

**Agenda for the 11:00 a.m., Tuesday, January 12, 2016
Regular Meeting of the Oklahoma State Board of Health**

Posted at www.health.ok.gov

Oklahoma State Department of Health
1000 N.E. 10th Street – Room 1102
Oklahoma City, OK 73117-1299

- I. CALL TO ORDER AND OPENING REMARKS
- II. REVIEW OF MINUTES
 - a) **Approval of Minutes for December 8, 2015, Regular Meeting**
- III. APPOINTMENTS
 - b) **Oklahoma Food Service Advisory Council (Presented by Lynette Jordan)**

Appointments: One Member

Authority: 63 O.S., § 1-106.3

Members: The Advisory Council shall consist of thirteen (13) members. Membership is defined in statute. Eight (8) members shall be appointed by the Commissioners with the advice and consent of the State Board of Health, from a list of three names for each position provided by an association representing the majority of the restaurant owners in the state. One (1) member shall represent the Oklahoma Food Processor.

- IV. PROPOSED RULEMAKING ACTIONS

Discussion and possible action on the following:

PROTECTIVE HEALTH SERVICE

- c) **CHAPTER 257. FOOD SERVICE ESTABLISHMENTS**

[PERMANENT] Presented by Lynette Jordan

PROPOSED RULES:

Subchapter 1. Purpose and Definitions [AMENDED]

Subchapter 3. Management and Personnel [AMENDED]

Subchapter 5. Food [AMENDED]

Subchapter 7. Equipment, Utensils and Linens
[AMENDED]

Subchapter 9. Water, Plumbing and Waste [AMENDED]

Subchapter 11. Physical Facilities [AMENDED]

Subchapter 13. Poisonous or Toxic Materials [AMENDED]

Subchapter 15. Compliance and Enforcement
[AMENDED]

Subchapter 17. Mobile Pushcarts, Mobile Food Service
Establishments, and Mobile Retail Food Service
Establishments [AMENDED]

Appendix A. Tables [NEW]

AUTHORITY: Oklahoma State Board of Health, Title 63 O.S. Section 1-104, and Title 63 O.S. §§ 1-106.3 and 1-1118.

SUMMARY: These proposed regulations will bring the chapter into compliance with 2013 model food code, published by the U. S. Food and Drug Administration (FDA). The model assists food control jurisdictions at all levels of government by providing them with a scientifically sound technical and legal basis for regulating the retail and food service segment of the industry (restaurants and grocery stores and institutions such as nursing homes). Local, state, tribal, and federal regulators use the FDA Food Code as a model to develop or update their own food safety rules and to be consistent with national food regulatory policy. According to the FDA:

"The Food Code is a model for safeguarding public health and ensuring food is unadulterated and honestly presented when offered to the consumer. It represents FDA's best advice for a uniform system of provisions that address the safety and protection of food offered at retail and in food service.

"The 2013 edition of the model code reflects the input of regulatory officials, industry, academia, and consumers that participated in the 2012 meeting of the Conference for Food Protection (CFP). Collaboration with the CFP and our partners at the U.S. Department of Agriculture's Food Safety and Inspection Service and the Centers for Disease Control and Prevention of the U.S. Department of Health and Human Services helps ensure the Food Code establishes sound requirements that prevent foodborne illness and injury and eliminates the most important food safety hazards in retail and foodservice facilities.

Source: Food Code 2013, U.S. Food and Drug Administration, July 2, 2015, <http://www.fda.gov/Food/GuidanceRegulation/RetailFoodProtection/FoodCode/ucm374275.htm> (August 3, 2015).

A summary of changes to the 2013 FDA Food code is linked here:

Summary of Changes In the FDA Food Code

2013 [<http://www.fda.gov/Food/GuidanceRegulation/RetailFoodProtection/FoodCode/ucm374759.htm>].

V. **STRATEGIC MAP UPDATE PRESENTATION: THE LIFECOURSE APPROACH TO A HEALTHY OKLAHOMA**

Timothy Cathey, M.D., Medical Director for Protective Health Services

VI. **CONSIDERATION OF STANDING COMMITTEES' REPORTS AND ACTION**

Executive Committee – Dr. Woodson, Chair

Discussion and possible action on the following:

d) Update

Finance Committee – Ms. Burger, Chair

Discussion and possible action on the following:

e) Update

Accountability, Ethics, & Audit Committee – Ms. Wolfe, Chair

Discussion and possible action on the following:

f) Update

Public Health Policy Committee – Dr. Stewart, Chair

Discussion and possible action on the following:

g) Update

VII. **PRESIDENT'S REPORT**

Related discussion and possible action on the following:

Discussion and possible action

VIII. **COMMISSIONER'S REPORT**

Discussion and possible action

IX. **NEW BUSINESS**

Not reasonably anticipated 24 hours in advance of meeting.

