

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

**SUBCHAPTER 1. PURPOSE AND DEFINITIONS**

**310:257-1-1. Purpose**

The rules in this Chapter implement Article 11, 63 O.S. Section 1-1101 *et seq.* The purpose is to safeguard public health and provide to consumers food that is safe, unadulterated, and honestly presented. This Chapter establishes definitions; sets standards for management and personnel, food operations, and equipment and facilities; and provides for food establishment plan review, license issuance, inspection, employee restriction, and license suspension.

**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. 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.

**" $a_w$ "** 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  $a_w$ .

**"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 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.

**"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 bandsaws, 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, 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.

**"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 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"** 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 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. 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 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 "non-drinking" water.

**"Dry storage area"** means a room or area designated for the storage of packaged or containerized bulk food that are not Time Temperature Control for Safety 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, 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 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 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-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.

**"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 Time/Temperature Control for Safety is prepared for sale or service at a function such as a religious or charitable organization's bake sale 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 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.

**"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 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, 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 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 that is away from the unit but still at the same physical address, such as a table at a fair or farmers market, for no more than 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-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.

**"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.

**"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; 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.

**"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 310:257-5-49, 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 (3); or is prepared in accordance with a variance that is granted as specified under OAC 310:257-5-46(d)(4); and may receive additional preparation for palatability or aesthetic, epicurean, gastronomic, or culinary purposes, and
- (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 310:257-5-49; 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* 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;

(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;

(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 a representative, such as an onsite inspector, of the Department..

**"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 package ice cream products, uncut raw fruits, 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*"** 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.

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

**"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 fourteen (14) consecutive days.

**"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 so that they are unable to support pathogenic microorganism growth or toxin formation; and

(ii) Except as specified in (B)(iv) of this definition, a food that because of the interaction of its aw and pH values is designated in the Product Assessment Required (PA) in Tables 1 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 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 aw or pH value, or interaction of aw and pH value, is designated as a non-TCS food as listed in Table 1 or 2 of Appendix A of this Chapter;

(iv) A food that is designated as Product Assessment Required (PA) in Table 1 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 (B)(i) - (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 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, 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, 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 United States Food and Drug Administration: National Shellfish Sanitation Program (NSSP), Guide for the Control of Molluscan Shellfish, 2017 Revision is adopted by reference;

### **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 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 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 County Free fair as defined by Title 2 O.S. §§ 15-67 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. Assignment**

- (a) Except as specified in (b) of this Section, the license holder shall be the person in charge or shall designate a person in charge and shall ensure that a person in charge is present at the food establishment during all hours of operation.
- (b) In a food establishment with two or more departments that are the legal responsibility of the same license holder and that are located on the same premises, the license holder may, during specific time periods when food is not being prepared, packaged, or served, designate a single person in charge who is present on the premises during all hours of operation, and who is responsible for the licensed food establishment.
- (c) The food establishment license holder through the certified food manager or person in charge shall develop and implement standard operating procedures that ensure compliance with OAC 310:257-15-7.

#### **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 certified food manager or person in charge shall demonstrate to the regulatory authority knowledge of foodborne disease prevention, application of the Hazard Analysis Critical Control Point principles, and the requirements of this 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) Responding correctly to the inspector's questions as they relate to the specific food operation.

The areas of knowledge include:

- (A) Describing the relationship between the prevention of foodborne disease and the personal hygiene of a food employee;
- (B) 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) 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;
- (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;
- (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;
- (10) Consumers who order raw or partially cooked ready-to-eat foods of animal origin are informed that the food is not cooked sufficiently to ensure its safety;
- (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;
- (12) Consumers are notified that clean tableware is to be used when they return to self-service areas such as salad bars and buffets;
- (13) Except when otherwise approved, 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;
- (14) Employees are properly trained in food safety, including food allergy awareness, as it relates to their assigned duties;
- (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
- (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, and employees**

(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; and is:
  - (i) On the hands or wrists, unless an impermeable cover such as a fingercot 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 illness diagnosed by a health practitioner due to:
  - (A) Norovirus,
  - (B) Hepatitis A virus,
  - (C) *Shigella* species,
  - (D) Shiga toxin-producing *Escherichia coli*,
  - (E) Typhoid fever (caused by *Salmonella Typhi*), or
  - (F) *Salmonella* (non-typhoidal);
- (3) **Reportable past illness.** Had Typhoid fever, diagnosed by a health practitioner, 17 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 confirmed disease outbreak, 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) **Responsibility of person in charge to notify the regulatory authority.** The person in charge shall notify the regulatory authority within twenty-four (24) hours or the next business day, if the facility or regulatory authority is not open the following day, when a food employee is:
  - (1) Jaundiced, or
  - (2) Diagnosed with an illness due to a pathogen as specified under (a)(2) (A) through (F) of this Section.
- (c) **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) 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).

- (d) **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 (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.
- (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.
- (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**

**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, *Salmonella (nontyphoidal)*, 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 illness with Typhoid fever.** Exclude a food employee who is diagnosed with Typhoid fever, or reports having had 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* 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.
- (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.
- (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.
- (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.

### **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.** Except when a food employee is diagnosed with an infection from hepatitis A virus:
- (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 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 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.** Reinstatement 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 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) **Typhoid Fever diagnosis - removing exclusions.** Reinstatement 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 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 Typhoid fever.
- (4) **Norovirus diagnosis - removing exclusion or restriction.** Reinstatement 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 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 stating that the food employee is free of a Norovirus infection;

(B) **Symptoms resolved and more than forty-eight (48) hours.** The food employee was excluded or restricted after symptoms of vomiting or diarrhea resolved, and more than 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) hours have passed since diagnosis.** The food employee was excluded or restricted and did not develop symptoms and more than seventy-two (72) 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 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 seven (7) days passed.** The food employee was excluded or restricted after symptoms of vomiting or diarrhea resolved, and more than 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 seven (7) days passed since diagnosis.** The food employee was excluded or restricted and did not develop symptoms and more than 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 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 seven (7) days passed.** The food employee was excluded or restricted after symptoms of vomiting or diarrhea resolved and more than 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 seven (7) days passed since diagnosis.** The food employee was excluded or restricted and did not develop symptoms and more than 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.

(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)(8)(A) or OAC 310:257-3-5(a)(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.

(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)(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.

(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)(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 forty-eight (48) hours have passed since the last day the food employee was potentially exposed; or

(ii) More than forty-eight (48) hours have passed since the food employee's household contact became asymptomatic.

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

(i) More than three (3) calendar days have passed since the last day the food employee was potentially exposed; or

(ii) More than three (3) calendar days have passed since the food employee's household contact became asymptomatic.

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

(i) More than fourteen (14) calendar days have passed since the last day the food employee was potentially exposed; or

(ii) More than fourteen (14) calendar days have passed since the food employee's household contact 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 IgG administration;
- (iv) More than thirty (30) calendar days have passed since the last day the food employee was potentially exposed;
- (v) More than thirty (30) calendar days have passed since the food employee's household contact became jaundiced; or
- (vi) The food employee does not use an alternative procedure that allows bare hand contact with ready-to-eat food until at least thirty (30) days after the potential exposure, as specified in (a)(10)(D)(iv) and (a)(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.

**310:257-3-7. Responsibility of a food employee or an applicant to report to the person in charge [REVOKED]**

**310:257-3-8. Reporting by the person in charge [RESERVED]**

**310:257-3-9. Clean condition**

Food employees shall keep their hands and exposed portions of their arms clean.

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

- (a) Except as specified in paragraph (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.
- (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.

**310:257-3-11. Special handwash procedures [RESERVED]**

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

Food employees shall clean their hands and exposed portions of their arms 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;
- (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 sink or approved automatic handwashing facility and may not clean their hands in a sink used for food preparation, 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.

### **310:257-3-15. Maintenance**

(a) Food employees shall keep their fingernails trimmed, filed, and maintained so the edges and surfaces are cleanable and not rough.

(b) Unless wearing intact gloves in good repair, a food employee may not wear fingernail polish or artificial fingernails when working with exposed food.

### **310:257-3-16. Prohibition**

Except for a plain ring such as a wedding band, while preparing food, food employees may not wear jewelry including medical information jewelry on their arms and hands.

### **310:257-3-17. Clean condition**

Food employees shall wear clean outer clothing to prevent contamination of food, equipment, utensils, linens, and single-service and single-use articles.

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

(a) Except as specified in (b) of this Section, an employee must eat, drink, or use any form of tobacco, medical marijuana, or vape product in designated areas where the following items cannot be contaminated: exposed food; clean equipment, utensils, and linens; unwrapped single-service and single-use articles; and other items needing protection.

(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. Discharges from the eyes, nose, and mouth**

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

#### **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.

### **310:257-3-21. Handling prohibition**

(a) Except as specified in (b) of this Section, food employees may not care for or handle animals that may be present such as patrol dogs, service animals, or pets that are allowed as specified in OAC 310:257-11-54(b)(2-5).

(b) Food employees with service animals may handle or care for their service animals and food employees may handle or care for fish in aquariums or molluscan shellfish or crustacea in display tanks if they wash their hands as specified under OAC 310:257-3-10 and OAC 310:257-3-12(3).

#### **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**

#### **310:257-5-1. Safe, unadulterated, and honestly presented**

Food shall be safe, unadulterated, and, as specified under OAC 310:257-5-66, honestly presented.

#### **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 in this chapter.

(d) Fish, other than those specified under OAC 310:257-5-49(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 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).

**310:257-5-3. Food in a hermetically sealed container**

Food in a hermetically sealed container shall be obtained from a food processing plant that is regulated by the food regulatory agency that has jurisdiction over the plant.

**310:257-5-4. Fluid milk and milk products**

Fluid milk and milk products shall be obtained from sources that comply with Grade A Standards as adopted by the Oklahoma Department of Agriculture Food and Forestry.

**310:257-5-5. Fish**

- (a) Fish that are received for sale or service shall be:
  - (1) Commercially and legally caught or harvested; or
  - (2) Approved for sale or service.
- (b) Molluscan shellfish that are recreationally caught may not be received for sale or service.

**310:257-5-6. Molluscan shellfish**

- (a) Molluscan shellfish shall be obtained from sources according to law and the requirements specified in the U.S. Department of Health and Human Services, Public Health Service, Food and Drug Administration, National Shellfish Sanitation Program Guide for the Control of Molluscan Shellfish.
- (b) Molluscan shellfish received in interstate commerce shall be from sources that are listed in the Interstate Certified Shellfish Shippers List.

**310:257-5-7. Wild mushrooms**

- (a) Except as specified in (b) of this Section, mushroom species picked in the wild shall not be offered for sale or service by a food establishment.
- (b) This Section does not apply to:
  - (1) Cultivated wild mushroom species that are grown, harvested, and processed in an operation that is regulated by the food regulatory agency that has jurisdiction over the operation; or
  - (2) Wild mushroom species if they are in packaged form and are the product of a food processing plant that is regulated by the food regulatory agency that has jurisdiction over the plant.

**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.). 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

antilocapridae. 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 approved in accordance with 9 CFR Part 352, Exotic Animals and Horses; Voluntary Inspection, or rabbits that are inspected and certified in accordance with 9 CFR Part 354, Voluntary Inspection of Rabbits and Edible 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.

### **310:257-5-9. Temperature**

(a) Except as specified in (b) of this Section, refrigerated, Time/Temperature Control for Safety Food shall be at a temperature of 5°C (41°F) or below when received.

(b) If a temperature other than 5°C (41°F) for a Time/Temperature Control for Safety Food is specified in law governing its distribution, such as laws governing milk and molluscan shellfish, the food may be received at the specified temperature.

(c) Raw eggs shall be received in refrigerated equipment that maintains an ambient air temperature of 7°C (45°F) or less.

(d) Time/Temperature Control for Safety Food that is cooked to a temperature and for a time specified under OAC 310:257-5-46 through 310:257-5-48 and received hot shall be at a temperature of 57°C (135°F) or above.

