

Title 20. Public Health and Welfare

Chapter I. Generally, Department of Health

Subchapter G. Rules Pertaining to Retail Food Establishments

Part 197. Compliance and Enforcement

Codification Notes. This part as promulgated prior to codification into the Code of Arkansas Rules of 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All Rules and parts of Rules in conflict herewith are hereby repealed."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. Code Applicability

20 CAR § 197-101. Use for intended purpose — Public health protection.

(a) The regulatory authority shall apply this subchapter to promote its underlying purpose, as specified in 20 CAR § 190-102, of safeguarding public health and ensuring that food is safe, unadulterated, and honestly presented when offered to the consumer.

(b) In enforcing the provisions of this subchapter, the regulatory authority shall assess existing facilities or equipment that were in use before the effective date of this subchapter 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 20 CAR § 193-101;

(3) Whether the capacities of cooling, heating, and holding equipment are sufficient to comply with 20 CAR § 193-301(a); and

(4) The existence of a documented agreement with the permit holder that the facilities or equipment will be replaced as specified under 20 CAR § 197-304(b)(7).

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

20 CAR § 194-102. Additional requirements — Preventing health hazards — Provision for conditions not addressed.

(a) If necessary to protect against public health hazards or nuisances, the regulatory authority may impose specific requirements in addition to the requirements contained in this subchapter that are authorized by law.

(b)(1) The regulatory authority shall document the conditions that necessitate the imposition of additional requirements and the underlying public health rationale.

(2) The documentation shall be provided to the permit applicant or permit holder and a copy shall be maintained in the regulatory authority's file for the retail food establishment.

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

20 CAR § 197-103. Variances.

(a) Modifications and waivers.

(1) The regulatory authority may grant a variance by modifying or waiving the requirements of this subchapter if in the opinion of the regulatory authority a health hazard or nuisance will not result from the variance.

(2) If a variance is granted, the regulatory authority shall retain the information specified under subsection (b) of this section in its records for the retail food establishment.

(b) **Documentation of proposed variance and justification.** Before a variance from a requirement of this subchapter is approved, the information that shall be provided by the person requesting the variance and retained in the regulatory authority's file on the retail food establishment includes:

(1) A statement of the proposed variance of this subchapter requirement citing relevant rules section numbers; ^{Pf}

(2) An analysis of the rationale for how the potential public health hazards and nuisances addressed by the relevant regulation sections will be alternatively addressed by the proposal; ^{Pf} and

(3) An HACCP plan if required as specified under 20 CAR § 197-201(c)(1) that includes the information specified under 20 CAR § 197-201(d) as it is relevant to the variance requested. ^{Pf}

(c) **Conformance with approved procedures.*** If the regulatory authority grants a variance as specified in subsection (a) of this section, or an HACCP plan is otherwise required as specified under 20 CAR § 197-201(c), the permit holder shall:

(1) Comply with the HACCP plans and procedures that are submitted as specified under 20 CAR § 197-201(d) and approved as a basis for the modification or waiver; ^P and

(2) Maintain and provide to the regulatory authority, upon request, records specified under 20 CAR § 197-201(d)(4) and (5) that demonstrate that the following are routinely employed:

(A) Procedures for monitoring critical control points; ^{Pf}

(B) Monitoring of the critical control points; ^{Pf}

(C) Verification of the effectiveness of an operation or process; ^{Pf} and

(D) Necessary corrective actions if there is failure at a critical control point. ^{Pf}

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

Subpart 2. Plan Submission and Approval

20 CAR § 197-201. Facility and operating plans.

(a) **When plans are required.** A permit applicant or permit holder shall submit to the regulatory authority properly prepared plans and specifications for review and approval before:

(1) The construction of a retail food establishment; ^{Pf}

(2) The conversion of an existing structure for use as a retail food establishment; ^{Pf} or

(3) The remodeling of a retail food establishment or a change of type of retail food establishment or food operation as specified under 20 CAR § 197-302(d)(3) if the regulatory authority determines that plans and specifications are necessary to ensure compliance with this subchapter. ^{Pf}

(b) **Contents of the plans and specifications.** The plans and specifications for a retail food establishment, including a retail food establishment specified under subsection (c) of this section, shall include, as required by the regulatory authority based on the type of operation, type of food preparation, and foods prepared, the following information to demonstrate conformance with this subchapter provisions:

- (1) Intended menu;
- (2) Anticipated volume of food to be stored, prepared, and sold or served;
- (3) Proposed layout, mechanical schematics, construction materials, and finish schedules;
- (4) Proposed equipment types, locations, dimensions, performance capacities, and installation specifications;
- (5) Evidence that standard procedures that ensure compliance with the requirements of this subchapter 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 retail food establishment.