X. **PROPOSED EXECUTIVE SESSION**

Proposed Executive Session pursuant to 25 O.S. Section 307(B)(4) for confidential communications to discuss pending department litigation, investigation, claim, or action; pursuant to 25 O.S. Section 307(B)(1) to discuss the employment, hiring, appointment, promotion, demotion, disciplining or resignation of any individual salaried public officer or employee and pursuant to 25 O.S. Section 307 (B)(7) for discussing any matter where disclosure of information would violate confidentiality requirements of state or federal law.

- Annual performance evaluation for the Office of Commissioner of Health.

Possible action taken as a result of Executive Session.

XI. **ADJOURNMENT**

STATE BOARD OF HEALTH
OKLAHOMA STATE DEPARTMENT OF HEALTH
1000 N.E. 10th
Oklahoma City, Oklahoma 73117-1299

Tuesday, December 8, 2015 11:00 a.m.

Ronald Woodson, President of the Oklahoma State Board of Health, called the 404th regular meeting of the Oklahoma State Board of Health to order on Tuesday, December 8, 2015 at 11:05 a.m. The final agenda was posted at 11:00 a.m. on the OSDH website on December 8, 2014, and at 11:00 a.m. at the building entrance on December 7, 2015.

ROLL CALL

Members in Attendance: Ronald Woodson, M.D., President; Martha Burger, M.B.A., Vice-President; Jenny Alexopoulos, D.O.; R. Murali Krishna, M.D.; Terry Gerard, D.O.; Charles W. Grim, D.D.S.; Robert S. Stewart, M.D.

Absent: Timothy E. Starkey, M.B.A.; Cris Hart-Wolfe, Secretary-Treasurer;

Central Staff Present: Terry Cline, Commissioner; Julie Cox-Kain, Chief Operating Officer; Henry F. Hartsell, Deputy Commissioner, Protective Health Services; Neil Hann, Assistant Deputy Commissioner, Community and Family Health Services; Toni Frioux, Deputy Commissioner, Prevention and Preparedness Services; Mark Newman, Director of Office of State and Federal Policy; Don Maisch, Office of General Counsel; Jay Holland, Director of Internal Audit and Office of Accountability Systems; Tony Sellars, Director of Office of Communications; Officer; VaLauna Grissom, Secretary to the State Board of Health.

Visitors in attendance: (see sign in sheet)

Call to Order and Opening Remarks

Dr. Woodson called the meeting to order. He welcomed special guests in attendance.

REVIEW OF MINUTES

Dr. Woodson directed attention to review of the minutes of the October 6, 2015, Tri-Board meeting.

Dr. Alexopoulos moved Board approval of the minutes of the October 6, 2015, Tri-Board meeting, as presented. Second Dr. Grim. Motion carried.

AYE: Alexopoulos, Grim, Stewart, Woodson

ABSTAIN: Burger, Gerard, Krishna

ABSENT: Starkey, Wolfe

APPOINTMENTS

Home Care, Hospice and palliative Care Advisory Council Appointment (Presented by Henry F. Hartsell, Jr.)

Appointments: One Member

Authority: 63 O.S., § 1-103a.1(G)

Members: The Advisory Council shall consist of seven (9) nine members. Membership is defined in statute. Two members shall be appointed by the Governor, three members shall be appointed by the President Pro Tempore of the Senate, three members shall be appointed by the Speaker of the House, and one member shall be appointed by the State Board of Health.

Ms. Burger moved Board approval for Appointment of Ms. Karen Vahlberg, R.N., B.S.N. to the Home Care, Hospice and palliative Care Advisory Council Appointment as presented. Second Dr. Gerard. Motion carried.

There were no comments or questions from the Board.

AYE: Alexopulos, Burger, Gerard, Grim, Krishna, Stewart, Woodson
ABSENT: Starkey, Wolfe

PROPOSED RULEMAKING ACTIONS

CHAPTER 15. CLINICAL TRIALS ON THE USE OF CANNABIDIOL

[PERMANENT] [EMERGENCY] Presented by Donald D. Maisch

PROPOSED RULES:

Subchapter 1. Purpose and Definitions [NEW]

310:15-1-1. Purpose [NEW]

310:15-1-2. Definitions [NEW]

Subchapter 3. Physician Application and Reporting [NEW]

310:15-3-1. Physician application [NEW]

310:15-3-2. Physician reporting [NEW]

AUTHORITY: Oklahoma State Board of Health, Title 63 O.S. Section 1-104; and Title 63 O.S. Section 2-801 – 2-805.

SUMMARY: These proposed regulations, if adopted, will implement the agency's requirements from House Bill Number 2154, from the 1st Session of the 55th Oklahoma Legislature (2015) known as "Katie and Cayman's Law" and codified at 63 O.S. §§ 2-801 through 2-805. The proposed regulations set forth the Department's requirements for the necessary approvals of clinical trials on subjects under the age of 18 for the use of Cannabidiol in treating certain types of seizures as required by the House Bill. *Cannabidiol* means a nonpsychoactive cannabinoid found in the plant *Cannabis sativa L.* or any other preparation thereof, that has a tetrahydrocannabinol concentration of not more than three-tenths of one percent (0.3%) and that is delivered to the patient in the form of a liquid [63 O.S. § 2-801]

Ms. Burger moved Board approval for Emergency Adoption of Chapter 15. Clinical Trials on the Use of Cannabidiol as presented. Second Dr. Grim. Motion carried.

