

Rules Pertaining to Retail Food Establishments

Summary of Changes

2021

In addition to necessary changes to the effective date and Secretary of Health name, the following changes are recommended for the Rules Pertaining to Retail Food Establishments:

1. Page 19 – Definition of “Retail Food Establishment” does not include food prepared under the Food Freedom Act.

(3) “Retail Food Establishment” does not include:

- a. An establishment that offers only pre-PACKAGED FOODS that are not TIME/TEMPERATURE CONTROL FOR SAFETY FOODS;
 - b. A produce stand that only offers whole, uncut fresh fruits and vegetables;
 - c. A FOOD PROCESSING PLANT; including those that are located on the premises of a RETAIL FOOD ESTABLISHMENT;
 - d. A kitchen in a private home if only FOOD that is not 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 if allowed by Arkansas Code Annotated 1403;
 - e. A kitchen in a private home if only FOOD that is not TIME/TEMPERATURE CONTROL FOR SAFETY FOOD is prepared for sale or service in accordance with the Food Freedom Act (Arkansas Code Annotated § 20-57-504).
 - f. An area where FOOD that is prepared as specified in Subparagraph (3)(d) of this definition is sold or offered for human consumption.
2. Page 25 – §2-102.12 updated to reflect that newly permitted establishments have one year to comply.

2-102.12 Certified Food Protection Manager

- (A) At least one EMPLOYEE that has supervisory and management responsibility and the authority to direct and control FOOD preparation and service shall be certified FOOD protection manager who has shown proficiency of required information through passing a test that is part of an ACCREDITED PROGRAM. ~~(Note: Existing RETAIL FOOD ESTABLISHMENTS have 1 year from the effective date of THIS REGULATION to comply with this section).~~ (Note: Establishments permitted after the effective date of this Rule have 12 months from date the permit is issued to comply with this section.)

3. Page 41 – §3-201.11 clarified that Food Freedom Foods can be sold at retail food establishments.

3-201.11 Compliance with Food Law.

(A) FOOD shall be obtained from sources that comply with LAW. ^P

(B) Except for non-TIME/TEMPERATURE CONTROL FOR SAFETY FOOD sold in accordance with the Food Freedom Act (Ark. Code Ann. §20-57-504), FOOD prepared in a private home may not be used or offered for human consumption in a RETAIL FOOD ESTABLISHMENT.

4. Page 141 – §8-401.10 removed requirement for ADH to contact retail food establishment every 6 months to confirm that the nature of the operation has not changed.

(B) The REGULATORY AUTHORITY may increase the interval between inspections beyond 6 months if:

- (1) The RETAIL FOOD ESTABLISHMENT is fully operating under an APPROVED and validated Hazard Analysis Critical Control Point (HACCP) PLAN as specified under §8-201.14 and §§8-103.12(A) and (B);
- (2) 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 ~~and at least once every 6 months the establishment is contacted by telephone or other means by the REGULATORY AUTHORITY to ensure that the establishment manager and the nature of FOOD operation are not changed; or~~