and the complexity of the corrective action needed, the ~~regulatory authority Department~~ may agree to continuing operations in the event of an extended interruption of electrical or water service if:

- (1) A written emergency operation plan has been approved;
- (2) Immediate corrective action is taken to eliminate, prevent, or control any food safety risk and imminent health hazard associated with the electrical or water service interruption; and
- (3) The ~~Regulatory Authority Department~~ is informed upon implementation of the written emergency operating plan.

#### **310:257-15-34. Timely correction**

(a) Except as specified in (b) of this Section, a license holder shall at the time of inspection correct a priority or priority foundation violation of this Chapter and implement corrective actions for a HACCP plan provision that is not in compliance with its critical limit.

(b) Considering the nature of the potential hazard involved and the complexity of the corrective action needed, the ~~Department regulatory authority~~ may agree to or specify a longer time frame, not to exceed 10 calendar days after the inspection, for the license holder to correct priority or priority foundation Code violations or HACCP plan deviations.:.

- (1) Seventy two (72) hours after the inspection, for the license holder to correct violations of a priority item; or
- (2) Ten (10) calendar days after the inspection, for the license holder to correct violations of a priority foundation item or HACCP Plan deviations.

(c) If corrections are not made according to OAC 310:257-15-34(a) and (b) of this section, then the facility is subject to enforcement action.

#### **310:257-15-35. Verification and documentation of correction**

(a) After observing at the time of inspection a correction of a priority or priority foundation violation or HACCP deviation, the ~~Department regulatory authority~~ shall enter the violation and information about the corrective action on the inspection report.

(b) As specified under OAC 310:257-15-34(b), after ~~After~~ receiving notification that the license holder has corrected a priority or priority foundation violation or HACCP plan deviation, or at the end of the specified period of time, the ~~Department regulatory authority~~ shall verify correction of the violation, document the information on an inspection report, and enter the report in the Department's records.

#### **310:257-15-36. Time frame for correction**

(a) Except as specified in (b) of this Section, the license holder shall correct violations that are Core ~~not priority or priority foundation~~ items by a date and time agreed to or specified by the ~~Department regulatory authority~~ but no later than ~~90~~ ninety (90) calendar days after the inspection.

- (b) The Department may approve a compliance schedule that extends beyond the time limits specified under (a) of this Section if a written schedule of compliance is submitted by the license holder and no health hazard exists or will result from allowing an extended schedule for compliance.
- (c) If corrections are not made according to ~~OAC 310:257-15-36(a)~~ and (b) of this section, then the facility is subject to enforcement action.

**310:257-15-37. Obtaining information: personal history of illness, medical examination, and specimen analysis**

The ~~regulatory authority~~ Department shall act when it has reasonable cause to believe that a food employee or conditional 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:

- (1) Securing a confidential medical history of the food employee or conditional employee suspected of transmitting disease or making other investigations as deemed appropriate; and
- (2) Requiring appropriate medical examinations, including collection of specimens for laboratory analysis, of a suspected food employee or conditional employee and other employees.

**310:257-15-38. Restriction or exclusion of food employee, or conditional employee, or summary suspension of license**

Based on the findings of an investigation related to a food employee or conditional 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:

- (1) Restricting the food employee or conditional employee;
- (2) Excluding the food employee or conditional employee; or
- (3) Closing the food establishment by summarily suspending a license to operate ~~in accordance with law~~.

**310:257-15-39. Restriction or exclusion order: warning or hearing not required, information required in order**

Based on the findings of the investigation ~~as specified in OAC 310:257-15-37~~ and to control disease transmission, the ~~regulatory authority~~ 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:

- (1) States the reasons for the restriction or exclusion that is ordered;
- (2) 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;
- (3) 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
- (4) Provides the name and address of the ~~regulatory authority~~ Department representative to whom a request for an appeal hearing may be made.