AYE: Alexopulos, Burger, Gerard Grim, Krishna, Stewart, Wolfe, Woodson
ABSENT: Starkey

Dr. Grim moved Board approval for Permanent Adoption of Chapter 15. Clinical Trials on the Use of Cannabidiol as presented. Second Dr. Stewart. Motion carried.

AYE: Alexopulos, Burger, Gerard Grim, Krishna, Stewart, Wolfe, Woodson
ABSENT: Starkey

CHAPTER 265. HEARING AID DEALERS AND FITTERS

[PERMANENT] Presented by Lynnette Jordan

PROPOSED RULES:

Subchapter 1. General Provisions

310:265-1-3 [AMENDED]

Subchapter 3. Examinations

310:265-3-1 [AMENDED]

310:265-3-2 [AMENDED]

310:265-3-3 [AMENDED]

Subchapter 5. License Requirements

310:265-5-1 [AMENDED]

310:265-5-2 [AMENDED]

310:265-5-3 [AMENDED]

310:265-5-4 [AMENDED]

310:265-5-6 [AMENDED]

1 310:265-5-7 [AMENDED]

2 310:265-5-8 [AMENDED]

3 Subchapter 7. Regulatory Enforcement

4 310:265-7-2 [AMENDED]

5 310:265-7-3 [AMENDED]

6 **AUTHORITY:** Oklahoma State Board of Health, Title 63 O.S. Section 1-104; and Title 63 O.S. Section 1-1750 et seq.

7
8 **SUMMARY:** The current rule applies to individuals licensed for the purpose of fitting and dealing hearing aids pursuant to authority in Title 63 § 1-1750 et seq. The proposed changes clarify the exam requirements to agree with changes in law at Title 63, O.S., Section 1-1751, established in Senate Bill 46 (2015) and effective November 1, 2015. The change in law makes the applicant responsible for the examination fee. With this change, the Department amends the rule to allow the applicant greater discretion in choosing an examination provider. Other changes give consideration to industry feedback and update the rule to best practices for the entire Chapter. A summary of these changes include updates and clarification for: supervision of those with temporary permits, reciprocity license application process, business regulatory authority, authorization of mobile or temporary clinics, notification of customer protections to suspend tolling the thirty day contract cancellation clause where hearing aids are returned for repair, authorizes online continuing education, updates requirements for a hearing aid waiver related to ambient background noise at the time of testing, and updates references to the applicable advisory council based on changes in law. These changes are needed to allow the hearing aid fitting and dealing profession to stay current with national standards and ensure customers are protected and aware of their rights under this Rule. The effect of this Rule change will allow applicants the option to choose the most applicable exam for hearing aid fitter and dealer licensure and update the rule with current practices in the profession.

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25 **Ms. Burger moved Board approval for Permanent Adoption of 265 Hearing Aid Dealers and Fitters as presented. Second Dr. Krishna. Motion carried.**

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28 **AYE: Alexopulos, Burger, Gerard Grim, Krishna, Stewart, Woodson**

29 **ABSENT: Starkey, Wolfe**

30
31 **CHAPTER 675. NURSING AND SPECIALIZED FACILITIES**

32 **[PERMANENT]** Presented Mike Cook

33 **PROPOSED RULES:**

34 Subchapter 9. Resident Care Services

35 310:675-9-9.1 [AMENDED]

36 **AUTHORITY:** Oklahoma State Board of Health, Title 63 O.S. Section 1-104; and Title 63 O.S. Section 1-1950.

37
38 **SUMMARY:** This proposal amends OAC 310:675-9-9.1(i) which deals with bulk non-prescription drugs. This rule change removes a limitation on dispensing over the counter medications from bulk supplies of drugs maintained in nursing facilities. This change inserts verbatim language from the law concerning the ordering or authorizing of medications by a physician. This change deletes language which restricts the use of bulk over the counter medications to only as needed or unscheduled dosage regimens and only upon written order of a physician. This change will allow nursing facilities to dispense scheduled regimens of over the counter medications with an order or other authorization. This change brings the rule into conformity with the authorizing statute [Title 63 O.S. Section 63.1-1950(B)] which is permissive, rather than restrictive, regarding the dispensing of bulk over the counter medications based on a nonscheduled regimen.

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49 **Dr. Stewart moved Board approval for Permanent Adoption of Chapter 675 Nursing and Specialized Facilities as presented. Second Dr. . Motion carried.**

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52 There was discussion from the Board to clarify language within the rule labeling certain facilities as “stroke referral” facilities. Dr. Cathey clarified these facilities are not receiving stroke patients, rather referring them to facilities with resources to serve needs of stroke patients.