(c) **When an HACCP plan is required.**

(1) Before engaging in an activity that requires an HACCP plan, a permit applicant or permit holder shall submit to the regulatory authority for approval a properly prepared HACCP plan as specified under subsection (d) of this section and the relevant provisions of this subchapter if:

- (A) Submission of an HACCP plan is required according to law;
- (B) A variance is required as specified under 20 CAR § 192-401(a)(4)(C), 20 CAR § 192-502, or 20 CAR § 193-204(j)(2); or
- (C) The regulatory authority determines that a food preparation or processing method requires a variance based on a plan submittal specified under subsection (b) of this section, an inspectional finding, or a variance request.

(2) Before engaging in reduced oxygen packaging without a variance as specified under 20 CAR § 192-502, a permit applicant or permit holder shall submit a properly prepared HACCP plan to the regulatory authority.

(d) **Contents of an HACCP plan.** For a retail food establishment that is required under subsection (c) of this section to have an HACCP plan, the plan and specifications shall indicate:

(1) A categorization of the types of time/temperature control for safety foods that are specified in the menu such as soups and sauces, salads, and bulk, solid foods such as meat roasts, or of other foods that are specified by the regulatory authority; ^{Pf}

(2) A flow diagram by specific food or category type identifying critical control points and providing information on the following:

(A) Ingredients, materials, and equipment used in the preparation of that food; ^{Pf} and

(B) Formulations or recipes that delineate methods and procedural control measures that address the food safety concerns involved; ^{Pf}

(3) Food employee and supervisory training plan that addresses the food safety issues of concern; ^{Pf}

(4) A statement of standard operating procedures for the plan under consideration including clearly identifying:

(A) Each critical control point; ^{Pf}

(B) The critical limits for each critical control point; ^{Pf}

(C) The method and frequency for monitoring and controlling each critical control point;

(D) The food employee designated by the person in charge; ^{Pf}

(E) The method and frequency for the person in charge to routinely verify that the food employee is following standard operating procedures and monitoring critical control points; ^{Pf}

(F) Action to be taken by the person in charge if the critical limits for each critical control point are not met; ^{Pf} and

(G) Records to be maintained by the person in charge to demonstrate that the HACCP plan is properly operated and managed; ^{Pf} and

(5) Additional scientific data or other information, as required by the regulatory authority, supporting the determination that food safety is not compromised by the proposal. ^{Pf}

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

20 CAR § 197-202. Confidentiality.

Trade secrets. The regulatory authority shall treat as confidential in accordance with law information that meets the criteria specified in law for a trade secret and is contained on inspection report forms and in the plans and specifications submitted as specified under 20 CAR §§ 197-201(b) and (d).

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

20 CAR § 197-203. Construction inspection and approval.

Preoperational inspections. The regulatory authority shall conduct one (1) or more preoperational inspections to verify that the retail 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 20 CAR § 197-201(b)(5), and is in compliance with law and this subchapter.

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

Subpart 3. Permit to Operate

20 CAR § 197-301. Requirement.

Prerequisite for operation. A person may not operate a retail food establishment without a valid permit to operate issued by the regulatory authority. ^{Pf}

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

20 CAR § 197-302. Application procedure.

(a) **Submission thirty (30) calendar days before proposed opening.** An applicant shall submit an application for a permit at least thirty (30) calendar days before the date planned for opening a retail food establishment or the expiration date of the current permit for an existing facility.

(b) **Form of submission.** A person desiring to operate a retail food establishment shall submit to the regulatory authority a written application for a permit on a form provided by the regulatory authority.

(c) **Qualifications and responsibilities of applicants.** To qualify for a permit, an applicant shall:

(1) Be an owner of the retail food establishment or an officer of the legal ownership;

(2) Comply with the requirements of this subchapter;

(3) As specified under 20 CAR § 197-402(b), agree to allow access to the retail food establishment and to provide required information; and

(4) Pay the applicable permit application fee at the time the application is submitted.