**310:257-15-41. Priority items and priority foundation items**

- (a) **Priority items.** The Department shall treat as a priority item any requirement in the following sections of ~~OAC 310-257: 3-4(a, c, d, f); 3-5; 3-6; 3-9; 3-10(b); 3-12; 3-14(a)(2)(E); 5-1; 5-2(a, b), (e)(3)(A); 5-3; 5-4; 5-5; 5-6; 5-7(a); 5-8; 5-9(a, c, d); 5-10; 5-11; 5-12; 5-14; 5-18(a)(2); 5-21(b); 5-22; 5-23(a)(1, 2); 5-25; 5-26; 5-28; 5-30; 5-34(a); 5-36(a), (b)(1); 5-41; 5-43(a); 5-44(a); 5-46(a), (b)(1); 5-48.1(1, 2, 3, 4, 5); 5-49(a); 5-52 (a, b, c, d); 5-53(1); 5-57; 5-59(a, b); 5-61; 5-62(b)(1, 3, 4), (c)(4, 5); 5-64(a), (b)(4), (c), (d)(2)(B, C, D, E), (e)(1); 5-70(a, b, c, d); 5-71(1, 2, 3, 4, 5); 7-1(1); 7-3; 7-4(a); 7-5; 7-7; 7-12(1)(A), (2)(A); 7-14; 7-28(5); 7-35(a); 7-36; 7-40(1); 7-72; 7-75(1, 2, 3, 4, 5), (6)(A, B); 7-79; 7-83(a, c); 7-94; 7-95;~~

9-1; 9-2; 9-5; 9-12; 9-13(a); 9-15; 9-16; 9-21; 9-22(a); 9-27(a); 9-29, 9-30(1); 9-31(1); 9-37(1); 9-38; 9-41; 9-44(a); 9-47(a); 9-49; 9-52; 11-21; 13-3; 13-5(1, 2); 13-6; 13-7; 13-8; 13-9; 13-10; 13-11; 13-12; 13-13; 13-14(a); 13-15(b); 13-16; 13-17(2); 13-19; 15-5(1); 15-12; 15-32(a); 17-1(d); 17-2(c)(3), (d)(1, 3); 17-5(b, d)310:257 3 4; 310:257 3 5; 310:257 3 6; 310:257 3 9; 310:257 3 10; 310:257 3 12; 310:257 5 1; 310:257 5 2(a and b); 310:257 5 3; 310:257 5 4; 310:257 5 5; 310:257 5 6; 310:257 5 7(a); 310:257 5 8(a); 310:257 5 9(a through d); 310:257 5 10; 310:257 5 11; 310:257 5 12; 310:257 5 14; 310:257 5 18(a)(2); 310:257 5 21(b); 310:257 5 22; 310:257 5 23(a)(1 and 2); 310:257 5 25; 310:257 5 26; 310:257 5 28; 310:257 5 30; 310:257 5 34(a); 310:257 5 41; 310:257 5 43(a); 310:257 5 44(a); 310:257 5 46(a)(1 through 3), (b)(12), and (e); 310:257 5 48.1(1 through 5); 310:257 5 49(a); 310:257 5 52(a through d); 310:257 5 53(1); 310:257 5 57; 310:257 5 59(a) and (b); 310:257 5 61; 310:257 5 62(b)(1, 3, and 4), and (c)(1, 4 and 5); 310:257 5 64(a), (b)(4), (c), and (d)(2)(C through E); 310:257 5 70; 310:257 5 71; 310:257 7 1; 310:257 7 3; 310:257 7 4(a); 310:257 7 5; 310:257 7 7; 310:257 7 12(A) and (2)(A); 310:257 7 14; 310:257 7 28(5); 310:257 7 35(a); 310:257 7 36; 310:257 7 72; 310:257 7 75; 310:257 7 79; 310:257 7 83(a and e); 310:257 7 92(a); 310:257 7 94; 310:257 7 95; 310:257 9 1; 310:257 9 2; 310:257 9 3; 310:257 9 4; 310:257 9 5; 310:257 9 12; 310:257 9 13(a); 310:257 9 15; 310:257 9 16; 310:257 9 21; 310:257 9 27(a); 310:257 9 29; 310:257 9 30(1); 310:257 9 31(1); 310:257 9 37(1); 310:257 9 38; 310:257 9 41; 310:257 9 44(a); 310:257 9 47(a); 310:257 9 49; 310:257 9 52; 310:257 11 21; 310:257 13 3; 310:257 13 5(1 and 2); 310:257 13 6; 310:257 13 7; 310:257 13 8(a); 310:257 13 9; 310:257 13 10; 310:257 13 11; 310:257 13 12; 310:257 13 13; 310:257 13 14(a); 310:257 13 15(b); 310:257 13 16; 310:257 13 17(2); 310:257 13 19; and 310:257 17 +.

