

EXHIBIT G

LEGISLATIVE COUNCIL'S SUBCOMMITTEE ON ADMINISTRATIVE RULES AND REGULATIONS AND THE HOUSE AND SENATE INTERIM COMMITTEES ON PUBLIC HEALTH, WELFARE, AND LABOR

DEPARTMENT	DEPARTMENT OF HEALTH
DIRECTOR	PAUL K. HALVERSON, DrPH
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Summary of Proposed Amendments to the Rules and Regulations Pertaining to Food Establishments

Throughout the Regulation:

Amended "critical" to include "priority items or priority foundation items" in accordance with the new designation system mentioned above.

Added post script ^P to "Priority Items" and ^{Pf} to "Priority Foundation Items".

Added "core items" in accordance with the new designation system mentioned above.

Added (time/temperature control for safety food") to potentially hazardous food.

Amended Rules and Regulations to read LAW.

Chapter 1: Purpose and Definitions

- Added new definitions for:
 - Core Item
 - Cut Leafy Greens
 - Dealer
 - Disclosure
 - Egg Product
 - Enterohemorrhagic Escherichia Coli
 - Handwashing sink
 - Mechanically Tenderized
 - Non-Continuous Cooking
 - Pushcart
 - Ratite
 - Re-Service

- Amended/Revised the definitions of:
 - Critical Item (broke into two groups, Priority item and Priority Foundation Item)
 - Egg (expanded definition to include RATITE)
 - Imminent Health Hazard (added to prevent injury based on the number of potential injuries, and the nature, severity, and duration of the anticipated injury)
 - Injected (to remove the public health statement and process where no liquid is introduced)
 - Juice (added wording to exclude liquids, purees, or concentrates that are not used as beverages or ingredients of beverages)
 - Potentially Hazardous Food (Time/Temperature Control for Safety Food) (to include cut leafy greens)
 - Poultry (includes RATITES or squabs)
 - Ready to Eat Food (addition of consumer advisory for partially or undercooked animal FOOD)(Listeria monocytogenes added)

Chapter 2: Management and Personnel

Added clarification of PIC for multiple food processing areas in one business under one roof. 2-101-11.

Included “Critical items” with “Priority items” in accordance with the new designation system mentioned above. 2-102.11(A).

Added “food allergy awareness” as a part of the food safety training required to be provided to employees by the Person in Charge. 2-102.11(L).

Added the PIC’s responsibility for information regarding the HACCP PLAN if a plan is required. 2-102.11 (C)(15).

Added that the PERSON IN CHARGE and FOOD EMPLOYEES’ responsibility for EXCLUSION or RESTRICTION of FOOD EMPLOYEES.

Added clarification of approved certificates for Accreditation of Food Protection Manager Certification. 2-102.20.

Added consumer notification for consumers who order undercooked or raw animal FOOD.

Added clarification for PIC’s to notify employees of their responsibility to report illness.

Amended to update proper sequence for handwashing procedure and avoiding recontamination of the hands, after handwashing. 2-301.12.

Added clarification of acceptable jewelry. 2-303.11.

Chapter 3: Food

Throughout the Chapter, added metric units to volume and measurements.

Added a new provision exempting frozen, commercially processed, and packaged raw animal foods from the requirement that raw animal food be separated from ready-to-eat foods (raw or cooked) during storage, preparation, holding, and display. 3-302.11(A)(1)(c).

Added ability for food employees not serving highly susceptible populations to have contact with ready-to-eat food with their bare hands.

Added “mechanically tenderized” meats to the list of foods that shall be cooked to heat all parts of the food to 68°C (155°F) for 15 seconds. 3-401.11(A)(2).

Added a new provision to prohibit undercooked, comminuted meat from being served or offered for service on a children's menu. 3-401.11(D)(2).

Added a new section on non-continuous cooking of raw animal foods that specifies the criteria for using a non-continuous cooking process. 3-401.14.

Added a new provision to exempt from freezing for parasite destruction fish eggs that have been removed from the skein and rinsed. 3-402.11(B).