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1 **AYE: Alexopulos, Burger, Gerard Grim, Krishna, Stewart, Woodson**

2 **ABSENT: Starkey, Wolfe**

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4 **CHAPTER 680. RESIDENTIAL CARE HOMES**

5 [PERMANENT] Presented Mike Cook

6 **PROPOSED RULES:**

7 Subchapter 13. Medication Storage and Administration

8 310:680-13-2. [AMENDED]

9 **AUTHORITY:** Oklahoma State Board of Health, Title 63 O.S. Section 1-104; and Title 63 O.S. Section 1-1950.

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11 **SUMMARY:** This proposal amends OAC 310:680-13-2 which deals with bulk nonprescription drugs. This
12 rule change removes a limitation on dispensing over the counter medications from bulk supplies of drugs
13 maintained in residential care homes. This change inserts verbatim language from the law concerning the
14 ordering or authorizing of medications by a physician. This change deletes language which restricts the use
15 of bulk over the counter medications to only as needed or unscheduled dosage regimens and only upon
16 written order of a physician. This change will allow residential care homes to dispense scheduled regimens
17 of over the countermedications with an order or other authorization. This change brings the rule into
18 conformity with the authorizing statute [Title 63 O.S. Section 1-1950(B)] which is permissive, rather than
19 restrictive, regarding the dispensing of bulk over the counter medications based on a nonscheduled regimen.
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21 **Dr. Stewart moved Board approval for Permanent Adoption of Chapter 680. Residential Care Homes as**
22 **presented. Second Dr. Alexopulos. Motion carried.**

23
24 **AYE: Alexopulos, Burger, Gerard Grim, Krishna, Stewart, Woodson**

25 **ABSENT: Starkey, Wolfe**

26
27 OKLAHOMA HEALTH IN ALL POLICIES PRESENTATION

28 Julie Cox-Kain, M.P.A., Deputy Secretary for Health & Human Services and Senior Deputy Commissioner;

29 Joseph Fairbanks, M.P.P., Director for Health Innovations and Effectiveness

30 *See Attachment A*

31
32 2016 LEGISLATIVE PRIORITIES

33 Carter Kimble, M.P.H., Senior Policy Analyst, Office of State and Federal Policy

34 *See Attachment B*

35
36 CONSIDERATION OF STANDING COMMITTEES' REPORTS AND ACTION

37 **Executive Committee**

38 None.

39
40 **Finance Committee**

41 Ms. Burger directed attention to the Financial Brief provided to each Board member and presented the
42 following SFY 2015 Finance Report and Board Brief as of November 23, 2015:

43 OSDH budget and expenditure forecast are as of November 23, 2015

44 OSDH has approximately \$403 million budgeted for state fiscal year 2016

45 The forecasted expenditure rate is projected at 97.02% through June 30, 2016

46 The department is in "Green light" status overall

47 Prevention and Preparedness Services and Health Improvement Services are in "yellow light" status, with
48 expenditures forecasted to spend between 90 and 95 percent

49 The "yellow light" status for these two divisions is due to items budgeted, but not yet obligated or forecasted
50 such as supplies and contracts.

51
52 The *Financial Brief* covered FY 2017 state appropriations reductions scenarios of 5%, 7.5%, and 10%.

53 *See Attachment C*

Accountability, Ethics, & Audit Committee

The Accountability, Ethics, & Audit Committee met with Jay Holland. Dr. Grim indicated that there were no known significant audit issues to report at this time and one complaint to be heard during Executive Session.

Public Health Policy Committee

Dr. Stewart indicated that discussion from the Policy Committee Meeting had been covered during Mr. Kimble's Legislative Priorities Presentation and there was nothing more to add.

The next meeting of the Policy Committee will be prior to the January Board Meeting.

PRESIDENT'S REPORT

None.

COMMISSIONER'S REPORT

Dr. Cline highlighted his participation at the recent board retreat for the Tobacco Settlement Endowment Trust. The retreat was similar in format to the Oklahoma State Board of Health retreat and also was a time for their Board to develop their strategic priorities. Dr. Cline thanked the TSET Board and Tracey Strader for their critical role in the process to align critical priorities for TSET and the OSDH.

Lastly, Dr. Cline gave an overview of the Oklahoma Academy Town Hall meeting he attended. The town hall is a unique opportunity for a diverse group of citizens (legislators, faith-based, health, business, etc.) to come together for discussion of issues facing Oklahoma and recommendations for positive change. The 2015 Town Hall Oklahoma Priorities - The Government and Taxes We Want. Dr. Cline encouraged Board members to participate in future Town Hall experiences.

The report concluded.

NEW BUSINESS

No new business.