(e) A food that is labeled frozen and shipped frozen by a food processing plant shall be received frozen.

(f) Upon receipt, Time/Temperature Control for Safety Food shall be free of evidence of previous temperature abuse.

### **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 Part 180 Tolerances and Exemptions for Pesticide Chemical Residues In Food.

### **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, frozen milk products, such as ice cream, and cheese shall be as specified in 2 O.S. Section 7-401 et seq.

### **310:257-5-13. Package integrity**

Food packages shall be in good condition and protect the integrity of the contents so that the food is not exposed to adulteration or potential contaminants.

### **310:257-5-14. Ice**

Ice for use as a food or a cooling medium shall be made from drinking water.

### **310:257-5-15. Shucked shellfish, packaging and identification**

- (a) Raw shucked shellfish shall be obtained in nonreturnable packages which bear a legible label that identifies the:
  - (1) Name, address, and certification number of the shucker, packer or repacker of the molluscan shellfish; and
  - (2) The "sell by" or "best if used by" date for packages with a capacity of less than 1.89 L (one-half gallon) or the date shucked for packages with a capacity of 1.89 L (one-half gallon) or more.
- (b) A package of raw shucked shellfish that does not bear a label or which bears a label which does not contain all the information as specified under (a) of this Section shall be subject to a hold order, as allowed by law, or seizure and destruction in accordance with 21 CFR Subpart D - Specific Administrative Decisions Regarding Interstate Shipments, Section 1240.60(d) Molluscan shellfish.

### **310:257-5-16. Shellstock identification**

- (a) Shellstock shall be obtained in containers bearing legible source identification tags or labels that are affixed by the harvester or dealer that depurates, ships, or reships the shellstock, as specified in the National Shellfish Sanitation Program Guide for the Control of Molluscan Shellfish, and that list:
  - (1) Except as specified under (c) of this Section, on the harvester's tag or label, the following information in the following order:
    - (A) The harvester's identification number that is assigned by the shellfish control authority,
    - (B) The date of harvesting,
    - (C) The most precise identification of the harvest location or aquaculture site that is practicable based on the system of harvest area designations that is in use by the shellfish control authority and including the abbreviation of the name of the state or country in which the shellfish are harvested,
    - (D) The type and quantity of shellfish, and
    - (E) The following statement in bold, capitalized type: "This tag is required to be attached until container is empty or retagged and thereafter kept on file for 90 days;" and
  - (2) Except as specified in (d) of this Section, on each dealer's tag or label, the following information in the following order:
    - (A) The dealer's name and address, and the certification number assigned by the shellfish control authority,
    - (B) The original shipper's certification number including the abbreviation of the name of the state or country in which the shellfish are harvested,
    - (C) The same information as specified for a harvester's tag under paragraphs (a)(1)(B)-(D) of this Section, and
    - (D) The following statement in bold, capitalized type: "This tag is required to be attached until container is empty and thereafter kept on file for 90 days."
- (b) A container of shellstock that does not bear a tag or label or that bears a tag or label that does not contain all the information as specified under (a) of this Section shall be subject to a hold order, as

allowed by law, or seizure and destruction in accordance with 21 CFR Subpart D - Specific Administrative Decisions Regarding Interstate Shipments, Section 1240.60(d).

(c) If a place is provided on the harvester's tag or label for a dealer's name, address, and certification number, the dealer's information shall be listed first.

(d) If the harvester's tag or label is designed to accommodate each dealer's identification as specified under (a)(2)(A) and (B) of this Section, individual dealer tags or labels need not be provided.

### **310:257-5-17. Shellstock, condition**

When received by a food establishment, shellstock shall be reasonably free of mud, dead shellfish, and shellfish with broken shells. Dead shellfish or shellstock with badly broken shells shall be discarded.

### **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)-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)-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 310:257-5-67(a) and OAC 310:257-5-67(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 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.

### **310:257-5-20. Shellstock, maintaining identification**

(a) Except as specified under (c)(2) of this Section, shellstock tags or labels shall remain attached to the container in which the shellstock are received until the container is empty.

(b) The date when the last shellstock from the container is sold or served shall be recorded on the tag or label.

(c) The identity of the source of shellstock that are sold or served shall be maintained by retaining shellstock tags or labels for ninety (90) calendar days from the date that is recorded on the tag or label, as specified under (b) of this Section, by:

- (1) Using an approved record keeping system that keeps the tags or labels in chronological order correlated to the date that is recorded on the tag or label, as specified under (b) of this Section; and
- (2) If shellstock are removed from their tagged or labeled container:
  - (A) Preserving source identification by using a record keeping system as specified under (c)(1) of this Section, and
  - (B) Ensuring that shellstock from one tagged or labeled container are not commingled with shellstock from another container with different certification numbers, different harvest dates, or different growing areas as identified on the tag or label before being ordered by the consumer.

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

(a) Food employees shall wash their hands as specified under 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 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.

**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. 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.

**310:257-5-24. Food storage containers, identified with common name of food**

Except for containers holding food that can be readily and unmistakably recognized such as dry pasta, working containers holding food or food ingredients that are removed from their original packages for use in the food establishment, such as cooking oils, flour, herbs, potato flakes, salt, spices, and sugar, shall be identified with the common name of the 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).

### **310:257-5-26. Protection from unapproved additives**

(a) Food shall be protected from contamination that may result from the addition of, as specified in OAC 310:257-5-10:

- (1) Unsafe or unapproved food or color additives; and
- (2) Unsafe or unapproved levels of approved food and color additives.

(b) A food employee may not:

- (1) Apply sulfiting agents to fresh fruits and vegetables intended for raw consumption or to a food considered to be a good source of vitamin B1; or
- (2) Except for grapes, serve or sell food specified under (b)(1) of this Section that is treated with sulfiting agents before receipt by the food establishment.

### **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 instructions.

### **310:257-5-28. Ice used as exterior coolant, prohibited as ingredient**

After use as a medium for cooling the exterior surfaces of food such as melons or fish, packaged foods such as canned beverages, or cooling coils and tubes of equipment, ice shall not be used as food.

### **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 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 310:257-7-96 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).

**310:257-5-32. Linens and napkins, use limitation**

Linens, such as cloth napkins, may not be used in contact with food unless they are used to line a container for the service of foods and the linens and napkins are replaced each time the container is refilled for a new consumer.

**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 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 310:257-5-48.1 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 310:257-5-48.1 as frozen food or a primal cut of meat.

### **310:257-5-35. Using clean tableware for second portions and refills**

(a) Except for refilling a consumer's drinking cup or container without contact between the pouring utensil and the lip-contact area of the drinking cup or container, food employees may not use tableware, including single-service articles, soiled by the consumer, to provide second portions or refills.

(b) Except as specified in (c) of this Section, self-service consumers may not be allowed to use soiled tableware, including single-service articles, to obtain additional food from the display and serving equipment. This Section shall be deemed to be met if clean tableware is provided at self-service areas and signage is prominently posted that reads in substance: "Oklahoma State Department of Health Rules require the use of clean tableware to get refills."

(c) Drinking cups and containers may be reused by self-service consumers if refilling is a contamination-free process as specified under OAC 310:257-7-28(1),(2), and (4).

### **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 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 310:257-7-15;

(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;

(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.

**310:257-5-38. Food storage, prohibited areas**

Food may not be stored:

- (1) In locker rooms;
- (2) In toilet rooms;
- (3) In dressing rooms;
- (4) In garbage rooms;
- (5) In mechanical rooms;
- (6) Under sewer lines that are not shielded to intercept potential drips;
- (7) Under leaking water lines, including leaking automatic fire sprinkler heads, or under lines on which water has condensed;
- (8) Under open stairwells; or
- (9) Under other sources of contamination.

**310:257-5-39. Vended Time/Temperature Control for Safety Food, original container**

Time/Temperature Control for Safety Food dispensed through a vending machine shall be in the package in which it was placed at the food establishment or food processing plant at which it was prepared.

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

During preparation, unpackaged food shall be protected from environmental sources of contamination.

**310:257-5-41. Food display**

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

**310:257-5-42. Condiments, protection**

- (a) Condiments shall be protected from contamination by being kept in dispensers that are designed to provide protection, protected food displays provided with the proper utensils, original containers designed for dispensing, or individual packages or portions.
- (b) Condiments at a vending machine location shall be in individual packages or provided in dispensers that are filled at an approved location, such as the food establishment that provides food to the vending machine location, a food processing plant that is regulated by the agency that has jurisdiction over the operation, or a properly equipped facility that is located on the site of the vending machine location.

**310:257-5-43. Consumer self-service operations**

- (a) Raw, unpackaged animal food, such as beef, lamb, pork, poultry, and fish may not be offered for consumer self-service. This paragraph does not apply to:

- (1) Consumer self-service of ready-to-eat foods at buffets or salad bars that serve foods such as sushi or raw shellfish;
  - (2) Ready-to-cook individual portions for immediate cooking and consumption on the premises such as consumer-cooked meats or consumer-selected ingredients for Mongolian barbecue; or
  - (3) Raw, frozen, shell-on shrimp or lobster.
- (b) Consumer self-service operations for ready-to-eat-foods shall be provided with suitable utensils or effective dispensing methods that protect the food from contamination.
- (c) Consumer self-service operations such as buffets and salad bars shall be monitored by food employees trained in safe operating procedures.

#### **310:257-5-44. Returned food and re-service of food**

- (a) Except as specified in (b) of this Section, after being served or sold and in the possession of a consumer, food that is unused or returned by the consumer may not be offered as food for human consumption.
- (b) Except as specified under OAC 310:257-5-71(8), a container of food that is not Time/Temperature Control for Safety Food may be re-served from one consumer to another if:
- (1) The food is dispensed so that it is protected from contamination and the container is closed between uses, such as a narrow-neck bottle containing catsup, steak sauce, or wine; or
  - (2) The food, such as crackers, salt, or pepper, is in an unopened original package and is maintained in sound condition.

#### **310:257-5-45. Miscellaneous sources of contamination**

Food shall be protected from contamination that may result from a factor or source not specified under OAC 310:257-5-21 through OAC 310:257-5-44.

#### **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 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 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) 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.

- (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(3)(A) and (B) 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.

### **310:257-5-47. Microwave cooking**

Raw animal foods cooked in a microwave oven shall be:

- (1) Rotated or stirred throughout or midway during cooking to compensate for uneven distribution of heat;
- (2) Covered to retain surface moisture;
- (3) Heated to a temperature of at least 74°C (165°F) in all parts of the food; and
- (4) Allowed to stand covered for 2 minutes after cooking to obtain temperature equilibrium.

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

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

#### **310:257-5-48.1. Non-Continuous Cooking of Raw Animal**

Raw animal foods that are cooked using a non-continuous cooking process shall be:

- (1) Subject to an initial heating process that is no longer than sixty (60) minutes in duration;
- (2) Immediately after initial heating, cooled according to the time and temperature parameters specified for cooked Time/Temperature Control for Safety Food under OAC 310:257-5-57(a);
- (3) After cooling, held frozen or cold, as specified for Time/Temperature Control for Safety Food under OAC 310:257-5-59(a)(2);
- (4) Prior to sale or service, cooked using a process that heats all parts of the food to a temperature and for a time specified under OAC 310:257-5-46 (a) through (c);
- (5) Cooled according to the time and temperature parameters specified for cooked Time/Temperature Control for Safety Food under OAC 310:257-5-57(a) if not either hot held as specified under OAC 310:257-5-59(a), served immediately, or held using time as a public health control as specified under OAC 310:257-5-62 after complete cooking; and

- (6) Prepared and stored according to written procedures that:
  - (A) Have obtained prior approval from the Department;
  - (B) Are maintained in the food establishment and are available to the Department upon request;
  - (C) Describe how the requirements specified under (a) through (e) of this Section are to be monitored and documented by the license holder and the corrective actions to be taken if the requirements are not met;
  - (D) Describe how the foods, after initial heating, but prior to complete cooking, are to be marked or otherwise identified as foods that must be cooked as specified under (d) of this Section prior to being offered for sale or service; and
  - (E) Describe how the foods, after initial heating but prior to cooking as specified in (d) of this Section, are to be separated from ready-to-eat foods as specified under OAC 310:257-5-23.