(b) **Priority foundation items.** The Department shall treat as a priority foundation item any requirement in the following sections of OAC 310-257: 3-1(a, b); 3-2; 3-3; 3-4(b, e); 3-13; 3-14(a)(1), (2)(A, B, C, D), (b, c); 3-15; 3-21(a); 3-22; 5-2(c ), (e)(1, 2), (e)(3)(B, C); 5-9(e, f); 5-13; 5-15(a); 5-16(a); 5-18(a)(1); 5-20; 5-21(c); 5-27(c); 5-43(b, c); 5-46(b)(2), (d)(2); 5-47 (3); 5-48.1(6); 5-48; 5-50(a ,c); 5-53(2); 5-58; 5-60(a, b, c); 5-62(a), (b)(2), (c)(1, 2, 3); 5-63; 5-64(b)(1, 2, 3, 5, 6), (d)(1), (2)(A, F, G, H), (d)(3,4), (e)(2, 3, 4); 5-67(b)(5); 5-69; 7-15(a); 7-16(a)(1); 7-23; 7-24; 7-35(b); 7-37(e); 7-40(2); 7-41; 7-42; 7-50; 7-51(a, b); 7-55; 7-56; 7-57; 7-58; 7-68; 7-70; 7-71; 7-73(a); 7-75(6)(C, D); 7-77; 7-78(b); 7-82(a); 9-6; 9-8; 9-9; 9-10; 9-11; 9-14(a, e); 9-18(a); 9-23; 9-26; 9-27(b); 9-28; 9-50; 11-24; 11-25; 11-30; 11-38; 11-44; 11-50(3); 11-54(a); 13-1; 13-2; 13-4(a); 13-5(3); 13-15(a); 13-17(1); 15-4; 15-5(2); 15-6; 15-9; 15-34; 17-1(g, h); 17-2(b), (c)(4), (d)(4); 17-4(b)310:257 3 1; 310:257 3 2; 310:257 3 3; 310:257 3 4(e) and (f); 310:257 3 13; 310:257 3 14; 310:257 3 15; 310:257 3 21(a); 310:257 5 2(e through e); 310:257 5 9(e) and (f); 310:257 5 13; 310:257 5 15(a); 310:257 5 16(a); 310:257 5 18(a)(1); 310:257 5 20; 310:257 5 21(e); 310:257 5 43(b) and (e); 310:257 5 46(d)(2); 310:257 5 48; 310:257 5 48.1; 310:257 5 50(a and e); 310:257 5 53(2); 310:257 5 58(a); 310:257 5 60; 310:257 5 62(a), (b)(2), (c)(2), and (c)(3); 310:257 5 63; 310:257 5 64(b)(1, 2, 3, 5, and 6); 310:257 5 64(d)(1) and (2)(A, F, G, and H); 310:257 5 64(d)(3 and 4); 310:257 5 64(e)(2, 3, and 4); 310:257 5 67(b)(5); 310:257 5 69; 310:257 7 15; 310:257 7 16(a)(1); 310:257 7 23; 310:257 7 24; 310:257 7 35(b); 310:257 7 37(e); 310:257 7 40; 310:257 7 41; 310:257 7 42; 310:257 7 50; 310:257 7 51(a) and (b); 310:257 7 55; 310:257 7 56; 310:257 7 57; 310:257 7 58; 310:257 7 68; 310:257 7 70; 310:257 7 71; 310:257 7 73(a); 310:257 7 77; 310:257 7 78(b); 310:257 7 82(a); 310:257 9 6; 310:257 9 8; 310:257 9 9; 310:257 9 10; 310:257 9 11; 310:257 9 14(a); 310:257 9 18(a); 310:257 9 23; 310:257 9 26; 310:257 9 27(b); 310:257 9 28; 310:257 9 50; 310:257 11 24; 310:257 11 25; 310:257 11 30; 310:257 11 38; 310:257 11 44; 310:257 11 50(1 through 4); 310:257 11 54(a); 310:257 13 1; 310:257 13 2; 310:257 13 4(a); 310:257 13 5(3); 310:257 13 15(a); 310:257 13 17; 310:257 15 4; 310:257 15 5(2); 310:257 15 9.

