

**Title 20. Public Health and Welfare**

**Chapter I. Generally, Department of Health**

**Subchapter G. Rules Pertaining to Retail Food Establishments**

**Part 196. Poisonous or Toxic Materials**

**Codification Notes.** This part as promulgated prior to codification into the Code of Arkansas Rules provided as follows:

"Promulgated Under Authority of Ark. Code Ann. §§ 20-7-101 through 20-7-130, §§ 20-56-201 through 20-56-223, and §§ 20-57-201 through 20-57-208."

"AUTHORITY

The following Rules Pertaining to Retail Food Establishments are duly adopted and promulgated by the Arkansas State Board of Health pursuant to the authority expressly conferred by the Laws of the State of Arkansas including, without limitation, Act 96 of 1913 (Ark. Code Ann. §§ 20-56-201 through 20-56-223) and Act 357 of 1977 (Ark. Code Ann. §§ 20-57-201 through 20-57-208)."

"Effective October \_\_, 2022"

"1-101.10 SEVERABILITY

If any provision of THESE RULES or the application thereof to any PERSON is held invalid, such invalidity shall not affect other provisions of applications of THESE RULES which can affect the invalid provisions of applications, and to this end the provisions hereto are declared severable."

"1-101.11 REPEAL

All Rules and parts of Rules in conflict herewith are hereby repealed."

"CERTIFICATION

This will certify that the foregoing revisions to the Rules Pertaining to Retail Food Establishments in Arkansas were adopted by the State Board of Health of Arkansas at a regular session of said Board held in Little Rock, Arkansas, on the 22nd day of July, 2021."

## **Subpart 1. Labeling and Identification**

### **20 CAR § 196-101. Original containers.**

(a) **Identifying information — Prominence.\*** Containers of poisonous or toxic materials and personal care items shall bear a legible manufacturer's label. <sup>Pf</sup>

(b) **Working containers — 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. <sup>Pf</sup>

**Authority.** Arkansas Code §§ 20-56-219, 20-57-209.

## **Subpart 2. Operational Supplies and Applications**

### **20 CAR § 196-201. 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; <sup>P</sup>  
and

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

(B) 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. <sup>P</sup>

**Authority.** Arkansas Code §§ 20-56-219, 20-57-209.

**20 CAR § 196-202. Presence and use.**

**(a) Restriction.\***

(1) Only those poisonous or toxic materials that are required for the operation and maintenance of a retail food establishment, such as for the cleaning and sanitizing of equipment and utensils and the control of insects and rodents, shall be allowed in a retail food establishment. <sup>Pf</sup>

(2) Subdivision (a)(1) of this section does not apply to packaged poisonous or toxic materials that are for retail sale.

**(b) Conditions of use.\*** Poisonous or toxic materials shall be:

(1) Used according to:

(A) Law and rules;

(B) Manufacturer's use directions included in labeling and, for a pesticide, manufacturer's label instructions that state that use is allowed in a retail food establishment; <sup>P</sup>

(C) The conditions of certification, if certification is required, for use of the pest control materials; <sup>P</sup> and

(D) Additional conditions that may be established by the regulatory authority; and

(2) Applied so that:

(A) A hazard to employees or other persons is not constituted; <sup>P</sup> and

(B) Contamination including toxic residues due to drip, drain, fog, splash, or spray on food, equipment, utensils, linens, and single-service or single-use articles is prevented, and for a restricted-use pesticide, this is achieved by: <sup>P</sup>

(i) Removing the items; <sup>P</sup>

(ii) Covering the items with impermeable covers; <sup>P</sup> or

(iii) Taking other appropriate preventive actions; <sup>P</sup> and  
(iv) Cleaning and sanitizing equipment and utensils after the  
application. <sup>P</sup>

(3) A restricted-use pesticide shall be applied only by an applicator certified as defined in 7 U.S.C. § 136(e), Definitions, Certified applicator, of the Federal Insecticide, Fungicide and Rodenticide Act, Pub. L. No. 80-104, or a person under the direct supervision of a certified applicator. <sup>Pf</sup>

**Authority.** Arkansas Code §§ 20-56-219, 20-57-209.

### **20 CAR § 196-203. Container prohibitions.**

**Poisonous or toxic material containers.\*** A container previously used to store poisonous or toxic materials may not be used to store, transport, or dispense food. <sup>P</sup>

**Authority.** Arkansas Code §§ 20-56-219, 20-57-209.

### **20 CAR § 196-204. Chemicals.**

(a) **Sanitizers — Criteria.\*** Chemical sanitizers and other chemical antimicrobials applied to food-contact surfaces shall meet the requirements specified in 40 C.F.R. § 180.940, Tolerance exemptions for active and inert ingredients for use in antimicrobial formulations (food-contact surface sanitizing solutions). <sup>P</sup>

(b) **Chemicals for washing, treatment, storage, and processing fruits and vegetables — Criteria.\***

(1) Chemicals, including those generated on-site, used to wash or peel raw, whole fruits and vegetables shall:

(A) Be an approved food additive listed for this intended use in 21 C.F.R. pt. 173; <sup>P</sup> or

(B) Be generally recognized as safe (GRAS) for this intended use; <sup>P</sup> or