### **310:257-5-49. Parasite destruction**

- (a) Except as specified in (b) of this Section, before service or sale in ready-to-eat form, raw, raw-marinated, partially cooked, or marinated-partially cooked fish shall be:
  - (1) Frozen and stored at a temperature of -20°C (-4°F) or below for a minimum of 168 hours (seven (7) days) in a freezer;
  - (2) Frozen at -35°C (-31°F) or below until solid and stored at -35°C (-31°F) or below for a minimum of fifteen (15) hours; or
  - (3) Frozen at -35°C (-31°F) or below until solid and stored at -20°C (-4°F) or below for a minimum of twenty-four (24) hours;
- (b) Subsection (a) of this Section does not apply to:
  - (1) Molluscan shellfish;
  - (2) Tuna of the species *Thunnus alalunga*, *Thunnus albacares* (Yellowfin tuna), *Thunnus atlanticus*, *Thunnus maccoyii* (Bluefin tuna, Southern), *Thunnus obesus* (Bigeye tuna), or *Thunnus thynnus* (Bluefin tuna, Northern) ;
  - (3) Aquacultured fish, such as salmon, that:
    - (A) If raised in open water, are raised in net pens, or
    - (B) Are raised in land-based operations such as ponds or tanks, and
    - (C) Are fed formulated feed, such as pellets, that contains no live parasites infective to the aquacultured fish;
  - (4) Fish eggs that have been removed from the skein and rinsed; or
  - (5) A scallop product consisting only of the shucked adductor muscle.

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

- (a) Except as specified in 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 310:257-5-49(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.

### **310:257-5-51. Preparation for immediate service**

Cooked and refrigerated food that is prepared for immediate service in response to an individual consumer order, such as a roast beef sandwich au jus, may be served at any temperature.

### **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 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 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 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."

### **310:257-5-54. Frozen food**

Stored frozen foods shall be maintained frozen.

### **310:257-5-55. Time/Temperature Control for Safety Food, slacking**

Frozen Time/Temperature Control for Safety Food that is slacked to moderate the temperature shall be held:

- (1) Under refrigeration that maintains the food temperature at 5°C (41°F) or less; or
- (2) At any temperature if the food remains frozen.

### **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 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.

### **310:257-5-58. Cooling methods**

- (a) Cooling shall be accomplished in accordance with the time and temperature criteria specified under OAC 310:257-5-57 by using one or more of the following methods based on the type of food being cooled:
- (1) Placing the food in shallow pans;
  - (2) Separating the food into smaller or thinner portions;
  - (3) Using rapid cooling equipment;
  - (4) Stirring the food in a container placed in an ice water bath;
  - (5) Using containers that facilitate heat transfer;
  - (6) Adding ice as an ingredient; or
  - (7) Other effective methods.
- (b) When placed in cooling or cold holding equipment, food containers in which food is being cooled shall be:
- (1) Arranged in the equipment to provide maximum heat transfer through the container walls; and
  - (2) Loosely covered, or uncovered if protected from overhead contamination as specified under OAC 310:257-5-37(a)(2), during the cooling period to facilitate heat transfer from the surface of the food.

### **310:257-5-59. Time/Temperature Control for Safety Food, hot and cold holding**

- (a) Except during preparation, cooking, or cooling, or when time is used as the public health control as specified under 310:257-5-62 and except as specified in (b) of this Section, Time/Temperature Control for Safety Food shall be maintained:

- (1) At 57°C (135°F) or above, except that roasts cooked to a temperature and for a time specified under 310:257-5-46(b) or reheated as specified in 310:257-5-52(e) may be held at a temperature of 54°C (130°F); or
  - (2) At a temperature of 5°C (41°F) or less .
- (b) Eggs that have not been treated to destroy all viable *Salmonellae* shall be stored in refrigerated equipment that maintains an ambient air temperature of 5°C (41° F) or less.
- (c) Time/Temperature Control for Safety Food in a homogenous liquid form may be maintained outside of the temperature control requirements, as specified under (a) of this Section, while contained within specially designed equipment that complies with the design and construction requirements as specified in 310:257-7-28(5).

**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 (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 (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 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 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 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).

**310:257-5-62. Time as a public health control**

- (a) Except as specified under (d) of this Section, if time without temperature control is used as the public health control for a working supply of Time/Temperature Control for Safety Food before cooking, or for ready-to-eat Time/Temperature Control for Safety Food that is displayed or held for sale or service, written procedures shall be prepared in advance, maintained in the food establishment and made available to the Department upon request that specify:
- (1) Methods of compliance with (b)(1) through (4) or (c)(1) through (5) of this Section; and
  - (2) Methods of compliance with OAC 310:257-5-57 for food that is prepared, cooked, and refrigerated before time is used as a public health control.
- (b) If time without temperature control is used as the public health control up to a maximum of four (4) hours:
- (1) The food shall have an initial temperature of 5°C (41°F) or less when removed from cold holding temperature control, or 57°C (135°F) or greater when removed from hot holding temperature control;
  - (2) The food shall be marked or otherwise identified to indicate the time that is four (4) hours past the point in time when the food is removed from temperature control;
  - (3) The food shall be cooked and served, served at any temperature if ready-to-eat, or discarded, within four (4) hours from the point in time when the food is removed from temperature control; and
  - (4) The food in unmarked containers or packages, or marked to exceed a 4-hour limit shall be discarded.
- (c) If time without temperature control is used as the public health control up to a maximum of six (6) hours:
- (1) The food shall have an initial temperature of 5°C (41°F) or less when removed from temperature control and the food temperature may not exceed 21°C (70°F) within a maximum time period of six (6) hours;
  - (2) The food shall be monitored to ensure the warmest portion of the food does not exceed 21°C (70°F) during the 6-hour period, unless an ambient air temperature is maintained that ensures the food does not exceed 21°C (70°F) during the 6-hour holding period;
  - (3) The food shall be marked or otherwise identified to indicate:

- (A) The time when the food is removed from 5°C (41°F) or less cold holding temperature control, and
- (B) The time that is six (6) hours past the point in time when the food is removed from cold holding temperature control;
- (4) The food shall be:
  - (A) Discarded if the temperature of the food exceeds 21°C (70°F), or
  - (B) Cooked and served, served at any temperature if ready-to-eat, or discarded within a maximum of six (6) hours from the point in time when the food is removed from 5°C (41°F) or less cold holding temperature control; and
- (5) The food in unmarked containers or packages, or marked with a time that exceeds the 6-hour limit shall be discarded.
- (d) A food establishment that serves a highly susceptible population shall not use time as specified in (a), (b) or (c) of this Section as the public health control for raw eggs.

**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 not a 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, 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 310:257-15-8 (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 310:257-5-45;
    - (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 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 310:257-15-9(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.

### **310:257-5-66. Honestly presented**

- (a) Food shall be offered for human consumption in a way that does not mislead or misinform the consumer.
- (b) Food or color additives, colored overwraps, or lights may not be used to misrepresent the true appearance, color, or quality of a food.

### **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(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), (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.

**310:257-5-68. Other forms of information**

- (a) If required by law, consumer warnings shall be provided.
- (b) Food establishment or manufacturers' dating information on foods may not be concealed or altered.

**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)(4) and under OAC 310:257-5-71(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."

**310:257-5-70. Discarding or reconditioning unsafe, adulterated, or contaminated food**

- (a) A food that is unsafe, adulterated, or not honestly presented as specified under OAC 310:257-5-1 shall be discarded or reconditioned according to an approved procedure.

- (b) Food that is not from an approved source as specified under OAC 310:257-5-2 through 310:257-5-8 shall be discarded.
- (c) Ready-to-eat food that may have been contaminated by an employee who has been restricted or excluded as specified under 310:257-3-5 shall be discarded.
- (d) Food that is contaminated by food employees, consumers or other persons through contact with their hands, bodily discharges, such as nasal or oral discharges, or other means shall be discarded.
- (e) Food may be examined or sampled by the Department as often as necessary for enforcement of these rules and regulations. The Department may place an embargo on food in accordance with the provisions of Title 63 O.S. Section 1-1105.

### **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 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 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-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.

### **310:257-7-2. Cast iron, use limitation**

- (a) Except as specified in (b) and (c) of this Section, cast iron may not be used for utensils or food-contact surfaces of equipment.
- (b) Cast iron may be used as a surface for cooking.
- (c) Cast iron may be used in utensils for serving food if the utensils are used only as part of an uninterrupted process from cooking through service.

### **310:257-7-3. Lead in ceramic, china, and crystal utensils, use limitation**

Ceramic, china, crystal utensils, and decorative utensils such as hand painted ceramic or china that are used in contact with food shall be lead-free or contain levels of lead not exceeding the limits of the utensil categories as contained in Table 6 of Appendix A of this Chapter.

### **310:257-7-4. Copper, use limitation**

- (a) Except as specified in (b) of this Section, copper and copper alloys such as brass may not be used in contact with a food that has a pH below 6 such as vinegar, fruit juice, or wine or for a fitting or tubing installed between a backflow prevention device and a carbonator.
- (b) Copper and copper alloys may be used in contact with beer brewing ingredients that have a pH below 6 in the prefermentation and fermentation steps of a beer brewing operation such as a brewpub or microbrewery.

### **310:257-7-5. Galvanized metal, use limitation**

Galvanized metal may not be used for utensils or food-contact surfaces of equipment that are used in contact with acidic food.

**310:257-7-6. Sponges, use limitation**

Sponges may not be used in contact with cleaned and sanitized or in-use food-contact surfaces.

**310:257-7-7. Lead in pewter alloys, use limitation**

Pewter alloys containing lead in excess of 0.05% may not be used as a food-contact surface.

**310:257-7-8. Lead in solder and flux, use limitation**

Solder and flux containing lead in excess of 0.2% may not be used as a food-contact surface.

**310:257-7-9. Wood, use limitation**

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

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

(1) Cutting boards; cutting blocks; bakers' tables; and utensils such as rolling pins, doughnut dowels, salad bowls, and chopsticks; and

(2) Wooden paddles used in confectionery operations for pressure scraping kettles when manually preparing confections at a temperature of 110°C (230°F) or above.

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

(d) If the nature of the food requires removal of rinds, peels, husks, or shells before consumption, the whole, uncut, raw food may be kept in:

(1) Untreated wood containers; or

(2) Treated wood containers if the containers are treated with a preservative that meets the requirements specified in 21 CFR 178.3800 Preservatives for wood.

**310:257-7-10. Nonstick coatings, use limitation**

Multiuse kitchenware such as frying pans, griddles, sauce pans, cookie sheets, and waffle bakers that have a perfluorocarbon resin coating shall be used with nonscoring or nonscratching utensils and cleaning aids.

**310:257-7-11. Nonfood-contact surfaces**

Nonfood-contact surfaces of equipment that are exposed to splash, spillage, or other food soiling or that require frequent cleaning shall be constructed of a corrosion-resistant, nonabsorbent, and smooth material.

**310:257-7-12. Characteristics**

Materials that are used to make single-service and single-use articles:

(1) May not:

(A) Allow the migration of deleterious substances, or

(B) Impart colors, odors, or tastes to food; and

(2) Shall be:

(A) Safe, and

(B) Clean.

**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.

#### **310:257-7-14. Food temperature measuring devices**

Food temperature measuring device may not have sensors or stems constructed of glass, except that thermometers with glass sensors or stems that are encased in a shatterproof coating such as candy thermometers may be used.