(e) **Determining need for re-inspection.** In determining if a re-inspection is required, the Department shall count a violation number only once regardless of how many separate violations under the violation number are listed on the inspection sheet.

## **SUBCHAPTER 17. MOBILE PUSHCARTS UNITS, MOBILE FOOD ESTABLISHMENTS, AND MOBILE RETAIL FOOD ESTABLISHMENTS**

### **310:257-17-1. General requirements**

- (a) The provisions of this Subchapter are specific to mobile units, which includes mobile pushcarts, mobile food establishments, and mobile retail food establishments, and are in addition to any the requirements for mobile pushearts, mobile food establishments, and mobile retail food establishments as contained in this Chapter.
- (b) Any Mobile mobile food establishments and push carts unit with open foods that sells only prepackaged food shall is not be allowed to operate without water subject to a plan review fee.
- (c) The sink system shall be made of equipment and materials intended for the use of warewashing. The sink system shall be designed and installed so that warewashing of utensils cannot be contaminated by handwashing. A mobile unit is exempt from mechanical refrigeration requirements if it is able to maintain food products at temperatures of 41°F or less and serves only prepackaged food.
- (d) Mobile retail units may sell packaged foods prepared by a facility that is in compliance with any or all of (1) through (4):
- (1) OAC 310:260 (relating to good manufacturing practices),
  - (2) United States Department of Agriculture,
  - (3) Oklahoma Department of Agriculture Food and Forestry requirements, or
  - (4) Food that is prepared in a facility which is licensed as a food establishment under this Chapter to the same owner as the mobile retail unit, provided it is not a mobile pushcart or mobile food establishment.
- (e) The name of the business and the Oklahoma State Department of Health license number shall be clearly visible on the outside of the unit, in print of no less than three inches (3") in size during hours of operation.
- (f) All mobile units shall be operated within 500 feet of a toilet facility available to employees during all hours of operation.
- (g) Mobile units shall not have an active food cooling process within the unit. All Cooling processes must take place in the licensed commissary.
- (h) Electrical network and components must be sufficient to power all required equipment at all times during operation.
- (i) An indoor or outdoor mobile pushcart shall not be required to have a three (3) compartment sink, provided that:
- (1) Only pre-packaged food is sold from the mobile pushcart; or
  - (2) If serving unpackaged food, then an adequate supply of clean utensils is available on the cart, and the utensils are washed in the licensed commissary.