(d) **Contents of the application.** The application should include:

(1) The name, birth date, mailing address, telephone number, and signature of the person applying for the permit and the name, mailing address, and location of the retail food establishment;

(2) Information specifying whether the retail food establishment is owned by an association, corporation, individual, partnership, or other legal entity;

(3) A statement specifying whether the retail food establishment:

(A) Is mobile or stationary and temporary or permanent; and

(B) Is an operation that includes one (1) or more of the following:

(i) Prepares, offers for sale, or serves time/temperature control for safety food:

(a) Only to order upon consumer's request;

(b) In advance in quantities based on projected consumer demand and discards;

(c) Food that is not sold or served at an approved frequency; or

(d) Using time as a public health control as specified under 20 CAR § 192-501(i);

(ii) Prepares time/temperature control for safety food in advance using a food preparation method that involves two (2) or more steps which may include combining time/temperature control for safety food ingredients, cooking, cooling, reheating, hot or cold holding, freezing, or thawing;

(iii) Prepares food as specified under subdivision (d)(3)(B)(ii) of this section for delivery to and consumption at a location off the premises of the retail food establishment where it is prepared;

(iv) Prepares food as specified under subdivision (d)(3)(B)(ii) of this section for service to a highly susceptible population;

(v) Prepares only food that is not time/temperature control for safety food; or

(vi) Does not prepare, but offers for sale only prepackaged food that is not time/temperature control for safety food;

(4) The name, title, address, and telephone number of the person directly responsible for the retail food establishment;

(5) The name, title, address, and telephone number of the person who functions as the immediate supervisor of the person specified under subdivision (d)(4) of this section such as the zone, district, or regional supervisor;

(6) The names, titles, and addresses of:

(A) The persons comprising the legal ownership as specified under subdivision (d)(2) of this section including the owners and officers; and

(B) The local resident agent if one is required based on the type of legal ownership;

(7) A statement signed by the applicant that:

(A) Attests to the accuracy of the information provided in the application;
and

(B) Affirms that the applicant will:

(i) Comply with this subchapter; and

(ii) Allow the regulatory authority access to the establishment as specified under 20 CAR § 197-402(b) and to the records specified under 20 CAR § 192-203(b), 20 CAR § 194-205(c), and 20 CAR § 197-201(d)(4)(G); and

(8) Other information required by the regulatory authority.

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

20 CAR § 197-303. Issuance.

(a) **New converted or remodeled establishments.** For retail food establishments that are required to submit plans as specified under 20 CAR § 197-201(a), the regulatory authority shall issue a permit after:

(1) A properly completed application is submitted;

(2) The required fee is submitted;

(3) The required plans, specifications, and information are reviewed and approved; and

(4) A preoperational inspection as specified in 20 CAR § 197-203 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 subchapter.

(b) **Existing establishments, permit renewal, and change of ownership.**

The regulatory authority may renew a permit for an existing retail food establishment or may issue a permit to a new owner of an existing retail food establishment after a properly completed application is submitted, reviewed, and approved, the fees are paid, and an inspection shows that the establishment is in compliance with this subchapter.

(c) **Denial of application for permit — Notice.** If an application for a permit to operate is denied, the regulatory authority shall provide the applicant with a notice that includes:

- (1) The specific reasons and citations from this part for the permit denial;
 - (2) The actions, if any, that the applicant must take to qualify for a permit;
- and
- (3) Advisement of the applicant's right of appeal and the process and time frames for appeal that are provided in law.

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

20 CAR § 197-304. Conditions of retention.

(a) Responsibilities of the regulatory authority.

(1) At the time a permit is first issued, the regulatory authority shall provide to the permit holder a copy of this subchapter so that the permit holder is notified of the compliance requirements and the conditions of retention as specified under subsection (b) of this section that are applicable to the permit.

(2) Failure to provide the information specified in subdivision (a)(1) of this section does not prevent the regulatory authority from taking authorized action or seeking remedies if the permit holder fails to comply with this subchapter or an order, warning, or directive of the regulatory authority.