#### **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.

#### **310:257-7-16. CIP equipment**

(a) CIP equipment shall meet the characteristics specified under OAC 310:257-7-15 and shall be designed and constructed so that:

- (1) Cleaning and sanitizing solutions circulate throughout a fixed system and contact all interior food-contact surfaces, and;
- (2) The system is self-draining or capable of being completely drained of cleaning and sanitizing solutions; and;

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

#### **310:257-7-17. "V" threads, use limitation**

Except for hot oil cooking or filtering equipment, "V" type threads may not be used on food-contact surfaces.

#### **310:257-7-18. Hot oil filtering equipment**

Hot oil filtering equipment shall meet the characteristics specified under OAC 310:257-7-15 or OAC 310:257-7-16 and shall be readily accessible for filter replacement and cleaning of the filter.

#### **310:257-7-19. Can openers**

Cutting or piercing parts of can openers shall be readily removable for cleaning and for replacement.

#### **310:257-7-20. Nonfood-contact surfaces**

Nonfood-contact surfaces shall be free of unnecessary ledges, projections, and crevices, and designed and constructed to allow easy cleaning and to facilitate maintenance.

**310:257-7-21. Kick plates, removable**

Kick plates shall be designed so that the areas behind them are accessible for inspection and cleaning by being:

- (1) Removable by one of the methods specified under Subparagraph OAC 310:257-7-15(a)(5) or capable of being rotated open; and
- (2) Removable or capable of being rotated open without unlocking equipment doors.

**310:257-7-22. Ventilation hood systems, filters**

Filters or other grease extracting equipment shall be designed to be readily removable for cleaning and replacement if not designed to be cleaned in place.

**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.

**310:257-7-26. Ventilation hood systems, drip prevention**

Exhaust ventilation hood systems in food preparation and warewashing areas including components such as hoods, fans, guards, and ducting shall be designed to prevent grease or condensation from draining or dripping onto food, equipment, utensils, linens, and single-service and single-use articles.

**310:257-7-27. Equipment openings, closures and deflectors**

- (a) A cover or lid for equipment shall overlap the opening and be sloped to drain.
- (b) An opening located within the top of a unit of equipment that is designed for use with a cover or lid shall be flanged upward at least 5 millimeters (two-tenths of an inch).
- (c) Except as specified under (d) of this Section, fixed piping, temperature measuring devices, rotary shafts, and other parts extending into equipment shall be provided with a watertight joint at the point where the item enters the equipment.
- (d) If a watertight joint is not provided:
  - (1) The piping, temperature measuring devices, rotary shafts, and other parts extending through the openings shall be equipped with an apron designed to deflect condensation, drips, and dust from openings into the food; and
  - (2) The opening shall be flanged as specified under (b) of this Section.

**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 310:257-5-59(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.

**310:257-7-29. Vending machine, vending stage closure.**

The dispensing compartment of a vending machine including a machine that is designed to vend prepackaged snack food that is not Time/Temperature Control for Safety Food such as chips, party mixes, and pretzels shall be equipped with a self-closing door or cover if the machine is:

- (1) Located in an outside area that does not otherwise afford the protection of an enclosure against the rain, windblown debris, insects, rodents, and other contaminants that are present in the environment; or
- (2) Available for self-service during hours when it is not under the full-time supervision of a food employee.

**310:257-7-30. Bearings and gear boxes, leakproof**

Equipment containing bearings and gears that require lubricants shall be designed and constructed so that the lubricant can not leak, drip, or be forced into food or onto food-contact surfaces.

**310:257-7-31. Beverage tubing, separation**

Except for cold plates that are constructed integrally with an ice storage bin, beverage tubing and cold-plate beverage cooling devices may not be installed in contact with stored ice.

**310:257-7-32. Ice units, separation of drains**

Liquid waste drain lines may not pass through an ice machine or ice storage bin.

**310:257-7-33. Condenser unit, separation**

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

#### **310:257-7-34. Can openers on vending machines**

Cutting or piercing parts of can openers on vending machines shall be protected from manual contact, dust, insects, rodents, and other contamination.

#### **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 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 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 device 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.

**310:257-7-38. Warewashing machine, data plate operating specifications**

A warewashing machine shall be provided with an easily accessible and readable data plate affixed to the machine by the manufacturer that indicates the machine's design and operating specifications including the:

- (1) Temperatures required for washing, rinsing, and sanitizing;
- (2) Pressure required for the fresh water sanitizing rinse unless the machine is designed to use only a pumped sanitizing rinse; and
- (3) Conveyor speed for conveyor machines or cycle time for stationary rack machines.

**310:257-7-39. Warewashing machines, internal baffles**

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

**310:257-7-40. Warewashing machines, temperature measuring devices**

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

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

**310:257-7-41. Manual warewashing equipment, heaters and baskets**

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

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

**310:257-7-42. Warewashing machines, automatic dispensing of detergents and sanitizers**

A warewashing machine shall be equipped to:

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

**310:257-7-43. Warewashing machines, flow pressure device**

(a) Warewashing machines that provide a fresh hot water sanitizing rinse shall be equipped with a pressure gauge or similar device such as a transducer that measures and displays the water pressure in the supply line immediately before entering the warewashing machine; and

(b) If the flow pressure measuring device is upstream of the fresh hot water sanitizing rinse control valve, the device shall be mounted in a 6.4 millimeter or one-fourth inch Iron Pipe Size (IPS) valve.

(c) Paragraphs(a) and (b) of this Section do not apply to a machine that uses only a pumped or recirculated sanitizing rinse.

**310:257-7-44. Warewashing sinks and drainboards, self-draining**

Sinks and drainboards of warewashing sinks and machines shall be self-draining.

**310:257-7-45. Equipment compartments, drainage**

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

**310:257-7-46. Vending machines, liquid waste products**

- (a) Vending machines designed to store beverages that are packaged in containers made from paper products shall be equipped with diversion devices and retention pans or drains for container leakage.
- (b) Vending machines that dispense liquid food in bulk shall be:
  - (1) Provided with an internally mounted waste receptacle for the collection of drip, spillage, overflow, or other internal wastes; and
  - (2) Equipped with an automatic shutoff device that will place the machine out of operation before the waste receptacle overflows.
- (c) Shutoff devices specified under (b)(2) of this Section shall prevent water or liquid food from continuously running if there is a failure of a flow control device in the water or liquid food system or waste accumulation that could lead to overflow of the waste receptacle.

**310:257-7-47. Case lot handling equipment, moveability**

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

**310:257-7-48. Vending machine doors and openings**

- (a) Vending machine doors and access opening covers to food and container storage spaces shall be tight-fitting so that the space along the entire interface between the doors or covers and the cabinet of the machine, if the doors or covers are in a closed position, is no greater than 1.5 millimeters or one-sixteenth inch by:
  - (1) Being covered with louvers, screens, or materials that provide an equivalent opening of not greater than 1.5 millimeters or one-sixteenth inch. Screening of 12 or more mesh to 2.5 centimeters (12 mesh to 1 inch) meets this requirement;
  - (2) Being effectively gasketed;
  - (3) Having interface surfaces that are at least 13 millimeters or one-half inch wide; or
  - (4) Jambs or surfaces used to form an L-shaped entry path to the interface.
- (b) Vending machine service connection openings through an exterior wall of a machine shall be closed by sealants, clamps, or grommets so that the openings are no larger than 1.5 millimeters or one-sixteenth inch.

**310:257-7-49. Food equipment, certification and classification**

Food equipment that is certified or classified for sanitation by an American National Standards Institute (ANSI) - accredited certification program such as NSF and for commercial use will be deemed to comply with Sections OAC 310:257-7-1 through OAC 310:257-7-49 of this Subchapter or be approved by the Department.

**310:257-7-50. Cooling, heating, and holding capacities**

Equipment for cooling and heating food, and holding cold and hot food, shall be sufficient in number and capacity to provide food temperatures as specified under Subchapter 5.

**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.
- (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 multicompartment sink in the case of temporary food establishments.
- (d) Before a 2-compartment sink is used:
  - (1) The food establishment 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.

### **310:257-7-52. Drainboards**

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

### **310:257-7-53. Ventilation hood systems, adequacy**

Ventilation hood systems and devices shall be sufficient in number and capacity to prevent grease or condensation from collecting on walls and ceilings and to prevent the collection of smoke and noxious odors in the food service establishment. Ventilation hoods meeting the requirements listed in OAC 158:50, Mechanical Industry Regulations, shall be installed above commercial heat-processing equipment that causes grease vapors and smoke. This equipment includes but is not limited to deep fat fryers, broilers, griddles, and fry grills.

### **310:257-7-54. Clothes washers and dryers**

- (a) Except as specified in (b) of this Section, if work clothes or linens are laundered on the premises, a mechanical clothes washer and dryer shall be provided and used.
- (b) If on-premises laundering is limited to wiping cloths intended to be used moist, or wiping cloths are air-dried as specified under OAC 310:257-7-102, a mechanical clothes washer and dryer need not be provided.

**310:257-7-55. Utensils, consumer self-service**

A food dispensing utensil shall be available for each container displayed at a consumer self-service unit such as a buffet or salad bar.

**310:257-7-56. Food temperature measuring devices**

- (a) Food temperature measuring devices shall be provided and readily accessible for use in ensuring attainment and maintenance of food temperatures as specified under Subchapter 5.
- (b) A temperature measuring device with a suitable small-diameter probe that is designed to measure the temperature of thin masses shall be provided and readily accessible to accurately measure the temperature in thin foods such as meat patties and fish filets.

**310:257-7-57. Temperature measuring devices, manual and mechanical warewashing**

- (a) In manual warewashing operations, a temperature measuring device shall be provided and readily accessible for frequently measuring the washing and sanitizing temperatures.
- (b) In hot water mechanical warewashing operations, an irreversible registering temperature indicator shall be provided and readily accessible for measuring the utensil surface temperature.

**310:257-7-58. Sanitizing solutions, testing devices**

A test kit or other device that accurately measures the concentration in mg/L of sanitizing solutions shall be provided.

**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.

**310:257-7-59. Equipment, clothes washers and dryers, and storage cabinets, contamination prevention**

- (a) Except as specified in (b) of this Section, equipment, a cabinet used for the storage of food, or a cabinet that is used to store cleaned and sanitized equipment, utensils, laundered linens, and single-service and single-use articles may not be located:
  - (1) In locker rooms;
  - (2) In toilet rooms;
  - (3) In garbage rooms;
  - (4) In mechanical rooms;
  - (5) Under sewer lines that are not shielded to intercept potential drips;
  - (6) Under leaking water lines including leaking automatic fire sprinkler heads or under lines on which water has condensed;
  - (7) Under open stairwells; or
  - (8) Under other sources of contamination.
- (b) A storage cabinet used for linens or single-service or single-use articles may be stored in a locker room.
- (c) If a mechanical clothes washer or dryer is provided, it shall be located so that the washer or dryer is protected from contamination and only where there is no exposed food; clean equipment, utensils, and linens; and unwrapped single-service and single-use articles.

**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).

**310:257-7-61. Fixed equipment, elevation or sealing**

- (a) Except as specified in (b) and (c) of this Section, floor-mounted equipment that is not easily movable shall be sealed to the floor or elevated on legs that provide at least a 15 centimeter (6 inch) clearance between the floor and the equipment.
- (b) If no part of the floor under the floor-mounted equipment is more than 15 centimeters (6 inches) from the point of cleaning access, the clearance space may be only 10 centimeters (4 inches).
- (c) This Section does not apply to display shelving units, display refrigeration units, and display freezer units located in the consumer shopping areas of a retail food store, if the floor under the units is maintained clean.
- (d) Except as specified in (e) of this Section, counter-mounted equipment that is not easily movable shall be elevated on legs that provide at least a 10 centimeter (4 inch) clearance between the table and the equipment.
- (e) The clearance space between the counter and counter-mounted equipment may be:
  - (1) 7.5 centimeters (3 inches) if the horizontal distance of the counter top under the equipment is no more than 50 centimeters (20 inches) from the point of access for cleaning; or
  - (2) 5 centimeters (2 inches) if the horizontal distance of the counter top under the equipment is no more than 7.5 centimeters (3 inches) from the point of access for cleaning.