(C) Be the subject of an effective food contact notification for this intended use, only effective for the manufacturer or supplier identified in the notification; <sup>P</sup> and

(D) Meet the requirements in 40 C.F.R. pt. 156, Labeling requirements for pesticides and devices. <sup>P</sup>

(2) Ozone as an antimicrobial agent used in the treatment, storage, and processing of fruits and vegetables in a retail food establishment shall meet the requirements specified in 21 C.F.R. § 173.368, Ozone. <sup>P</sup>

(c) **Boiler water additives — Criteria.\*** Chemicals used as boiler water additives shall meet the requirements specified in 21 C.F.R. § 173.310, Boiler water additives. <sup>P</sup>

(d) **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 C.F.R. pt. 182, Substances generally recognized as safe, or 21 C.F.R. pt. 184, Direct food substances affirmed as generally recognized as safe; <sup>P</sup>

(B) Generally recognized as safe for the intended use as specified in 21 C.F.R. pt. 186, Indirect food substances affirmed as generally recognized as safe; <sup>P</sup>

(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 C.F.R. § 170.30, Eligibility for classification as generally recognized as safe (GRAS); <sup>P</sup>

(D) Subject of an effective food contact notification as described in Section 409(h) of the Federal Food, Drug, and Cosmetic Act; <sup>P</sup>

(E) Approved for use as a drying agent under a prior sanction specified in 21 C.F.R. pt. 181, Prior-sanctioned food ingredients; <sup>P</sup>

(F) Specifically regulated as an indirect food additive for use as a drying agent as specified in 21 C.F.R. pts. 175 – 178; <sup>P</sup> or

(G) Approved for use as a drying agent under the threshold of regulation process established by 21 C.F.R. § 170.39, Threshold of regulation for substances used in food-contact articles; <sup>P</sup> and

(2) When sanitization is with chemicals, the approval required under subdivisions (d)(1)(C) or (d)(1)(E) of this section or the regulation as an indirect food additive required under subdivision (d)(1)(D) of this section shall be specifically for use with chemical sanitizing solutions. <sup>P</sup>

**Authority.** Arkansas Code §§ 20-56-219, 20-57-209.

**Codification Notes.** Section 409 of the Federal Food, Drug, and Cosmetic Act is codified at 21 U.S.C. § 348.

#### **20 CAR § 196-205. Lubricants.**

**Incidental food contact — Criteria.\*** Lubricants shall meet the requirements specified in 21 C.F.R. § 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. <sup>P</sup>

**Authority.** Arkansas Code §§ 20-56-219, 20-57-209.

#### **20 CAR § 196-206. Pesticides.**

(a) **Restricted-use pesticides — Criteria.\*** Restricted-use pesticides specified under 20 CAR § 196-202(b) shall meet the requirements specified in 40 C.F.R. pt. 152, Subpart I — Classification of pesticides. <sup>P</sup>

(b) **Rodent bait stations.\*** Rodent bait shall be contained in a covered, tamper-resistant bait station. <sup>P</sup>

(c) **Tracking powders — Pest control and monitoring.\***

(1) Except as specified in subdivision (c)(2) of this section, a tracking powder pesticide may not be used in a retail food establishment. <sup>P</sup>

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

**Authority.** Arkansas Code §§ 20-56-219, 20-57-209.

### **20 CAR § 196-207. Medicines.**

#### **(a) Restriction and storage.\***

(1)(A) Only those medicines that are necessary for the health of employees shall be allowed in a retail food establishment.

(B) This section does not apply to medicines that are stored or displayed for retail sale. <sup>Pf</sup>

(2) Medicines that are in a retail food establishment for the employees' use shall be labeled as specified under 20 CAR § 196-101(a) and located to prevent the contamination of food, equipment, utensils, linens, and single-service and single-use articles. <sup>P</sup>

**(b) Refrigerated medicines — Storage.\*** Medicines belonging to employees or to children in a day care center that require refrigeration and are stored in a food refrigerator shall be:

(1) Stored in a package or container and kept inside a covered, leakproof container that is identified as a container for the storage of medicines; <sup>P</sup> and

(2) Located so they are inaccessible to children. <sup>P</sup>

**Authority.** Arkansas Code §§ 20-56-219, 20-57-209.

### **20 CAR § 196-208. First aid supplies.**

**(a) Storage.\*** First aid supplies that are in a retail food establishment for the employees' use shall be:

- (1) Labeled as specified under 20 CAR § 196-101(a); <sup>Pf</sup> 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. <sup>P</sup>

(b) **Other personal care items — Storage.** Except as specified under 20 CAR § 196-207(b) and subsection (a) of this section, employees shall store their personal care items in facilities as specified under 20 CAR § 195-305(b).

**Authority.** Arkansas Code §§ 20-56-219, 20-57-209.

### **Subpart 3. Stock and Retail Sale**

#### **20 CAR § 196-301. Storage and display.**

**Separation.\*** Poisonous or toxic materials shall be stored and displayed for retail sale 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; <sup>P</sup>  
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. <sup>P</sup>

**Authority.** Arkansas Code §§ 20-56-219, 20-57-209.