Added provision for record keeping for certain aquacultured fish that are exempted from freezing. 3-402.12

Amended date marking to include cheese exemptions and other exemptions. 3-501.17.

Significant changes were made to the Specialized Processing Methods Section 3-502:

Amended to clarify that a variance would be required when operating a molluscan shellfish life-support system display tank, regardless of whether the tank was used for storing (back-of-the-house) or displaying (front-of-the-house) shellfish. 3-502.11(E).

Added *Listeria monocytogenes* controls which are specified under 3-502.12.3 and 502.11(D).

Amended the tag line of 3-502.12 to “Reduced Oxygen Packaging Without a Variance, Criteria” to clarify that no variance is required for reduced oxygen packaging (ROP) methods listed in this section. 3-502.12.

Amended to Clarify that all ROP methods in this section require controls for growth and/or toxin formation by *Clostridium botulinum* and *Listeria monocytogenes*. 3-502.12(A).

Amended to clarify that raw vegetables have high levels of competing organisms. 3-502.12(B)(2)(d).

Amended to clarify that prohibition of contact of food with bare hands only applies to ready-to-eat food to prevent conflict with 3-301.11. 3-502.12(B)(5)(a).

Amended to clarify that the requirements for a food establishment that packages food using a cook-chill or sous vide process are not optional. 3-502.12(D).

Amended to clarify that implementing a HACCP plan is required for a food establishment that packages food using a cook-chill or sous vide process. 3-502.12(D)(1).

Amended to clarify when bags should be sealed for cook-chill and sous vide. 3-502.12(D)(2)(d).

Amended to clarify that the requirements for a food establishment that packages cheese using a ROP method are not optional with no variance. 3-502.12(E).

Added labeling requirements for major food allergens as specified in the Food Allergen Labeling and Consumer Protection Act. 3-602.11

Added Consumer Advisory. 3-602.12.

Added new provision regarding re-service of food. 3-801.11(G)(H).

Chapter 4: Equipment, Utensils, and Linens

Added clarification for dispensing equipment of homogenous liquid. 4-204.13(E).

Amended to clarify that provisions for molluscan shellfish tanks apply to molluscan shellfish life support system tanks that are used for either storing or displaying molluscan shellfish. 4-204.110(A) and (B).

Made several changes to the section on Manual and Mechanical Warewashing Equipment, Chemical Sanitization - Temperature, pH, Concentration, and Hardness, including:

- Added clarification for determining when detergents and sanitizers are and are not delivered to the washing and sanitizing cycles. 4-204.117
- Amended to change “exposure time” to “contact time” to harmonize with EPA terminology in (C)(1)(2)(3) and (4) (CFR 2008-III-010); Added sentence to clarify that contact times shall be consistent with EPA-registered labels and to harmonize with EPA terminology. 4-703.11(C).

- Revised the text regarding preset tableware to clarify under what circumstances preset tableware may be exposed and not protected from contamination by wrapping, covering, or inverting. 4-904.13.

Chapter 5: Water, Plumbing and Waste

Amended to change “handwashing facility” to “HANDWASHING SINK”.

Removed irrigation from the list of nonculinary purposes for which nondrinking water may be used. 5-102.12(B).

Chapter 6: Physical Facilities

Added the use of a high velocity blade of non-heated, pressurized air for hand drying as a permissible means of hand drying with which each handwashing sink or group of adjacent handwashing sinks must be provided. 6-301.12.

Amended the lead in paragraph of the section on Control Pests to clarify that establishments are expected to be free of pests. 6-501.111.

Chapter 7: Poisonous or Toxic Materials

Added a provision that allows the use of ozone as an antimicrobial agent in the treatment, storage, and processing of fruits and vegetables in a food establishment in accordance with the requirements specified in 21 CFR 173.368 (Ozone). 7-204.12.

Chapter 8: Compliance and Enforcement

Added clarification of new establishment submittal for permit prior to opening. 8-302.

Added clarification of existing establishment submittal for permit prior to operating. 8-303.