PROPOSED EXECUTIVE SESSION

Dr. Alexopulos moved Board approval to go in to Executive Session at 11:58 PM pursuant to 25 O.S. Section 307(B)(4) for confidential communications to discuss pending department litigation, investigation, claim, or action; pursuant to 25 O.S. Section 307(B)(1) to discuss the employment, hiring, appointment, promotion, demotion, disciplining or resignation of any individual salaried public officer or employee and pursuant to 25 O.S. Section 307 (B)(7) for discussing any matter where disclosure of information would violate confidentiality requirements of state or federal law.

- OAS Complaint number is 2015-042
- Annual performance evaluation for the Office of Accountability Systems Director & Internal Audit Unit Director, and Board of Health Secretary

Second Ms. Burger. Motion carried.

AYE: Alexopulos, Burger, Gerard Grim, Krishna, Stewart, Woodson

ABSENT: Starkey, Wolfe

Dr. Grim moved Board approval to move out of Executive Session. Second Dr. Alexopulos. Motion carried.

AYE: Alexopulos, Burger, Gerard Grim, Krishna, Stewart, Woodson

ABSENT: Starkey, Wolfe

ADJOURNMENT

Dr. Stewart moved Board approval to Adjourn. Second Dr. Gerard Motion carried.

AYE: Alexopulos, Burger, Gerard Grim, Krishna, Stewart, Woodson

ABSENT: Starkey, Wolfe

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The meeting adjourned at 1:15 p.m.

Approved

10 _____
11 Ronald W. Woodson, M.D.
12 President, Oklahoma State Board of Health
January 12, 2016

Health in All Policies

Julie Cox-Kain, M.P.A.
Joseph Fairbanks, M.P.P.
December 8, 2015

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What is Health In All Policies?

Health in All Policies is a collaborative approach to improving the health of all people by incorporating health considerations into decision making across sectors and policy areas.

(APHA: Introduction to Health in All Policies, A Guide for State and Local Governments)

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Aspen Institute

- **TeamWork:** Leadership for Healthy States
- **Competitive Application:** 5 States
- **Institute Period:** August 2015 – August 2016
- **TeamWork Goals:**
 - Create robust relationships among health officials, their legal counsel, and policy makers within states
 - Foster collaborations and trust across branches of state government and partisan divides
 - Encourage innovative approaches to population health policy
- **Project Focus:** Health in All Policies
- **Benefits:** Access to technical assistance & resources

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Oklahoma TeamWork Team Members

- **Terry Cline**, Secretary of Health & Human Services
- **Chris Benge**, Secretary of State & Secretary of Native American Affairs
- **AJ Griffin**, State Senator
- **Teresa Jackson**, Senior Executive Officer of Choctaw Nation Health Services
- **Donald Maisch**, General Counsel, Oklahoma State Department of Health
- **Carol McFarland**, Director of Performance & Efficiency, Office of Management Enterprise Services
- **Julie Cox-Kain**, Senior Deputy Commissioner & Deputy Secretary of Health & Human Services
- **Stephanie Uren**, Director of the Center for the Advancement of Wellness, Oklahoma State Department of Health
- **Joe Fairbanks**, Director of the Center for Health Innovations, Oklahoma State Department of Health
- **James Allen**, Director of Partnerships for Health Improvement, Oklahoma State Department of Health
- **Melissa Fenrick**, Health Planning Coordinator, Oklahoma State Department of Health

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TeamWork Oklahoma

- Implement Health Impact Assessment (HIA)
- HIA Defined - HIAs use a flexible, data-driven approach that identifies the health consequences of new policies and develops practical strategies to enhance their health benefits and minimize adverse effects
- Assess and measure type, likelihood, magnitude and distribution of effect

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TeamWork Oklahoma Works HIA Project

- **Population:** Pre-K thru 2nd Grade
- **Potential policy areas for assessment of impact on health and educational progress:**
 - Implementing recommended physical activity in schools
 - Implementing recommended policies for proper nutrition in schools
 - Implementing trauma informed services in schools
- **Current Status:** Research evidence to narrow policy assessment
- **Next Steps:** Stakeholder engagement

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TeamWork Oklahoma Choctaw Nation Promise Zone HIA Project

- **Promise Zone:** A new anti-poverty program meant to provide resources such as grants and tax incentives to help improve conditions in persistently high poverty communities
- **Focused on the following:**
 - Jobs/Economic Development
 - Education
 - Housing
 - Public Safety
- **Next Steps:** Partner with Choctaw Nation to target/narrow the scope of the project

Questions

2016 Legislative Priorities
OKLAHOMA STATE DEPARTMENT OF HEALTH · DECEMBER 2015



Carter Kimble, M.P.H.
 Office of State and Federal Policy

LEGISLATIVE PRIORITIES

- Good Samaritan Law For Drug Overdose
- Emergency Health Planning Task Force
- Open Records Act
- Birth and Death Record Index
- Tobacco Tax

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Save Lives By Introduction Of A Good Samaritan Provision For Drug Overdoses