### **310:257-17-2. Mobile pushcarts**

- (a) An indoor or outdoor mobile pusheart shall not cook raw meat and poultry foods Pushcarts preparing unpackaged food shall be shielded on three sides.
- (b) A mobile pusheart is exempt from mechanical refrigeration if it is able to maintain temperatures of 41°F or less as specified under OAC 310:257 5-28 and OAC 310:257 5-29 Foods sold from a pushcart are limited to:
- (1) Non-Time/Temperature Control for Safety Foods and condiments (i.e. processed cheese products, cheese, uncooked onions, and sauerkraut),
  - (2) Pre-packaged food, and
  - (3) The preparation and serving of precooked frankfurters, sausages, or other precooked, commercially processed Time/Temperature Control for Safety Foods.
- (c) An indoor mobile pusheart shall be allowed to sell open Time/Temperature Control for Safety Foods. Each indoor mobile pushcart shall:

- (1) Be limited to operating within the confines of an enclosed or protected environment such as an indoor mall, sports arena, convention center, etc.
- (2) ~~Be located within 500 feet of an approved, permanent toilet facility available during all hours of operation for employees~~ Have a commissary, licensed to the same owner as the pushcart, within the confines of the enclosed or protected environment except as specified in (c)(1) of this section .
- (3) Have a licensed commissary within the confines of the facility hand washing facilities on the pushcart or immediately adjacent to the pushcart if open food is sold.
- (4) ~~raw in a licensed food establishment that is not a mobile pusheart, mobile food establishment, or mobile retail food establishment~~ Except as specified in OAC 310:257-17-1(i), have a 3-compartment sink on the pushcart;
- (5) Have hand washing facilities as required in this Chapter on the pushcart or immediately adjacent to a pusheart;
- (6) Have mechanical hot holding units as required by this Chapter; and
- (7) An outdoor mobile pusheart shall not be required to install a three (3) compartment sink, provided that an adequate supply of clean utensils are available.
- (d) ~~Outdoor mobile pushearts shall be limited to non Time/Temperature Control for Safety Foods and condiments (i.e. processed cheese products, onions, and sauerkraut), pre packaged food, or the preparation and serving of precooked frankfurters or sausages including those made of meat and poultry and return daily to a commissary to service the unit as required by this Chapter. Each outdoor mobile pushcart shall:~~
- (1) ~~Be located within five hundred feet (500') of an approved, permanent toilet facility and available during all hours of operation for employees~~ Have hand washing facilities on the pushcart if open food is sold;
- (2) Have a licensed commissary over-head protection above food and food preparation areas;
- (3) ~~Have hand washing facilities as required in this Chapter, either on the pusheart or immediately adjacent to the pusheart~~ Except as specified in OAC 310:257-17-5(c), have a commissary, licensed to the same owner as the pushcart; and
- (4) Have mechanical hot holding units as required by this Chapter Except as specified in OAC 310:257-17-1(i), have a 3-compartment sink on the pushcart; and
- (5) An indoor mobile pusheart shall not be required to install a three (3) compartment sink, provided that an adequate supply of clean utensils are available.

### **310:257-17-3. Mobile food establishments [REVOKE]**

- (a) ~~A mobile food establishment shall have wheels and one or more axles, and shall have approval from the Oklahoma Department of Transportation for road travel.~~
- (b) ~~A mobile food establishment shall:~~
- (1) ~~Remain at one physical address for no more than twelve (12) hours, unless the mobile food establishment is parked at its commissary and not operating; or~~
- (2) ~~Shall operate and can remain stationary in conjunction with a single event or celebration.~~
- (c) ~~A mobile food establishment shall return to a commissary daily, except as established in paragraph (b)(2) of this Section, to dispose of waste water, refill with potable water, and service the mobile unit. The mobile food establishment is required to remain at the commissary for a time period necessary to adequately service the unit.~~
- (d) ~~The name of the business and the Oklahoma State Department of Health license number shall be clearly visible on the outside of the vehicle, in print of no less than three inches (3") in size during hours of operation.~~
- (e) ~~A mobile food establishment that remains less than four (4) hours at one location is exempt from the requirements under OAC 310:257-9-19.~~

#### **310:257-17-3.1. Operations of mobile units**

(a) A mobile unit shall not remain at one physical address for longer than twelve (12) hours, unless:

- (1) It is parked and is not operating for multiple days.
- (2) It is operated in conjunction with a single event or celebration.
- (3) It is parked or operated at the site of its licensed commissary.