(b) Responsibilities of the permit holder. Upon acceptance of the permit issued by the regulatory authority, the permit holder in order to retain the permit shall:

(1) Post the permit in a location in the retail food establishment that is conspicuous to consumers;

(2) Comply with the provisions of this subchapter including the conditions of a granted variance as specified under 20 CAR § 197-103(b), and approved plans as specified under 20 CAR § 197-201(b);

(3) If a retail food establishment is required under 20 CAR § 197-201(c) to operate under an HACCP plan, comply with the plan as specified under 20 CAR § 197-103(c);

(4) Immediately contact the regulatory authority to report an illness of a food employee or conditional employee as specified under 20 CAR § 191-201(a)(2);

(5) Immediately discontinue operations and notify the regulatory authority if an imminent health hazard may exist as specified under 20 CAR § 197-404(a);

(6) Allow representatives of the regulatory authority access to the retail food establishment as specified under 20 CAR § 197-402(b);

(7) Replace existing facilities and equipment specified in 20 CAR § 197-101 with facilities and equipment that comply with this subchapter if:

(A) The regulatory authority directs the replacement because the facilities and equipment constitute a public health hazard or nuisance or no longer comply with the criteria upon which the facilities and equipment were accepted;

(B) The regulatory authority directs the replacement of the facilities and equipment because of a change of ownership; or

(C) The facilities and equipment are replaced in the normal course of operation;

(8) Comply with directives of the regulatory authority including time frames for corrective actions specified in inspection reports, notices, orders, warnings, and other directives issued by the regulatory authority in regard to the permit holder's retail food establishment or in response to community emergencies;

(9) Accept notices issued and served by the regulatory authority according to this subchapter;

(10) Be subject to the administrative, civil, injunctive, and criminal remedies authorized in law for failure to comply with this subchapter or a directive of the regulatory authority, including time frames for corrective actions specified in inspection reports, notices, orders, warnings, and other directives; and

(11) Notify customers that a copy of the most recent establishment inspection report is available upon request by posting a sign or placard in a location in the retail food establishment that is conspicuous to customers or by another method acceptable to the regulatory authority.

(c) **Permits not transferable.** A permit may not be transferred from one (1) person to another person, from one (1) retail food establishment to another, or from one (1) type of operation to another if the food operation changes from the type of

operation specified in the application as specified under 20 CAR § 197-302(d)(3) and the change in operation is not approved.

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

Subpart 4. Inspection and Correction of Violations

20 CAR § 197-401. Frequency.

(a) Establishing inspection interval.

(1) Except as specified in subdivisions (a)(2) and (3) of this section, the regulatory authority shall inspect a retail food establishment at least once every six (6) months.

(2) The regulatory authority may increase the interval between inspections beyond six (6) months if:

(A) The retail food establishment is fully operating under an approved and validated HACCP plan as specified under 20 CAR § 197-201(d) and 20 CAR § 197-103(c);

(B) The retail food establishment is assigned a less frequent inspection frequency based on a written risk-based inspection schedule that is being uniformly applied throughout the jurisdiction; or

(C) The establishment's operation involves only coffee service and other unpackaged or prepackaged food that is not time/temperature control for safety food such as carbonated beverages and snack food such as chips, nuts, popcorn, and pretzels.

(3) The regulatory authority shall periodically inspect throughout its permit period a temporary food establishment that prepares, sells, or serves unpackaged time/temperature control for safety food and that:

(A) Has improvised rather than permanent facilities or equipment for accomplishing functions such as handwashing, food preparation and protection, food

temperature control, warewashing, providing drinking water, waste retention and disposal, and insect and rodent control; or

(B) Has inexperienced food employees.

(b) **Performance and risk-based.** Within the parameters specified in subsection (a) of this section, the regulatory authority shall prioritize, and conduct more frequent inspections based upon its assessment of a retail food establishment's history of compliance with this subchapter and the establishment's potential as a vector of foodborne illness by evaluating:

(1) Past performance, for nonconformance with this subchapter or HACCP plan requirements that are priority items or priority foundation items;

(2) Past performance for numerous or repeat violations of this subchapter or HACCP plan requirements that are core items;

(3) Past performance, for complaints investigated and found to be valid;

(4) The hazards associated with the particular foods that are prepared, stored, or served;

(5) The type of operation including the methods and extent of food storage, preparation, and service;

(6) The number of people served; and

(7) Whether the population served is a highly susceptible population.