- Effect on Public Health and Well-being
 - Unintentional poisoning deaths surpassed motor vehicle crashes for the leading cause of injury death in Oklahoma.¹
 - Oklahoma drug overdose death (all intents)
 - 178 deaths in 1999
 - 790 deaths in 2013¹
 - Of the more than 4,600 unintentional poisoning deaths from 2007-2013, nearly four out of five involved prescription drugs.
 - Nearly 9 out of 10 prescription drug-related overdose deaths involved an opioid analgesic.
 - More overdose deaths involved hydrocodone or oxycodone than all illegal drugs combined.²

1. CDC Web-based Injury Statistics Query and Reporting System (WISQARS)
 2. OSDH Injury Prevention Service Fatal Unintentional Poisoning Surveillance System (data abstracted from medical examiner reports)

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Save Lives By Introduction Of A Good Samaritan Provision For Drug Overdoses (continued)

- Use and effects of Naloxone (Narcan®) or other opiate antagonist
 - In some instances, Naloxone can reverse the effects of opioid overdose and restore respiratory efforts.
 - HB1782 (2013) revised administration of Naloxone criteria and allows first responders to administer without a prescription when encountering an individual exhibiting signs of an opiate overdose.
 - Majority of overdose deaths take place 1-3 hours after taking an opioid³, and most of these overdoses occur in the presence of others⁴, meaning there is time for many lives to be saved.

3. Davidson P.J., McLean R.L., Kral A.H., Gleghorn A.A., Edlin B.R., & Moss, A.R. (2003). Fatal heroin-related overdose in San Francisco, 1997-2000: A case for targeted intervention. *Journal of Urban Health*, 80, p. 261-273.
 Sporer, K.A. Strategies for preventing heroin overdose. *BMJ*. 2003;326(7386):442-444
 Barceloux, Donald G. *Medical Toxicology of Drug Abuse: Synthesized Chemicals and Psychoactive Plants*, John Wiley & Sons, Inc. 2012.
 4. Lago T., Anderson B.J., Stein M. Overdoses among friends: drug users are willing to administer naloxone to others. *J Subst Abuse Treat*. 2006;30:129-133.

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Save Lives By Introduction Of A Good Samaritan Provision For Drug Overdoses (continued)

Policy Proposal

- Allows a person who, in good faith, is seeking medical assistance for a person experiencing a drug overdose from being arrested or prosecuted for the possession or use of a controlled substance or drug paraphernalia.
- Provides limited immunity, subject to the discretion of the law enforcement officer present, for persons who report the emergency drug overdose.
- Based on the Good Samaritan law for alcohol-related offenses, SB 1 signed by Governor Fallin in 2013.
- Currently 28 states including New Mexico, Colorado and Arkansas have some form of Good Samaritan law.⁵

5. Prescription Drug Abuse Policy System. Good Samaritan Overdose Prevention Laws. July 2015. http://lawetas.org/files/upload/20150814_Good%20Samaritan_EssentialInformation_PDAPS2.pdf.

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Adjustments To The Emergency Health Planning Task Force

- Oklahoma Catastrophic Health Emergency Planning Task Force
 - 19 member task force, statutorily dictated membership
 - Charged with the development of a state plan in the event of a catastrophic health emergency, including but not limited to:
 - Communication plan
 - Coordination of resources and essential materials
 - Role of law enforcement
 - Evacuation plans
 - Treatment plan for individuals affected

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Adjustments To The Emergency Health Planning Task Force (continued)

- Task force hasn't had a quorum in years, Emergency Preparedness unit at OSDH has continued to keep plan updated

Policy Proposal

- Establish a quorum to allow for Task Force to more regularly take action
- Allow in statute for the Fire Marshall to send a designee



Modernization Of The Oklahoma Open Records Act

Incentivize Government Transparency

- 2005 Attorney General opinion stated that a public body that places a record on the internet or world wide web does not meet the obligation of providing "prompt, reasonable access" to the record.
- Oklahoma State Department of Health receives 100-200 open record requests annually.

Policy Proposal

- Amend Title 51, Section 24A.5 by adding;
 - "Any public body making its records available on the internet or the world wide web meets the obligation of providing prompt, reasonable access to its records as required by this Act"



Birth And Death Event Index And Electronic Verification Of Existing Vital Record

- Birth and Death Index
 - OSDH will have a birth and death index available on its website that will include:
 - Name
 - Gender
 - Date of event
 - County in which event occurred
 - Ease ancestral study for genealogists
 - Index will include data for births and deaths occurring more than 25 years after the event
 - Use of index will have no cost unless entire index is requested, fee established by Board of Health



Birth And Death Event Index And Electronic Verification Of Existing Vital Record (continued)

- Electronic Verification Component
 - Previously, private entities with a legitimate business relationship were able to access the Social Security Administration's Death Master File. The Federal government no longer shares that index with private entities as the records were deemed protected.
 - National Association for Public Health Statistics and Information Systems will create a hub where states can provide records for comparison for a business to determine if an individual is deceased.
 - Businesses will now be able to compare records in bulk, where as they were previously required to formally request each record individually.