**310:257-7-62. Good repair and proper adjustment**

- (a) Equipment shall be maintained in a state of repair and condition that meets the requirements specified under Sections OAC 310:257-7-1 through OAC 310:257-7-49.
- (b) Equipment components such as doors, seals, hinges, fasteners, and kick plates shall be kept intact, tight, and adjusted in accordance with manufacturer's specifications.
- (c) Cutting or piercing parts of can openers shall be kept sharp to minimize the creation of metal fragments that can contaminate food when the container is opened.

**310:257-7-63. Cutting surfaces**

Surfaces such as cutting blocks and boards that are subject to scratching and scoring shall be resurfaced if they can no longer be effectively cleaned and sanitized, or discarded if they are not capable of being resurfaced.

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

**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) hours.

**310:257-7-66. Warewashing machines, manufacturers' operating instructions**

- (a) A warewashing machine and its auxiliary components shall be operated in accordance with the machine's data plate and other manufacturer's instructions.
- (b) A warewashing machine's conveyor speed or automatic cycle times shall be maintained accurately timed in accordance with manufacturer's specifications.

**310:257-7-67. Warewashing sinks, use limitation**

- (a) A warewashing sink may not be used for handwashing as specified under OAC 310:257-3-13.
- (b) If a warewashing sink is used to wash wiping cloths, wash produce, or thaw food, the sink shall be cleaned as specified under OAC 310:257-7-65 before and after each time it is used to wash wiping cloths or wash produce or thaw food. Sinks used to wash or thaw food shall be sanitized as specified under OAC 310:257-7-93, OAC 310:257-7-94, and OAC 310:257-7-95 before and after using the sink to wash produce or thaw food.

**310:257-7-68. Warewashing equipment, cleaning agents**

When used for warewashing, the wash compartment of a sink, mechanical warewasher, or wash receptacle of alternative manual warewashing equipment as specified in OAC 310:257-7-51(c), shall contain a wash solution of soap, detergent, acid cleaner, alkaline cleaner, degreaser, abrasive cleaner, or other cleaning agent according to the cleaning agent manufacturer's label instructions.

**310:257-7-69. Warewashing equipment, clean solutions**

The wash, rinse, and sanitize solutions shall be maintained clean.

**310:257-7-70. Manual warewashing equipment, wash solution temperature**

The temperature of the wash solution in manual warewashing equipment shall be maintained at not less than 43°C (110°F) or the temperature specified on the cleaning agent manufacturer's label instructions.

**310:257-7-71. Mechanical warewashing equipment, wash solution temperature**

- (a) The temperature of the wash solution in spray type warewashers that use hot water to sanitize may not be less than:
  - (1) For a stationary rack, single temperature machine, 74°C (165°F);
  - (2) For a stationary rack, dual temperature machine, 66°C (150°F);
  - (3) For a single tank, conveyor, dual temperature machine, 71°C (160°F); or
  - (4) For a multitank, conveyor, multitemperature machine, 66°C (150°F).
- (b) The temperature of the wash solution in spray-type warewashers that use chemicals to sanitize may not be less than 49°C (120°F).

**310:257-7-72. Manual warewashing equipment, hot water sanitization temperatures**

If immersion in hot water is used for sanitizing in a manual operation, the temperature of the water shall be maintained at 77°C (171°F) or above.

**310:257-7-73. Mechanical warewashing equipment, hot water sanitization temperatures**

- (a) Except as specified in (b) of this Section, in a mechanical operation, the temperature of the fresh hot water sanitizing rinse as it enters the manifold may not be more than 90°C (194°F), or less than:
  - (1) For a stationary rack, single temperature machine, 74°C (165°F); or
  - (2) For all other machines, 82°C (180°F).
- (b) The maximum temperature specified under (a) of this Section, does not apply to the high pressure and temperature systems with wand-type, hand-held, spraying devices used for the in-place cleaning and sanitizing of equipment such as meat saws.

### **310:257-7-74. Mechanical warewashing equipment, sanitization pressure**

The flow pressure of the fresh hot water sanitizing rinse in a warewashing machine, as measured in the water line immediately downstream or upstream from the fresh hot water sanitizing rinse control valve, shall be within the range specified on the machine manufacturer's data plate and may not be less than 35 kilopascals (5 pounds per square inch) or more than 200 kilopascals (30 pounds per square inch).

### **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) of this Section is used, the license holder shall demonstrate to the 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 that:
  - (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.

### **310:257-7-76. Manual warewashing equipment, chemical sanitization using detergent-sanitizers**

If a detergent-sanitizer is used to sanitize in a cleaning and sanitizing procedure where there is no distinct water rinse between the washing and sanitizing steps, the agent applied in the sanitizing step shall be the same detergent-sanitizer that is used in the washing step.

### **310:257-7-77. Warewashing equipment, determining chemical sanitizer concentration**

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

### **310:257-7-78. Good repair and calibration**

(a) Utensils shall be maintained in a state of repair or condition that complies with the requirements specified under Sections OAC 310:257-7-1 through OAC 310:257-7-49 or shall be discarded.

- (b) Food temperature measuring device shall be calibrated in accordance with manufacturer's specifications as necessary to ensure their accuracy.
- (c) Ambient air temperature, water pressure, and water temperature measuring devices shall be maintained in good repair and be accurate within the intended range of use.

**310:257-7-79. Single-service and single-use articles, required use**

A food establishment, without facilities specified under OAC 310:257-7-82 through 310:257-7-95 for cleaning and sanitizing kitchenware and tableware shall provide only single-use kitchenware, single-service articles, and single-use articles for use by food employees and single-service articles for use by consumers.

**310:257-7-80. Single-service and single-use articles, use limitation**

- (a) Single-service and single-use articles may not be reused.
- (b) The bulk milk container dispensing tube shall be cut on the diagonal leaving no more than one inch protruding from the chilled dispensing head.

**310:257-7-81. Shells, use limitation**

Mollusk and crustacea shells may not be used more than once as serving containers.

**310:257-7-82. Equipment, food-contact surfaces, nonfood-contact surfaces, and utensils**

- (a) Equipment food-contact surfaces and utensils shall be clean to sight and touch.
- (b) The food-contact surfaces of cooking equipment and pans shall be kept free of encrusted grease deposits and other soil accumulations.
- (c) Nonfood-contact surfaces of equipment shall be kept free of an accumulation of dust, dirt, food residue, and other debris.

**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 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 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 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 twenty-four (24) hours by using the manufacturer's recommended cleaning procedure.

**310:257-7-85. Nonfood-contact surfaces**

Nonfood-contact surfaces of equipment shall be cleaned at a frequency necessary to preclude accumulation of soil residues.

**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 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 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.

### **310:257-7-88. Loading of soiled items, warewashing machines**

Soiled items to be cleaned in a warewashing machine shall be loaded into racks, trays, or baskets or onto conveyors in a position that:

- (1) Exposes the items to the unobstructed spray from all cycles; and
- (2) Allows the items to drain.

### **310:257-7-89. Wet cleaning**

- (a) Equipment food-contact surfaces and utensils shall be effectively washed to remove or completely loosen soils by using the manual or mechanical means necessary such as the application of detergents containing wetting agents and emulsifiers; acid, alkaline, or abrasive cleaners; hot water; brushes; scouring pads; high-pressure sprays; or ultrasonic devices.
- (b) The washing procedures selected shall be based on the type and purpose of the equipment or utensil, and on the type of soil to be removed.

### **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.

**310:257-7-92. Returnables, cleaning for refilling [REVOKED]**

**310:257-7-93. Food-contact surfaces and utensils**

Equipment food-contact surfaces and utensils shall be sanitized.

**310:257-7-94. Before use after cleaning**

Utensils and food-contact surfaces of equipment shall be sanitized before use after cleaning.

**310:257-7-95. Hot water and chemical**

After being cleaned, equipment food-contact surfaces and utensils shall be sanitized in:

(1) Hot water manual operations by immersion for at least thirty (30) seconds and as specified under OAC 310:257-7-72;

(2) Hot water mechanical operations by being cycled through equipment that is set up as specified under OAC 310:257-7-66, OAC 310:257-7-73, and OAC 310:257-7-74 and achieving a utensil surface temperature of 71°C (160°F) as measured by an irreversible registering temperature indicator; or

(3) Chemical manual or mechanical operations, including the application of sanitizing chemicals by immersion, manual swabbing, brushing, or pressure spraying methods, using a solution as specified under OAC 310:257-7-75. Contact times shall be consistent with those on the EPA-registered label use instructions by providing:

(A) Except as specified under paragraph (3)(B) of this Section, a contact time of at least ten

(10) seconds for a chlorine solution specified under OAC 310:257-7-75(1),

(B) A contact time of at least seven (7) seconds for a chlorine solution of 50 mg/L that has a pH of ten (10) or less and a temperature of at least 38°C (100°F) or a pH of eight (8) or less and a temperature of at least 24°C (75°F),

(C) A contact time of at least thirty (30) seconds for other chemical sanitizing solutions, or

(D) A contact time used in relationship with a combination of temperature, concentration, and pH that, when evaluated for efficacy, yields sanitization as defined in OAC 310:257-1-2.

**310:257-7-96. Clean linens**

Clean linens shall be free from food residues and other soiling matter.

**310:257-7-97. Specifications**

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

(b) Cloth gloves used as specified under OAC 310:257-5-34(d) shall be laundered before being used with a different type of raw animal food such as beef, lamb, pork, poultry and fish.

(c) Linens that are used as specified under OAC 310:257-5-32 and cloth napkins shall be laundered between each use.

(d) Wet wiping cloths shall be laundered daily.

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

**310:257-7-98. Storage of soiled linens**

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

**310:257-7-99. Mechanical washing**

- (a) Except as specified in (b) of this Section, linens shall be mechanically washed.
- (b) In food establishments in which only wiping cloths are laundered as specified under OAC 310:257-7-54(b), the wiping cloths may be laundered in a mechanical washer, sink designated only for laundering wiping cloths, or a warewashing or food preparation sink that is cleaned as specified under OAC 310:257-7-65.

**310:257-7-100. Use of laundry facilities**

- (a) Except as specified in (b) of this Section, laundry facilities on the premises of a food establishment shall be used only for the washing and drying of items used in the operation of the establishment.
- (b) Separate laundry facilities located on the premises for the purpose of general laundering such as for institutions providing boarding and lodging may also be used for laundering food establishment items.

**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 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.

**310:257-7-102. Wiping cloths, air-drying locations**

Wiping cloths laundered in a food establishment that does not have a mechanical clothes dryer as specified under OAC 310:257-7-54(b) shall be air-dried in a location and in a manner that prevents contamination of food, equipment, utensils, linens, and single-service and single-use articles and the wiping cloths. This Section does not apply if wiping cloths are stored after laundering in a sanitizing solution as specified under OAC 310:257-7-75.

**310:257-7-103. Food-contact surfaces**

Lubricants, as specified under OAC 310:257-13-11 shall be applied to food-contact surfaces that require lubrication in a manner that does not contaminate food-contact surfaces.

**310:257-7-104. Equipment**

Equipment shall be reassembled so that food-contact surfaces are not contaminated.

**310:257-7-105. Equipment, utensils, linens, and single-service and single-use articles**

- (a) Except as specified in (d) of this Section, cleaned equipment and utensils, laundered linens, and single-service and single-use articles shall be stored:
  - (1) In a clean, dry location;
  - (2) Where they are not exposed to splash, dust, or other contamination; and
  - (3) At least 15 cm (6 inches) above the floor.
- (b) Clean equipment and utensils shall be stored as specified under (a) of this Section and shall be stored:
  - (1) In a self-draining position that allows air drying; and
  - (2) Covered or inverted.
- (c) Single-service and single-use articles shall be stored as specified under (a) of this Section and shall be kept in the original protective package or stored by using other means that afford protection from contamination until used.
- (d) Items that are kept in closed packages may be stored less than 15 cm (6 inches) above the floor on dollies, pallets, racks, and skids that are designed as specified under OAC 310:257-7-47.