(b) A mobile unit shall return to its commissary daily, except as established in (a) of this Section, to dispose of waste water, refill with potable water, and service the unit.

(c) Commissaries used for food production and/or utensil washing shall be licensed as a food establishment.

#### **310:257-17-4. Mobile retail food establishments**

(a) A mobile retail food establishment ~~or mobile retail pusheart can sell packaged foods prepared by a facility that is in compliance with OAC 310:260 (relating to good manufacturing practices), United States Department of Agriculture, Oklahoma Department of Agriculture Food and Forestry requirements, or food that is prepared in a facility licensed as a food establishment under this Chapter that is not a mobile pusheart or mobile food establishment~~ may sell from a stationary table, such as at an event or farmers market.

(b) ~~A~~ The mobile retail food establishment may sell from a stationary table, such as at an event or farmers market ~~shall have no personal property or hazardous items in the same compartment in which the food is transported or stored.~~

(c) ~~A~~ A mobile retail food establishment shall sell foods at one physical address for no more than twelve (12) hours.

(d) ~~The mobile retail food establishment shall have no personal property or hazardous items in the same compartment in which the food is transported or stored.~~

(e) ~~The name of the business and the Oklahoma State Department of Health license number shall be clearly visible on the outside of the mobile retail food establishment, in print of no less than three inches (3") in size during hours of operation.~~

(f) ~~A mobile retail food establishment that remains less than four (4) hours at one location is exempt from the requirements under OAC 310:257-9-19.~~

#### **310:257-17-5. Commissary and servicing area requirements**

(a) The commissary shall have:

- (1) ~~a~~ A location available for flushing and draining liquid waste ~~separate from fresh water supply and be able to dispose of water in a manner that properly collects grease laden waste water to an approved disposal system.~~
- (2) A location to refill potable water.
- (3) The ability to properly store back stock of food and single service articles separate from personal items.

(b) The commissary shall have the ability to properly store back stock of food and single service articles ~~separate from personal items~~ Commissaries used for food production and/or utensil washing shall be licensed as a food establishment to the operator of the mobile unit.

(c) Commissaries shall be licensed food establishments if used for food production and/or utensil washing ~~for sale from a mobile food establishment or mobile pusheart~~. Commissaries used only to store prepackaged foods and/or cleaning and servicing of the units shall be exempt from licensure if that commissary used only to store unopened, prepackaged, frozen or shelf stable foods and single service items and/or the cleaning and servicing of the units shall be exempt from licensure if only one (1) unit is serviced from the commissary and it is located at a residence.

(d) ~~Mobile pushearts and mobile food establishments shall return daily to a commissary for servicing and cleaning, if not associated with an event or celebration~~ Commissaries used for food preparation and utensil washing outside the state of Oklahoma shall provide proof of licensure and inspection from the jurisdiction in which they are located.

~~(e) The approved service area shall maintain safe and sanitary operations for supplies, cleaning, and servicing of the units operations.~~

**310:257-17-6. Storage [REVOKE]**

~~Single service articles and food for mobile food establishments and pushcarts shall be stored as specified under OAC 310:257-5-37(a), OAC 310:257-5-38 and OAC 310:257-7-105.~~