Tobacco Tax Continues To Be A Policy Priority

- Increasing the price point of tobacco products is a recommended strategy to achieve the following:
 - Reduces the total amount of tobacco consumed
 - Reduces the prevalence of tobacco use
 - Increases the number of tobacco users who quit
 - Reduces initiation of tobacco use among young people
 - Reduces tobacco-related morbidity and mortality
- Increasing the unit price for tobacco products by 20% would result in the following:
 - Reduce overall consumption of tobacco products by 10.4%
 - Reduce prevalence of adult tobacco use by 3.6%
 - Reduce initiation of tobacco use by young people by 8.6%

Reducing Tobacco Use and Secondhand Smoke Exposure: Interventions to Increase the Unit Price for Tobacco Products. (n.d.). Retrieved November 17, 2015, from <http://www.thecommunityguide.org/tobacco/increasingunitprice.html>



For More Information

Carter Kimble, MPH, Office of State and Federal Policy

(405) 271-4200

CarterK@health.ok.gov



QUESTIONS



**OKLAHOMA STATE DEPARTMENT OF HEALTH
BOARD OF HEALTH FINANCE COMMITTEE BRIEF
DECEMBER 2015**

POTENTIAL STATE GENERAL REVENUE REDUCTIONS FOR STATE FISCAL YEAR 2017

The OSDH received state general revenue appropriations of \$60,632,476 for state fiscal year 2016. With significant revenue reductions forecasted for state fiscal year 2017, the OSDH was asked to provide reduction scenarios that represent a 5%, 7.5%, and 10% state general revenue reductions.

5% (\$3,031,624) Reduction Scenario	
Amount	Description
\$10,000	Oklahoma State Athletic Commission: This would reduce the number of inspectors trained for events scheduled in SFY-17
\$500,000	Elimination of the RFP for the establishment of a Cord Blood Bank would take effect July 1, 2016 which supports positions within the Oklahoma Blood Institute.
\$2,521,624	FQHC Uncompensated Care: A reduction in funds to the OSDH would eliminate the FQHC Uncompensated Care Fund and prevent the OSDH from reimbursing FQHCs for uncompensated care costs associated with the delivery of primary, dental, and behavioral health care to uninsured patients. This will impact 15 FQHCs (representing 67 sites), which will lose partial reimbursement for 14,502 encounters with underinsured or uninsured clients.

7.5% (\$4,547,436) Reduction Scenario	
Amount	Description
\$15,000	Oklahoma State Athletic Commission: This would reduce the number of inspectors trained for events scheduled in SFY-17 and impact attendance by Board Commissioners to national conferences.
\$500,000	Elimination of the RFP for the establishment of a Cord Blood Bank would take effect July 1, 2016 which supports positions within the Oklahoma Blood Institute.
\$1,479,959	Community Based Child Abuse Prevention: A 50% cut would impact 369 families that would not be served and approximately 26 positions within the community non-profits would no longer be funded. In order to determine which programs would be eliminated, contractors will be rated and ranked by the number of home visits made and number of families served.
\$2,552,477	FQHC Uncompensated Care: A reduction in funds to the OSDH would eliminate the FQHC Uncompensated Care Fund and prevent the OSDH from reimbursing FQHCs for uncompensated care costs associated with the delivery of primary, dental, and behavioral health care to uninsured patients. This will impact 15 FQHCs (representing 67 sites), which will lose partial reimbursement for 14,502 encounters with underinsured or uninsured clients.

10% (\$6,063,248) Reduction Scenario	
Amount	Description
\$20,000	Oklahoma State Athletic Commission: This would reduce the number of inspectors trained for events scheduled in SFY-17; impact attendance by Board Commissioners to national conferences and reduce the number of inspectors employed to ensure compliance with Athletic Commission regulated events.
\$500,000	Elimination of the RFP for the establishment of a Cord Blood Bank would take effect July 1, 2016 which supports positions within the Oklahoma Blood Institute.
\$2,896,014	Community Based Child Abuse Prevention: This would impact approximately 749 families that would not be served and approximately 52 positions within the community non-profits that would no longer be funded. This would impact all 13 regional contractors.
\$2,552,477	FQHC Uncompensated Care: A reduction in funds to the OSDH would eliminate the FQHC Uncompensated Care Fund and prevent the OSDH from reimbursing FQHCs for uncompensated care costs associated with the delivery of primary, dental, and behavioral health care to uninsured patients. This will impact 15 FQHCs (representing 67 sites), which will lose partial reimbursement for 14,502 encounters with underinsured or uninsured clients.
\$94,757	OSDH Infrastructure will be impacted with the elimination of one management level vacant position which requires the permanent redistribution of responsibilities to existing FTE. The reduction is based on actual salary and estimate benefit cost to refill the position.