**310:257-7-106. Prohibitions**

- (a) Except as specified in (b) of this Section, cleaned and sanitized equipment, utensils, laundered linens, and single-service and single-use articles may not be stored:
- (1) In locker rooms;
  - (2) In toilet rooms;
  - (3) In garbage rooms;
  - (4) In mechanical rooms;
  - (5) Under sewer lines that are not shielded to intercept potential drips;
  - (6) Under leaking water lines including leaking automatic fire sprinkler heads or under lines on which water has condensed;
  - (7) Under open stairwells; or
  - (8) Under other sources of contamination.
- (b) Laundered linens and single-service and single-use articles that are packaged or in a facility such as a cabinet may be stored in a locker room.

**310:257-7-107. Kitchenware and tableware**

- (a) Single-service and single-use articles and cleaned and sanitized utensils shall be handled, displayed, and dispensed so that contamination of food- and lip-contact surfaces is prevented.
- (b) Knives, forks, and spoons that are not prewrapped shall be presented so that only the handles are touched by employees and by consumers if consumer self-service is provided.
- (c) Except as specified under (b) of this Section, single-service articles that are intended for food-or lip-contact shall be furnished for consumer self-service with the original individual wrapper intact or from an approved dispenser

**310:257-7-108. Soiled and clean tableware**

Soiled tableware shall be removed from consumer eating and drinking areas and handled so that clean tableware is not contaminated.

**310:257-7-109. Preset tableware**

If tableware is preset:

- (1) Except as specified in paragraph two (2) of this Section, tableware that is preset shall be protected from contamination by being wrapped, covered, or inverted;
- (2) Preset tableware may be exposed if:
  - (A) Unused settings are removed when the consumer is seated; or
  - (B) Settings not removed when a consumer is seated are cleaned and sanitized before any further use

**310:257-7-110. Rinsing equipment and utensils after cleaning and sanitizing**

After being cleaned and sanitized, equipment and utensils shall not be rinsed before air drying or use unless:

- (1) The rinse is applied directly from a potable water supply by a warewashing machine that is maintained and operated as specified under OAC 310:257-7-26 through 310:257-7-48 and as specified under OAC 310:257-7-62 through 310:257-7-77; and
- (2) The rinse is applied only after the equipment and utensils have been sanitized by the applications of hot water or by the applications of a chemical sanitizer solution whose EPA - Registered label use instructions call for rinsing off the sanitizer after it is applied in a commercial warewashing machine.

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

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

A license holder shall obtain potable water from:

- (1) A public water system; or
- (2) A non-public water system that is constructed, maintained, and operated according to law and the rules promulgated thereunder.

### **310:257-9-2. System flushing and disinfection**

A drinking water system shall be flushed and disinfected before being placed in service after construction, repair, or modification and after an emergency situation, such as a flood, that may introduce contaminants to the system.

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

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

### **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.

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

Except when used as specified under OAC 310:257-9-5, water from a non-public water system shall be sampled and tested at least annually and as required by OAC 252:624 Minor Public Water Supply Systems.

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

The most recent sample report for the non-public water system shall be retained on file in the food establishment.

### **310:257-9-8. Quantity and availability, capacity**

- (a) The water source and system shall be of sufficient capacity to meet the peak water demands of the food establishment. Mobile and seasonal food establishments shall have a minimum water capacity of at least ten (10) gallons. Pushcarts shall have a minimum water capacity of at least five (5) gallons.
- (b) Hot water generation and distribution systems shall be sufficient to meet the peak hot water demands throughout the food establishment.

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

**310:257-9-11. Alternative water supply**

Water meeting the requirements specified under OAC 310:257-9-1 through OAC 310:257-9-9 shall be made available for a temporary food establishment without a permanent water supply, and for a food establishment or mobile food establishment with a temporary interruption of its water supply through:

- (1) A supply of containers of commercially bottled drinking water;
- (2) One or more closed portable water containers;
- (3) An enclosed vehicular water tank;
- (4) An on-premises water storage tank; or
- (5) Piping, tubing, or hoses connected to an adjacent approved source.

**310:257-9-12. Materials, approved**

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

**310:257-9-13. Approved system and cleanable fixtures**

- (a) A plumbing system shall be designed, constructed, and installed according to law.
- (b) A plumbing fixture such as a handwashing facility, toilet, or urinal shall be easily cleanable.

**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 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 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 shall not be less than 25 mm (1 inch).

**310:257-9-16. Backflow prevention device, design standard**

A backflow or back siphonage prevention device installed on a water supply system shall meet American Society of Sanitary Engineering (A.S.S.E.) standards for construction, installation, maintenance, inspection, and testing for that specific application and type of device.

**310:257-9-17. Conditioning device, design**

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

**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 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.

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

At least 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 be substituted for this requirement for temporary, seasonal, and mobile food establishments.

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

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

**310:257-9-21. Backflow prevention device, when required**

A plumbing system shall be installed to preclude backflow of a solid, liquid, or gas contaminant into the water supply system at each point of use at the food establishment, including on a hose bibb if a hose is attached or on a hose bibb if a hose is not attached and backflow prevention is required by law, by:

- (1) Providing an air gap as specified under OAC 310:257-9-15; or
- (2) Installing an approved backflow prevention device as specified under OAC 310:257-9-16.

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

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

**310:257-9-23. Location and placement, handwashing facilities**

A handwashing facility shall be located:

- (1) To allow convenient use by employees in food preparation, food dispensing, and warewashing areas; and;
- (2) In, or immediately adjacent to, toilet rooms.

**310:257-9-24. Backflow prevention device, location**

A backflow prevention device shall be located so that it may be serviced and maintained.

**310:257-9-25. Conditioning device, location**

A water filter, screen, and other water conditioning device installed on water lines shall be located to facilitate disassembly for periodic servicing and cleaning.

**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 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) A person 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.

**310:257-9-28. Scheduling inspection and service for a water system device**

A device such as a water treatment device or backflow preventer shall be scheduled for inspection and service, in accordance with manufacturer's instructions and as necessary to prevent device failure based on local water conditions, and records demonstrating inspection and service shall be maintained by the person in charge.

**310:257-9-29. Water reservoir of fogging devices, cleaning**

- (a) A reservoir that is used to supply water to a device such as a produce fogger shall be:
  - (1) Maintained in accordance with manufacturer's specifications; and
  - (2) Cleaned in accordance with manufacturer's specifications or according to the procedures specified under (b) of this Section, whichever is more stringent.
- (b) Cleaning procedures shall include at least the following steps and shall be conducted at least once a week:
  - (1) Draining and complete disassembly of the water and aerosol contact parts;
  - (2) Brush-cleaning the reservoir, aerosol tubing, and discharge nozzles with a suitable detergent solution;
  - (3) Flushing the complete system with water to remove the detergent solution and particulate accumulation; and;
  - (4) Rinsing by immersing, spraying, or swabbing the reservoir, aerosol tubing, and discharge nozzles with at least 50 mg/L hypochlorite solution.

**310:257-9-30. System maintained in good repair**

A plumbing system shall be:

- (1) Repaired according to law; and
- (2) Maintained in good repair.

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

Materials that are used in the construction of a 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 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.

**310:257-9-33. Inspection and cleaning port, protected and secured**

If a water tank is designed with an access port for inspection and cleaning, the opening shall be in the top of the tank and:

- (1) Flanged upward at least 13 mm (one-half inch); and
- (2) Equipped with a port cover assembly that is:
  - (A) Provided with a gasket and a device for securing the cover in place, and;
  - (B) Flanged to overlap the opening and sloped to drain.

**310:257-9-34. "V" type threads, use limitation**

A fitting with "V" type threads on a water tank inlet or outlet shall be allowed only when a hose is permanently attached.

**310:257-9-35. Tank vent, protected**

If provided, a water tank vent shall terminate in a downward direction and shall be covered with:

- (1) 16 mesh to 25.4 mm (16 mesh to 1 inch) screen or equivalent when the vent is in a protected area; or
- (2) A protective filter when the vent is in an area that is not protected from windblown dirt and debris.

**310:257-9-36. Inlet and outlet, sloped to drain**

- (a) A water tank and its inlet and outlet shall be sloped to drain.
- (b) A water tank inlet shall be positioned so that it is protected from contaminants such as waste discharge, road dust, oil or grease.

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

A hose used for conveying potable water 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.

**310:257-9-38. Filter, compressed air**

A filter that does not pass oil or oil vapors shall be installed in the air supply line between the compressor and drinking water system when compressed air is used to pressurize the water tank system.

**310:257-9-39. Protective cover or device**

A cap and keeper chain, closed cabinet, closed storage tube, or other approved protective cover or device shall be provided for a water inlet, outlet, and hose.

**310:257-9-40. Mobile food establishment tank inlet**

A mobile food establishment's water tank inlet shall be:

- (1) 19.1 mm (three-fourths (3/4) inch) in inner diameter or less; and
- (2) Provided with a hose connection of a size or type that will prevent its use for any other service.

**310:257-9-41. System flushing and 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.

**310:257-9-42. Using a pump and hoses, backflow prevention**

A person shall operate a water tank, pump, and hoses so that backflow and other contamination of the water supply are prevented.

**310:257-9-43. Protecting inlet, outlet, and hose fitting**

If not in use, a water tank and hose inlet and outlet fitting shall be protected using a cover or device as specified under OAC 310:257-9-39.

**310:257-9-44. Tank, pump, and hoses, dedication**

- (a) Except as specified in (b) of this Section, a water tank, pump, and hoses used for conveying drinking water shall be used for no other purpose.
- (b) Water tanks, pumps, and hoses approved for liquid foods may be used for conveying drinking water if they are cleaned and sanitized before they are used to convey water.

**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;
- (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.

**310:257-9-46. Establishment drainage system**

Food establishment drainage systems, including grease traps, that convey sewage shall be designed and installed as specified under OAC 310:257-9-13(a).

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

- (a) Except as specified in (b) through (d) of this Section, a direct connection 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 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 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.

**310:257-9-50. Removing mobile food establishment wastes**

Sewage and other liquid wastes shall be removed from a mobile food establishment at an approved waste servicing area or by a sewage transport vehicle in such a way that a public health hazard or nuisance is not created.

**310:257-9-51. Flushing a waste retention tank**

A tank for liquid waste retention shall be thoroughly flushed and drained in a sanitary manner during the servicing operation.

**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 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.

**310:257-9-54. Indoor storage area**

If located within the food establishment, a storage area for refuse, recyclables, and returnables shall meet the requirements specified under OAC 310:257-11-1, OAC 310:257-11-3 through OAC 310:257-11-10, OAC 310:257-11-15, and OAC 310:257-11-16.

**310:257-9-55. Outdoor storage surface**

An outdoor storage surface for refuse, recyclables, and returnables shall be constructed of nonabsorbent material such as concrete or asphalt and shall be smooth, durable, and sloped to drain

**310:257-9-56. Outdoor enclosure**

If used, an outdoor enclosure for refuse, recyclables, and returnables shall be constructed of durable and cleanable materials.

**310:257-9-57. Receptacles**

- (a) Except as specified in (b) of this Section, receptacles and waste handling units for refuse, recyclables, and returnables and for use with materials containing food residue shall be durable, cleanable, insect- and rodent-resistant, leakproof, and nonabsorbent.
- (b) Plastic bags and wet strength paper bags may be used to line receptacles for storage inside the food establishment, or within closed outside receptacles.