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

20 CAR § 197-402. Competency and access.

(a) **Competency of inspectors.** An authorized representative of the regulatory authority who inspects a retail food establishment or conducts plan review for compliance with this subchapter shall have the knowledge, skills, and ability to adequately perform the required duties.

(b) **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 retail food establishment is in compliance with this subchapter by allowing access to the establishment, allowing inspection, and providing information and records specified in this subchapter and to which the regulatory authority is entitled according to law, during the retail food establishment's hours of operation and other reasonable times.

(c) **Refusal, notification of right to access, and final request for access.** If a person denies access to the regulatory authority, the regulatory authority shall:

(1) Inform the person that:

(A) The permit holder is required to allow access to the regulatory authority as specified under subsection (b) of this section;

(B) Access is a condition of the acceptance and retention of a retail food establishment permit to operate as specified under 20 CAR § 197-304(b); and

(C) If access is denied, an order issued by the appropriate authority allowing access, hereinafter referred to as an inspection order, may be obtained according to law; and

(2) Make a final request for access.

(d) **Refusal — Reporting.** If after the regulatory authority presents credentials and provides notice as specified under subsection (b) of this section, explains the authority upon which access is requested, and makes a final request for access as specified in subsection (c) of this section, the person in charge continues to refuse access, the regulatory authority shall provide details of the denial of access on an inspection report form.

(e) **Inspection order to gain access.** If denied access to a retail food establishment for an authorized purpose and after complying with subsection (c) of this section, the regulatory authority may issue, or apply for the issuance of, an inspection order to gain access as provided in law.

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

20 CAR § 197-403. Report of findings.

(a) **Documenting information and observations.** The regulatory authority shall document on an inspection report form:

(1) Administrative information about the retail food establishment's legal identity, street and mailing addresses, type of establishment and operation as specified under 20 CAR § 197-302(d)(3), inspection date, and other information such as type of water supply and sewage disposal, status of the permit, and personnel certificates that may be required; and

(2) Specific factual observations of violative conditions or other deviations from this subchapter that require correction by the permit 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 subchapter specified under 20 CAR § 191-201(a);

(B) Failure of food employees, conditional employees, and the person in charge to report a disease or medical condition as specified under 20 CAR § 191-201(a)(2) and (4);

(C) Nonconformance with priority items or priority foundation items of this subchapter;

(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 regulatory authority as specified under 20 CAR § 197-103(c);

(E) Failure of the person in charge to provide records required by the regulatory authority for determining conformance with an HACCP plan as specified under 20 CAR § 197-201(d)(4)(G); and

(F) Nonconformance with critical limits of an HACCP plan.

(b) **Specifying timeframe for corrections.** The regulatory authority shall specify on the inspection report form the time frame for correction of the violations as specified under 20 CAR §§ 197-404, 197-405(a), and 197-406(a).

(c) **Issuing report and obtaining acknowledgement of receipt.** At the conclusion of the inspection and according to this subchapter, the regulatory authority

shall provide a copy of the completed inspection report and the notice to correct violations to the permit holder or to the person in charge and request a signed acknowledgment of receipt.

(d) **Refusal to sign acknowledgement.** The regulatory authority shall:

(1) Inform a person who declines to sign an acknowledgment of receipt of inspectional findings as specified in subsection (c) of this section that:

(A) An acknowledgment of receipt is not an agreement with findings;

(B) Refusal to sign an acknowledgment of receipt will not affect the permit holder's obligation to correct the violations noted in the inspection report within the time frames specified; and

(C) A refusal to sign an acknowledgment of receipt is noted in the inspection report and conveyed to the regulatory authority's historical record for the retail food establishment; and

(2) Make a final request that the person in charge sign an acknowledgment receipt of inspectional findings.

(e) **Public information.** Except as specified in 20 CAR § 197-202, the regulatory authority 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.

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

20 CAR § 197-404. Imminent health hazard.

(a) **Ceasing operations and reporting.**

(1) Except as specified in subdivision (a)(2) of this section, a permit 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, extended interruption of electrical or water service, sewage backup, misuse of poisonous or toxic materials, onset of an apparent foodborne illness outbreak, gross insanitary occurrence or condition, or other circumstance that may endanger public health. ^P

(2) A permit holder need not discontinue operations in an area of an establishment that is unaffected by the imminent health hazard.