Added responsibility of permit holder to contact the Regulatory Authority when an illness of an employee is reported according to 2-201.11(B). 8-304.11(D)

Removing equipment replacement. 8-304.11(H)

Added Temporary Food Establishment inspections. 8-401.10(C)

Added competency of inspectors. 8-402.10

Added report marking instructions for PIC failure to demonstrate knowledge. 8-403.10(B)(1)

**QUESTIONNAIRE FOR FILING PROPOSED RULES AND REGULATIONS
WITH THE ARKANSAS LEGISLATIVE COUNCIL AND JOINT INTERIM COMMITTEE**

DEPARTMENT/AGENCY Arkansas Department of Health
DIVISION Environmental Health
DIVISION DIRECTOR Terry Paul
CONTACT PERSON Teresa Bullock
ADDRESS 4815 West Markham Street, Slot 46, Little Rock, AR 72205
PHONE NO. 661-2171 FAX NO. 661-2572 E-MAIL teresa.bullock@arkansas.gov
NAME OF PRESENTER AT COMMITTEE MEETING Teresa Bullock/Terry Paul
PRESENTER E-MAIL teresa.bullock@arkansas.gov

INSTRUCTIONS

- A. Please make copies of this form for future use.
- B. Please answer each question completely using layman terms. You may use additional sheets, if necessary.
- C. If you have a method of indexing your rules, please give the proposed citation after "Short Title of this Rule" below.
- D. Submit two (2) copies of this questionnaire and financial impact statement attached to the front of two (2) copies of the proposed rule and required documents. Mail or deliver to:
Donna K. Davis
Administrative Rules Review Section
Arkansas Legislative Council
Bureau of Legislative Research
Room 315, State Capitol
Little Rock, AR 72201

1. What is the short title of this rule? Food Establishments

2. What is the subject of the proposed rule? Food Safety

3. Is this rule required to comply with a federal statute, rule, or regulation? Yes No
If yes, please provide the federal rule, regulation, and/or statute citation.

4. Was this rule filed under the emergency provisions of the Administrative Procedure Act? Yes No
If yes, what is the effective date of the emergency rule? _____

When does the emergency rule expire? _____

Will this emergency rule be promulgated under the permanent provisions of the Administrative Procedure Act? Yes No

5. Is this a new rule? Yes No

If yes, please provide a brief summary explaining the regulation.

Does this repeal an existing rule? Yes No

If yes, a copy of the repealed rule is to be included with your completed questionnaire. If it is being replaced with a new rule, please provide a summary of the rule giving an explanation of what the rule does.

Is this an amendment to an existing rule? Yes No

If yes, please attach a mark-up showing the changes in the existing rule and a summary of the substantive changes. **Note: The summary should explain what the amendment does, and the mark-up copy should be clearly labeled "mark-up."**

6. Cite the state law that grants the authority for this proposed rule?

If codified, please give Arkansas Code citation.

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.

7. What is the purpose of this proposed rule? Why is it necessary?

To update this rule that is based on the 2003 FDA Food Code to 2009 FDA Food Code.

8. Please provide the address where this rule is publicly accessible in electronic form via the Internet as required by Arkansas Code § 25-19-108(b).

www.healthy.arkansas.gov

9. Will a public hearing be held on this proposed rule? Yes No

If yes, please complete the following:

Date: Oct 4, 2011

Time: 10:00 am

Place: Freeway Medical, 5800 West 10th, room 906, Little Rock, AR

10. When does the public comment period expire for permanent promulgation? (Must provide a date.)

Oct 25, 2011

11. What is the proposed effective date of this proposed rule? (Must provide a date.)

March 1, 2012

12. Do you expect this rule to be controversial? Yes No

If yes, please explain. _____

13. Please give the names of persons, groups, or organizations that you expect to comment on these rules? Please provide their position (for or against) if known.

Public Health Advisory Board of Food Service Establishments

FINANCIAL IMPACT STATEMENT

PLEASE ANSWER ALL QUESTIONS COMPLETELY

DEPARTMENT Arkansas Department of Health
DIVISION Environmental Health
PERSON COMPLETING THIS STATEMENT Teresa Bullock
TELEPHONE NO. 661-2171 **FAX NO.** 661-2572 **EMAIL:** teresa.bullock@arkansas.gov

To comply with Act 1104 of 1995, please complete the following Financial Impact Statement and file two copies with the questionnaire and proposed rules.