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

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

**310:257-9-59. Outside receptacles**

- (a) Receptacles and waste handling units for refuse, recyclables, and returnables used with materials containing food residue and used outside the food establishment shall be designed and constructed to have tight-fitting lids, doors, or covers.
- (b) Receptacles and waste handling units for refuse and recyclables such as an on-site compactor shall be installed so that accumulation of debris and insect and rodent attraction and harborage are minimized and effective cleaning is facilitated around and, if the unit is not installed flush with the base pad, under the unit.
- (c) Equipment and receptacles for refuse, recyclables, and returnables used with materials containing food residue and designed to be used by establishment patrons shall be used as originally designed and maintained so that accumulation of debris and insect and rodent attraction are minimized.

**310:257-9-60. Storage areas, rooms, and receptacles, capacity and availability**

- (a) An inside storage room and area and outside storage area and enclosure, and receptacles shall be of sufficient capacity to hold refuse, recyclables, and returnables that accumulate.
- (b) A receptacle shall be provided in each area of the food establishment or premises where refuse is generated or commonly discarded, or where recyclables or returnables are placed.
- (c) If disposable towels are used at handwashing lavatories, a waste receptacle shall be located at each lavatory or group of adjacent lavatories.

**310:257-9-61. Toilet room receptacle, covered**

A toilet room used by females shall be provided with a covered receptacle for sanitary napkins.

**310:257-9-62. Cleaning implements and supplies**

- (a) Except as specified in (b) of this Section, suitable cleaning implements and supplies such as high pressure pumps, hot water, steam, and detergent shall be provided as necessary for effective cleaning of receptacles and waste handling units for refuse, recyclables, and returnables.
- (b) If approved, off-premises-based cleaning services may be used if on-premises cleaning implements and supplies are not provided.

**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 shall not create a public health hazard or nuisance or interfere with the cleaning of adjacent space.

**310:257-9-64. Storing refuse, recyclables, and returnables**

Refuse, recyclables, and returnables shall be stored in receptacles or waste handling units so that they are inaccessible to insects and rodents.

**310:257-9-65. Areas, enclosures, and receptacles, good repair**

Storage areas, enclosures, and receptacles for refuse, recyclables, and returnables shall be maintained in good repair

**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 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.

**310:257-9-67. Covering receptacles**

Receptacles and waste handling units for refuse, recyclables, and returnables shall be kept covered:

- (1) Inside the food establishment if the receptacles and units:
  - (A) Contain food residue and are not in continuous use; or
  - (B) After they are filled; and
- (2) With tight-fitting lids or doors if kept outside the food establishment.

**310:257-9-68. Using drain plugs**

Drains in receptacles and waste handling units for refuse, recyclables, and returnables shall have drain plugs in place.

**310:257-9-69. Maintaining refuse areas and enclosures**

A storage area and enclosure for refuse, recyclables, or returnables shall be maintained free of unnecessary items, as specified under OAC 310:257-11-53, and clean.

**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 310:257-9-49.
- (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.

**310:257-9-71. Frequency**

Refuse, recyclables, and returnables shall be removed from the premises at a frequency that will minimize the development of objectionable odors and other conditions that attract or harbor insects and rodents.

**310:257-9-72. Receptacles or vehicles**

Refuse, recyclables, and returnables shall be removed from the premises by way of:

- (1) Portable receptacles that are constructed and maintained according to law; or
- (2) A transport vehicle that is constructed, maintained, and operated according to law.

**310:257-9-73. Community or individual facility**

Solid waste not disposed of through the sewage system such as through grinders and pulpers shall be recycled or disposed of in an approved public or private community recycling or refuse facility; or solid waste shall be disposed of in an individual refuse facility such as a landfill or incinerator which is sized, constructed, maintained, and operated according to law

**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, 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 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.

**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 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 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, 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 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.

**310:257-11-7. Floor covering, mats and duckboards**

Mats and duckboards shall be designed to be removable and easily cleanable.

**310:257-11-8. Wall and ceiling coverings and coatings**

- (a) Wall and ceiling covering materials shall be attached so that they are easily cleanable.
- (b) Except in areas used only for dry storage, concrete, porous blocks, or bricks used for indoor wall construction shall be finished and sealed to provide a smooth, nonabsorbent, easily cleanable surface.

**310:257-11-9. Walls and ceilings, attachments**

- (a) Except as specified in (b) of this Section, attachments to walls and ceilings such as light fixtures, mechanical room ventilation system components, vent covers, wall mounted fans, decorative items, and other attachments shall be easily cleanable.
- (b) In a consumer area, wall and ceiling surfaces and decorative items and attachments that are provided for ambiance need not meet this requirement if they are kept clean.

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

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

**310:257-11-11. Light bulbs, protective shielding**

- (a) Except as specified in (b) of this Section, light bulbs shall be shielded, coated, or otherwise shatter-resistant in areas where there is exposed food; clean equipment, utensils, and linens; or unwrapped single-service and single-use articles.
- (b) Shielded, coated, or otherwise shatter-resistant bulbs need not be used in areas used only for storing food in unopened packages, if:
  - (1) The integrity of the packages can not be affected by broken glass falling onto them; and
  - (2) The packages are capable of being cleaned of debris from broken bulbs before the packages are opened.
- (c) An infrared or other heat lamp shall be protected against breakage by a shield surrounding and extending beyond the bulb so that only the face of the bulb is exposed.

### **310:257-11-12. Heating, ventilating, air conditioning system Vents**

Heating, ventilating, and air conditioning systems shall be designed and installed so that make-up air intake and exhaust vents do not cause contamination of food, food-contact surfaces, equipment, or utensils.

### **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, linens; and unwrapped single-service and single-use articles.

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

A toilet room 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:
  - (A) protects exposed food, clean equipment, utensils, linens; and unwrapped single-service and single-use articles to contamination, and
  - (B) offensive odors are controlled.

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

- (a) Except as specified in (b), (c), (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;
- (2) Properly installed air curtains 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.

**310:257-11-16. Exterior walls and roofs, protective barrier**

Perimeter walls and roofs of a food establishment shall effectively protect the establishment from the weather and the entry of insects, rodents, and other animals.

**310:257-11-17. Outdoor food vending areas, overhead protection**

Except for machines that vend canned beverages, if located outside, a machine used to vend food shall be provided with overhead protection.

**310:257-11-18. Outdoor servicing areas, overhead protection**

Servicing areas shall be provided with overhead protection except that areas used only for the loading of water or the discharge of sewage and other liquid waste, through the use of a closed system of hoses, need not be provided with overhead protection.

**310:257-11-19. Outdoor walking and driving surfaces, graded to drain**

Exterior walking and driving surfaces shall be graded to drain.

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

Outdoor refuse areas shall be constructed in accordance with law and shall be 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 not be used for conducting food establishment operations.

**310:257-11-22. Living or sleeping quarters, separation**

Living or sleeping quarters located on the premises of a food establishment such as those provided for lodging registration clerks or resident managers shall be separated from rooms and areas used for food establishment operations by complete partitioning and solid self-closing doors.

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

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

Each handwashing sink or group of two (2) adjacent 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 sink or group of adjacent 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;
- (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.

**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, shall not be provided with the handwashing aids and devices required for a handwashing sink as specified under OAC 310:257-11-24 and OAC 310:257-11-25 and OAC 310:257-9-60(c).

**310:257-11-27. Handwashing signage**

A sign or poster that notifies food employees to wash their hands shall be provided at all handwashing lavatories used by food employees and shall be clearly visible to food employees.

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

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

**310:257-11-30. Toilet tissue, availability**

A supply of toilet tissue shall be available at each toilet.

**310:257-11-31. Lighting, intensity**

The light intensity shall be:

- (1) At least 108 lux (10 foot candles) at a distance of 75 cm (30 inches) above the floor, in walk-in refrigeration units and dry food storage areas and in other areas and rooms during periods of cleaning;
- (2) At least 215 lux (20 foot candles):
  - (A) At a surface where food is provided for consumer self-service such as buffets and salad bars or where fresh produce or packaged foods are sold or offered for consumption;
  - (B) Inside equipment such as reach-in and under-counter refrigerators;
  - (C) At a distance of 75 cm (30 inches) above the floor in areas used for handwashing, warewashing, and equipment and utensil storage, and in toilet rooms; and
- (3) At least 540 lux (50 foot candles) at a surface where a food employee is working with food or working with utensils or equipment such as knives, slicers, grinders, or saws where employee safety is a factor.

**310:257-11-32. Ventilation, mechanical**

If necessary to keep rooms free of excessive heat, steam, condensation, vapors, obnoxious odors, smoke, and fumes, mechanical ventilation of sufficient capacity shall be provided.

**310:257-11-33. Designation**

- (a) Dressing rooms or dressing areas shall be designated if employees routinely change their clothes in the establishment.
- (b) Lockers or other suitable facilities shall be provided for the orderly storage of employees' clothing and other possessions.

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

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

**310:257-11-36. Toilet rooms, convenience and accessibility**

Toilet rooms shall be conveniently located and accessible to employees during all hours of operation.

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

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 can not occur.

**310:257-11-38. Distressed merchandise, segregation and location**

Products that are held by the license holder for credit, redemption, or return to the distributor, such as damaged, spoiled, or recalled products, shall be segregated and held in designated areas that are separated from food, equipment, utensils, linens, and single-service and single-use articles.

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

**310:257-11-40. Premises, structures, attachments, and fixtures, repairing**

The physical facilities shall be maintained in good repair.

**310:257-11-41. Cleaning, frequency and restrictions**

- (a) The physical facilities shall be cleaned as often as necessary to keep them clean.
- (b) Cleaning shall be done during periods when the least amount of food is exposed such as after closing. This requirement does not apply to cleaning that is necessary due to a spill or other accident.
- (c) Mobile pushcarts and mobile food establishments shall return daily to the commissary for servicing and cleaning, if not associated with an event or celebration.

**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, 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.

**310:257-11-43. Cleaning ventilation systems, nuisance and discharge prohibition**

- (a) Intake and exhaust air ducts shall be cleaned and filters changed so they are not a source of contamination by dust, dirt, and other materials.
- (b) If vented to the outside, ventilation systems may not create a public health hazard or nuisance or unlawful discharge.

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

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

**310:257-11-45. Drying mops**

After use, mops shall be placed in a position that allows them to air-dry without soiling walls, equipment, or supplies.

**310:257-11-46. Absorbent materials on floors, use limitation**

Except as specified in OAC 310:257-11-42(b), sawdust, wood shavings, granular salt, baked clay, diatomaceous earth, or similar materials may not be used on floors.

**310:257-11-47. Cleaning of plumbing fixtures**

Plumbing fixtures such as handwashing sinks, toilets, and urinals shall be cleaned as often as necessary to keep them clean.

**310:257-11-48. Closing toilet room doors**

Toilet room doors as specified under OAC 310:257-11-14 shall be kept closed except during cleaning and maintenance operations.

**310:257-11-49. Using dressing rooms and lockers**

- (a) Dressing rooms shall be used by employees if the employees regularly change their clothes in the establishment.
- (b) Lockers or other suitable facilities shall be used for the orderly storage of employee clothing and other possessions.

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

The premises shall be maintained free of insects, rodents, and other pests. 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.

**310:257-11-51. Removing dead or trapped birds, insects, rodents, and other pests**

Dead or trapped birds, insects, rodents, and other pests shall be removed from control devices and the premises at a frequency that prevents their accumulation, decomposition, or the attraction of pests.

**310:257-11-52. Storing maintenance tools**

Maintenance tools such as brooms, mops, vacuum cleaners, and similar items shall be:

- (1) Stored so they do not contaminate food, equipment, utensils, linens, and single-service and single-use articles; and
- (2) Stored in an orderly manner that facilitates cleaning the area used for storing the maintenance tools.

**310:257-11-53. Maintaining premises, unnecessary items and litter**

The premises shall be free of:

- (1) Items that are unnecessary to the operation or maintenance of the establishment such as equipment that is nonfunctional or no longer used; and
- (2) Litter.