## APPENDIX B [NEW]

OAC 310:257-3-5	SYMPTOM/SICKNESS	HSP	NON-HSP	TO REINSTATE FOR HSP AND NON-HSP	OAC 310:257-3-6
(a)(1)	Vomiting or diarrhea	Exclude	Exclude	Asymptomatic for at least 24 hrs; <u>or</u> Dr. note.	(a)(1)
(b)(1)	Onset of jaundice occurred w/in the last 7 days, no Dr. note			Approval from OSDH and: The employee has been jaundiced for more than 7 days; <u>or</u> The employee has been symptomatic with symptoms other than jaundice for more than 14 days; <u>or</u> Dr. Note.	(b)
(b)(2)	Diagnosed with hepatitis A w/in 14 days from the onset of symptoms, or w/in 7 days of jaundice				
(b)(3)	Diagnosed with hepatitis A w/out developing symptoms				
(c)	Previous illness with Typhoid fever w/in the past 3 months			Approval from OSDH and: Dr. Note.	(c)
(f)	STEC infection and asymptomatic	Restrict		Approval from OSDH and: The employee provides a Dr. note showing free of STEC infection; <u>or</u> The employee was excluded or restricted after symptoms resolved, and 7+ days have passed since the employee became asymptomatic; <u>or</u> The employee was excluded or restricted, did not develop symptoms, and 7 + days have passed since the employee was diagnosed	(a)(4); (f)
(a)(2); (d)	Infection from Norovirus; Diagnosed with an asymptomatic infection from Norovirus			Approval from OSDH and: The employee provides a Dr. note showing free of Norovirus infection; or The employee was excluded or restricted after symptoms resolved, and 48+ hrs have passed since the employee became asymptomatic; or The employee was excluded or restricted and did not develop symptoms and 48+ hrs have passed since the employee was diagnosed	(a)(2); (d)
(a)(2); (e)	Shigella spp. infection and asymptomatic			Approval from OSDH and: The employee provides a Dr. note showing free of Shigella spp. infection; <u>or</u> The employee was excluded or restricted after symptoms resolved, and 7+ days have passed since the employee became asymptomatic; <u>or</u> The employee was excluded or restricted, did not develop symptoms, and 7 + days have passed since the employee was diagnosed	(a)(3); (e)
(h)	Symptomatic with sore throat with fever			The employee provides a Dr. note showing: Has received antibiotic therapy for Streptococcus pyogenes infection for 24+ hrs; <u>or</u> Has at least 1 negative throat culture for Streptococcus pyogenes infection; <u>or</u> Is determined by Dr. to be free of a Streptococcus pyogenes infection	(h)
(f)	Symptomatic with uncovered infected wound or pustular boil			If the infected wound is properly covered by impermeable cover and single use glove if necessary.	(i)
(j)	Exposed to foodborne pathogen & works in food establishment serving HSP	Restrict		<b>Norovirus:</b> 48+ hrs have passed since the last date of possible exposure; <u>or</u> 48+ hrs have passed since the employee's household contact became asymptomatic <b>Shigella spp. or STEC:</b> 3+ days have passed since the last date of possible exposure; <u>or</u> 3+ days have passed since the employee's household contact became asymptomatic <b>Typhoid fever (S. Typhi):</b> 14+ days have passed since the last date of possible exposure <u>or</u> 14+ days have passed since the employee's household contact became asymptomatic <b>Hepatitis A:</b> The employee is immune to hepatitis A due to prior illness, vaccination, or IgG administration, <u>or</u> 30+ days have passed since the last date of possible exposure; <u>or</u> 30+ days have passed since the employee's household contact became jaundiced; <u>or</u> The employee does not use an alternative procedure that allows bare hand contact with READY-TO- EAT FOOD until 30+ days after the potential exposure + education regarding symptoms, proper hand washing, and protecting RTE foods.	(j)
(a)(2); (g)	Nontyphoidal Salmonella infection and asymptomatic			Approval from OSDH and: The employee provides a Dr. note showing free of Salmonella (nontyphoidal) infection; <u>or</u> The employee was excluded or restricted after symptoms resolved, and 30+ days have passed since the employee became asymptomatic; <u>or</u> The employee was excluded or restricted, did not develop symptoms, and 30 + days have passed since the employee was diagnosed	(a)(5); (g)