SHORT TITLE OF THIS RULE Food Establishments

1. Does this proposed, amended, or repealed rule have a financial impact? Yes No
2. Does this proposed, amended, or repealed rule affect small businesses? Yes No
If yes, please attach a copy of the economic impact statement required to be filed with the Arkansas Economic Development Commission under Arkansas Code § 25-15-301 et seq.

3. If you believe that the development of a financial impact statement is so speculative as to be cost prohibited, please explain.

4. If the purpose of this rule is to implement a federal rule or regulation, please give the incremental cost for implementing the rule. Please indicate if the cost provided is the cost of the program.

<u>Current Fiscal Year</u>	<u>Next Fiscal Year</u>
General Revenue _____	General Revenue _____
Federal Funds _____	Federal Funds _____
Cash Funds _____	Cash Funds _____
Special Revenue _____	Special Revenue _____
Other (Identify) _____	Other (Identify) _____
Total _____	Total _____

5. What is the total estimated cost by fiscal year to any party subject to the proposed, amended, or repealed rule? Identify the party subject to the proposed rule and explain how they are affected.

<u>Current Fiscal Year</u>	<u>Next Fiscal Year</u>
\$ _____	\$ _____

6. What is the total estimated cost by fiscal year to the agency to implement this rule? Is this the cost of the program or grant? Please explain.

<u>Current Fiscal Year</u>	<u>Next Fiscal Year</u>
\$ _____	\$ _____

Economic Impact Statement Of Proposed Rules or Regulations

EO 05-04: Regulatory Flexibility

Department Health Division Environmental
Contact Person Teresa Bullock Date 09/20/2011
Contact Phone (501)661-2171 Email teresa.bullock@arknasas.gov
Title of Subject: Retail Food Rules and Regulations

Benefits of the Proposed Rule or Regulation

1. Explain the need for the proposed change(s). Did any complaints motivate you to pursue regulatory action? If so, please explain the nature of such complaints.

The regulation changes will bring our Regulation in alignment with the FDA 2009 Food Code.

2. What are the top three benefits of the proposed rule or regulation?

Guidance to industry for food safety
Manager's food safety responsibility clarification
To ensure safe food for the consumer

3. What, in your estimation, would be the consequence of taking no action, thereby maintaining the status quo?

Failure for the Agency to meet the Retail Food Program Standards with FDA.

4. Describe market-based alternatives or voluntary standards that were considered in place of the proposed regulation and state the reason(s) for not selecting those alternatives.

None.

Impact of Proposed Rule or Regulation

5. Estimate the cost to state government of collecting information, completing paperwork, filing, recordkeeping, auditing and inspecting associated with this new rule or regulation.

No changes from current Regulation.

6. What types of small businesses will be required to comply with the proposed rule or regulation? Please estimate the number of small businesses affected.

All retail food services establishments. Approximately 7,000 small business owners selling food to the public and currently permitted by this Agency.

- 7. Does the proposed regulation create barriers to entry? If so, please describe those barriers and why those barriers are necessary.**

no

- 8. Explain the additional requirements with which small business owners will have to comply and estimate the costs associated with compliance.**

Consumer advisory for consuming undercooked meat ONLY IF THEY OFFER UNDERCOOKED PRODUCT. Approximately \$200 for table tents.

- 9. State whether the proposed regulation contains different requirements for different sized entities, and explain why this is, or is not, necessary.**

The requirements are the same for different sized entities because minimum equipment is required for food safety.

- 10. Describe your understanding of the ability of small business owners to implement changes required by the proposed regulation.**

The changes are minimal therefore to implement the changes should be easy.

- 11. How does this rule or regulation compare to similar rules and regulations in other states or the federal government?**

It will bring us into alignment with other states and the federal government.

- 12. Provide a summary of the input your agency has received from small businesses or small business advocates about the proposed rule or regulation.**

We have mailed a letter informing all establishments of the proposed changes and have not received any comments from the business owners as of September 20, 2011.