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

- (a) Except as specified in (b), (c) and (d) of this Section, live animals 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 can not result:
  - (1) Edible fish or decorative fish in aquariums, shellfish or crustacea on ice or under refrigeration, and shellfish and crustacea in display tank systems;
  - (2) Patrol dogs accompanying police or security officers in offices 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 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) Containers used to provide food and water 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.

### **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.

#### **310:257-13-2. Common name**

Working containers used for storing poisonous or toxic materials such as cleaners and sanitizers taken from bulk supplies shall be clearly and individually identified with the common name of the material.

#### **310:257-13-3. Storage separation**

Poisonous or toxic materials shall be stored so they cannot contaminate food, equipment, utensils, linens, and single-service and single-use articles by:

- (1) Separating the poisonous or toxic materials by spacing or partitioning; and
- (2) Locating the poisonous or toxic materials in an area that is not above food, equipment, utensils, linens, and single-service or single-use articles. This paragraph does not apply to equipment and utensil cleaners and sanitizers that are stored in warewashing areas for availability and convenience if the materials are stored to prevent contamination of food, equipment, utensils, linens, and single-service and single-use articles.

**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 shall not be used to store, transport, or dispense food.

**310:257-13-7. Sanitizers, criteria**

Chemical sanitizers, including chemical sanitizing solutions generated on-site, and other chemical antimicrobials applied to food-contact surfaces shall:

- (1) Meet the requirements specified in 40 CFR Section 180.940 Tolerance exemptions for active and inert ingredients for use in antimicrobial formulations (Food-contact surface sanitizing solutions), or
- (2) Meet the requirements as specified in 40 CFR Section 180.2020 Pesticide Chemicals Not Requiring a Tolerance or Exemption from Tolerance-Non-food determinations.

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

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.

**310:257-13-9. Boiler water additives, criteria**

Chemicals used as boiler water additives shall meet the requirements specified in 21 CFR 173.310 Boiler Water Additives.

**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 175-178, 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 21 USC Section 348, or

(G) Approved for use as a drying agent under a prior sanction as described in 21 USC §301 ; and

(2) When sanitization is with chemicals, the approval required as specified under (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.

**310:257-13-11. Incidental food contact, criteria**

Lubricants shall meet the requirements specified in 21 CFR 178.3570 Lubricants with incidental food contact, if they are used on food-contact surfaces, on bearings and gears located on or within food-contact surfaces, or on bearings and gears that are located so that lubricants may leak, drip, or be forced into food or onto food-contact surfaces.

**310:257-13-12. Restricted use pesticides, criteria**

Restricted use pesticides specified under OAC 310:257-13-5 (3) shall meet the requirements specified in 40 CFR 152 Subpart I - Classification of Pesticides.

**310:257-13-13. Rodent bait stations**

Rodent bait shall be contained in a covered, tamper-resistant bait station.

**310:257-13-14. Tracking powders, pest control and monitoring**

(a) Except as specified in (b) of this Section, a tracking powder pesticide shall not be used in a food establishment.

(b) If used, a nontoxic tracking powder such as talcum or flour shall not contaminate food, equipment, utensils, linens, and single-service and single-use articles.

**310:257-13-15. Restriction and storage**

(a) Except for medicines that are stored or displayed for retail sale, only those medicines that are necessary for the health of employees shall be allowed in a food establishment.

(b) Medicines that are in a food establishment for the employees' use shall be labeled as specified under OAC 310:257-13-1 and located to prevent the contamination of 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, leak-proof container that is identified as a container for the storage of medicines; and
- (2) Located so they are inaccessible to children.

**310:257-13-17. Storage**

First aid supplies that are in a food establishment for the employees' use shall be:

- (1) Labeled as specified under OAC 310:257-13-1; and
- (2) Stored in a kit or a container that is located to prevent the contamination of food, equipment, utensils, and linens, and single-service and single-use articles.

**310:257-13-18. Storage**

Except as specified under OAC 310:257-13-16 and OAC 310:257-13-17, employees shall store their personal care items in facilities as specified under OAC 310:257-11-33(b).

**310:257-13-19. Separation**

Poisonous or toxic materials shall be stored and displayed for retail sale so they can not contaminate food, equipment, utensils, linens, and single-service and single-use articles by:

- (1) Separating the poisonous or toxic materials by spacing or partitioning; and
- (2) Locating the poisonous or toxic materials in an area that is not above food, equipment, utensils, linens, and single-service or single-use articles.

**SUBCHAPTER 15. COMPLIANCE AND ENFORCEMENT**

**310:257-15-1. Public health protection [REVOKED]**

**310:257-15-2. Preventing health hazards, provision for conditions not addressed [REVOKED]**

**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 [REVOKED]**

**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 regulatory authority may confirm the following in writing:
- (1) The nature and extent of 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; 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 regulatory authority with the information specified in OAC 310:257-15-9 as it is relevant to the variance requested.

#### **310:257-15-5. Conformance with approved procedures**

If the 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, and
- (2) Maintain and provide to the regulatory authority, upon request, records specified under OAC 310:257-15-9(5) 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; or
- (4) If the regulatory authority 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, shall include:

- (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 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 holder shall submit to the 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;
- (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)(4); or
- (3) The Department 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) 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.
- (2) A categorization of the types of Time/Temperature Control for Safety foods that are to be controlled under the HACCP plan;
- (3) A flow diagram or chart for each specific food or category type that identifies:
  - (A) Each step in the process,
  - (B) 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.
- (4) Food employee and supervisory training plan that addresses the food safety issues of concern;
- (5) A CCP summary for each specific food or category type that clearly identifies:
  - (A) Each CCP,
  - (B) The critical limits for each CCP,
  - (C) The method and frequency for monitoring and controlling each 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 CCPs,
  - (E) Action to be taken by the person in charge if the critical limits for each 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
- (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 information that meets the criteria specified in law for a trade secret and is contained on inspection reports and any plans and specifications submitted.

### **310:257-15-11. Preoperational inspections**

The regulatory authority 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.

### **310:257-15-12. Prerequisite for operation**

A person may not operate a food establishment without a valid license to operate issued by the Commissioner of Health.

### **310:257-15-13. Form of submission and contents of application**

A person desiring to operate a food establishment shall submit to the regulatory authority a written application for a license on a form provided by the 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) 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 [REVOKED]**

### **310:257-15-16. New 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) All required fees are received;
- (3) The required plans, specifications, and information are reviewed and approved; and

(4) A preoperational inspection if required 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 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.

### **310:257-15-19. Responsibilities of the Department**

- (a) The Department shall 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 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 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;
- (2) Comply with the provisions of this Chapter;
- (3) 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;
- (4) Accept notices issued and served by the Department;
- (5) Be subject to the administrative, civil, injunctive, and criminal remedies as authorized 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
- (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 cannot be transferred from one license holder to another, from one physical address to another, or from one type of operation to another if the food operation changes from the type of operation specified in the application 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 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 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 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 regulatory authority then the regulatory authority shall:

- (1) Inform the person that:
  - (A) The license holder is required to allow access to the 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, and
  - (C) If access is denied, an order issued by the appropriate authority allowing access may be obtained; and
- (2) Make a final request for access.

**310:257-15-25. Refusal, reporting**

If after the regulatory authority presents credentials and provides notice, explains the authority upon which access is requested, and makes a final request for access, the person in charge continues to refuse access, the regulatory authority shall record details of the denial of access on an inspection report form.

**310:257-15-26. 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 order to gain access as provided in law.

**310:257-15-27. Documenting information and observations**

The regulatory authority shall document on an inspection report form:

- (1) Administrative information about the food establishment's legal identity, physical location, type of establishment, 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 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,
  - (B) Failure of food employees to demonstrate their knowledge of their responsibility to report a disease or medical condition,
  - (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,
  - (E) Failure of the person in charge to provide records required by the regulatory authority for determining conformance with a HACCP plan, and
  - (F) Nonconformance with critical limits of a HACCP plan.

**310:257-15-28. Specifying time frame for corrections [REVOKED]**

**310:257-15-29. Issuing report and obtaining acknowledgment of receipt**

At the conclusion of the inspection, the regulatory authority shall provide a copy of the completed inspection report 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 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 not affect the license holder's obligation to correct the violations noted in the inspection report within the required timeframes, 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 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 may exist because of an emergency such as a fire, flood, sewage backup, 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 four (4) hours, severe structural damage in the facility, an employee working with a Salmonella, Shigella, 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 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 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

### **310:257-15-33. Resumption of operations**

If operations are discontinued as specified under OAC 310:257-15-32 or otherwise according to law, the license holder shall obtain approval from the regulatory authority before resuming operations.

### **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 regulatory authority may agree to or specify a longer time frame, not to exceed:
  - (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 (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 regulatory authority shall enter the violation and information about the corrective action on the inspection report.
- (b) 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 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 items by a date and time agreed to or specified by the regulatory authority but no later than 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 (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 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.

**310:257-15-39. Restriction or exclusion order: warning or hearing not required, information required in order**

Based on the findings of the investigation and to control disease transmission, the Department may issue an order of restriction or exclusion to a suspected food employee or the license holder without prior warning, notice of a hearing, or a hearing if the order:

- (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 Department representative to whom a request for an appeal hearing may be made.

### **310:257-15-40. Release of food employee from restriction or exclusion**

The Department shall release a food employee from restriction or exclusion consistent with the provisions of 310:257-3-6.

### **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(a, b); 3-12; 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); 5-47(3); 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)(1, 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; 7-72; 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); 17-3.1(c); 17-5(b, d).

(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, E), (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); 5-48; 5-48.1(6); 5-50(a, c); 5-53(2); 5-58; 5-60(a, b, c); 5-62(a), (b)(2), (c)(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; 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); 11-69 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(a); 17-1(g, h); 17-2(b), (c)(4), (d)(4); 17-4(b):

## **SUBCHAPTER 17. MOBILE UNITS**

### **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 requirements contained in this Chapter.

(b) Any mobile units that sells only prepackaged food is not subject to a plan review fee.

(c) 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) Pushcarts preparing unpackaged food shall be shielded on three sides.
- (b) 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) 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) 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 hand washing facilities on the pushcart or immediately adjacent to the pushcart if open food is sold.
  - (4) Except as specified in OAC 310:257-17-1(i), have a 3-compartment sink on the pushcart;
- (d) Each outdoor mobile pushcart shall:
  - (1) Have hand washing facilities on the pushcart if open food is sold;
  - (2) Have over-head protection above food and food preparation areas;
  - (3) Except as specified in OAC 310:257-17-5(c), have a commissary, licensed to the same owner as the pushcart; and;
  - (4) Except as specified in OAC 310:257-17-1(i), have a 3-compartment sink on the pushcart.

### **310:257-17-3. Mobile food establishments [REVOKED]**

#### **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 may sell from a stationary table, such as at an event or farmers market.

(b) 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.

**310:257-17-5. Commissary and servicing area requirements**

(a) The commissary shall have:

(1) A location available for flushing and draining liquid waste 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) 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 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) 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.

**310:257-17-6. Storage [REVOKED]**

**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 <u>and</u> : 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			Approval from OSDH <u>and</u> : Dr. Note.	(c)
(b)(3)	Diagnosed with hepatitis A w/out developing symptoms				
(c)	Previous illness with Typhoid fever w/in the past 3 months				
(f)	STEC infection and asymptomatic	Restrict	Restrict	Approval from OSDH <u>and</u> : 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 <u>and</u> : The employee provides a Dr. note showing free of Norovirus infection; <u>or</u> The employee was excluded or restricted after symptoms resolved, and 48+ hrs have passed since the employee became asymptomatic; <u>or</u> 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 <u>and</u> : 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	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	(j)
				<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.	
(a)(2); (g)	Nontyphoidal Salmonella infection and asymptomatic	Exclude	Exclude	Approval from OSDH <u>and</u> : 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)