(b) **Resumption of operations.** If operations are discontinued as specified under subsection (a) of this section or otherwise according to law, the permit holder shall obtain approval from the regulatory authority before resuming operations.

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

20 CAR § 197-405. Violation of priority item or priority foundation.

(a) Timely correction.

(1) Except as specified in subdivision (a)(2) of this section, a permit holder shall at the time of inspection correct a violation of a priority item or priority foundation item violation of this subchapter and implement corrective actions for an HACCP plan provision that is not in compliance with its critical limit. ^{Pf}

(2) 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:

(A) Seventy-two (72) hours after the inspection, for the permit holder to correct violations of a priority item; or

(B) Ten (10) calendar days after the inspection, for the permit holder to correct violations of a priority foundation item or HACCP plan deviations.

(b) Verification and documentation of correction.

(1) After observing at the time of inspection a correction of a violation of a priority item or priority foundation item or deviation of an HACCP plan, the regulatory authority shall enter the violation and information about the corrective action on the inspection report.

(2) As specified under subdivision (a)(2) of this section, after receiving notification that the permit holder has corrected a violation of a priority item or priority foundation item 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 regulatory authority's records.

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

20 CAR § 197-406. Core item violation — Time frame for correction.

(a) Except as specified in subsection (b) of this section, the permit holder shall correct 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 regulatory authority may approve a compliance schedule that extends beyond the time limits specified under subsection (a) of this section if a written schedule of compliance is submitted by the permit holder and no health hazard exists or will result from allowing an extended schedule for compliance.

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

Subpart 5. Prevention of Foodborne Disease Transmission by Employees

20 CAR § 197-501. Investigation and control.

(a) **Obtaining information — Personal history of illness, medical examination, and specimen analysis.** The regulatory authority 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.

(b) **Restriction or exclusion of food employee, or summary suspension of permit.** Based on the findings of an investigation related to a food employee or conditional employee who is suspected of being infected or diseased, the regulatory authority may issue an order to the suspected food employee, conditional employee, or permit holder instituting one (1) or more of the following control measures:

- (1) Restricting the food employee or conditional employee;
- (2) Excluding the food employee or conditional employee; and
- (3) Closing the retail food establishment by summarily suspending a permit to operate in accordance with this subchapter.

(c) **Restriction or exclusion order — Warning or hearing not required — Information required in order.** Based on the findings of the investigation as specified in subsection (a) of this section and to control disease transmission, the regulatory authority may issue an order of restriction or exclusion to a suspected food employee or the permit 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 permit 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 permit holder may request an appeal hearing by submitting a timely request as provided in this subchapter; and
- (4) Provides the name and address of the regulatory authority representative to whom a request for an appeal hearing may be made.

(d) **Removal of exclusions and restrictions.** The regulatory authority shall release a food employee or conditional employee from restriction or exclusion according to this subchapter and the conditions specified under 20 CAR § 191-201(c).

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

Subpart 6. Legal Actions

20 CAR § 197-601. Criminal proceedings — Authorities, methods, fines, and sentences.

(a) The regulatory authority may seek to enforce the provisions of this subchapter and its orders by instituting criminal proceedings as provided in law against the permit holder or other persons who violate its provisions.

(b)(1) A person who violates a provision of this subchapter shall be guilty of a misdemeanor, punishable by:

(A) A fine of not less than one hundred dollars (\$100) nor more than five hundred dollars (\$500);

(B) Imprisonment not exceeding one (1) month; or

(C) Both the fine and imprisonment.

(2) Each day on which a violation occurs is a separate violation under this section.

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

20 CAR § 197-602. Civil proceedings — Petitions, penalties, and continuing violations.

(a) The regulatory authority may petition a court of competent jurisdiction to enforce the provisions of this subchapter or its administrative orders and according to law collect penalties and fees for violations.

(b) In addition to any criminal fines and sentences imposed as specified in 20 CAR § 197-601, a person who violates a provision of this subchapter, any rule adopted in accordance with law related to retail food establishments within the scope of this subchapter, or to any term, condition, or limitation of a permit issued as specified in 20 CAR § 197-303(a) and (b) is subject to a civil penalty not exceeding one thousand dollars (\$1,000).

(c) Each day on which a violation occurs is a separate violation under this section.

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