State Of Oklahoma
Department of Health

Memorandum

December 29, 2015

TO: State Board of Health Members

FROM: Terry Cline, Ph.D. *T. Cline*
Commissioner of Health *12-29-2015*
Secretary of Health and Human Services

SUBJECT: Food Service Advisory Council Appointment

This requests appointment of one new member to the Food Service Advisory Council by the State Board of Health. The proposed appointee is as follows:

One member representing the Oklahoma Food Processor to the Oklahoma Food Service Advisory Board

• Kirby Childs, Yukon, OK

The State Health Department's staff conducted a check of the history of the proposed appointee using public information, including the Oklahoma Department of Corrections Offender Lookup, the Oklahoma State Court Networks Court Dockets, and Oklahoma State Department of Health licensure records. The staff identified no offenses or adverse actions that would impair the ability of this individual to perform the responsibilities of the advisory council.

This nominee meets the qualifications of the position for which he is nominated. Teresa Martinez Administrative Assistant of the Consumer Protection Division has personally contacted the nominee and confirmed his willingness to serve and attend public meetings of the advisory council.

Statutory Citation

Title 63, Section 1-106.3 of the Oklahoma Statutes authorizes the Oklahoma Food Service Advisory Council within the State Department of Health.

Appointing Authority

The Commissioner of Health with the advice and consent of the Board of Health.

Membership

Advisory Board consists of thirteen (13) members. Eight (8) members are appointed by the Commissioner, with the advice and consent of the State Board of Health, from a list of three names for each position provided by an association representing the majority of the restaurant owners in the state.

- One (1) represents Oklahoma Restaurant Association
- One (1) represents Oklahoma Hotel and Motel Association
- One (1) represents Oklahoma Grocers Association
- One (1) represents Food Service Education
- One (1) represents Food Processing Education
- One (1) represents Independent Food Service Operator
- One (1) represents Food Processor

One (1) Citizen represents the Public, shall not be a food service operator or employee and shall not be a member of the Food Service governing board.

The remaining appointments shall consist of:

One (1), the Director of the Oklahoma – City County Health Department

One (1), the Director of the Tulsa – City County Health Department

Two (2) Directors from other county health departments in this state or designee, appointed by the Commissioner;

One (1), the Director of the State Department of Agriculture, or a designee

Advisory Council Duties/Responsibilities

Duties include advising the State Board of Health, the State Commissioner of Health, and the Department regarding food service establishments. The Advisory Board has the following duties and responsibilities:

- (1) Recommends actions to improve sanitation and consumer protection.
- (2) Evaluates, reviews and makes recommendations regarding Department inspection activities;
and
- (3) Recommends and approves quality indicators and data submission requirements for food service establishments which shall be used by the Department to monitor compliance with licensure requirements.

Advisory Council Meeting Frequency

The Advisory Board meets once a quarter (4 times a year).

Appointment Process

- (1) Resumes/applications are submitted to Oklahoma Restaurant Association.
- (2) Oklahoma Restaurant Association reviews the applicants and forwards to Oklahoma State Department of Health.
- (3) Oklahoma State Department of Health reviews and forwards recommendations to Commissioner.
- (4) Commissioner forwards recommendations to the State Board of Health, for advise and consent of the Board
- (5) Commissioner appoints nominee.

Attachments

- Mr. Kirby Childs, Curriculum Vitae



Oklahoma State Department of Health
Creating a State of Health

To: Board of Health Secretary

Through: Terry Cline, Ph.D. *T. Cline*
Commissioner *12-23-2015*

Through: James Joslin *JWJ*
Agency Rule Liaison

Through: Don Maisch e-approved 12-23-15
General Counsel

Through: Henry F. Hartsell e-approved 12-23-15
Deputy Commissioner, Protective Health Services

From: Lynnette Jordan e-approved 12-15-15
Administrative Programs Manager, Occ. & Consumer Protection Licensing

Date: December 23, 2015

Subject: **CHAPTER 257. FOOD SERVICE ESTABLISHMENTS**

The attached rule and supporting documents are submitted for **PERMANENT** adoption of the rule at the Board of Health's January 2016 meeting.

Public comment is addressed in the *Rule Comment Summary* and no change in the rule is proposed. The Food Service Advisory Council meeting held Wednesday, December 2, 2015, reviewed the comments and proposed response of the Department and concurred with the response and affirmed the rule for submission to the Board of Health.

Attachments:

- **Rule Impact Statement**
- **Rule Text**
- **Rule Comment Summary**

RULE IMPACT STATEMENT

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

1. **DESCRIPTION:** *(a brief description of the purpose of the proposed rule [75 O.S. §303.D.2(a)])*

These proposed regulations will bring the chapter into compliance with 2013 model food code, published by the U. S. Food and Drug Administration (FDA). The model assists food control jurisdictions at all levels of government by providing them with a scientifically sound technical and legal basis for regulating the retail and food service segment of the industry (restaurants and grocery stores and institutions such as nursing homes). Local, state, tribal, and federal regulators use the FDA Food Code as a model to develop or update their own food safety rules and to be consistent with national food regulatory policy. According to the FDA:

"The Food Code is a model for safeguarding public health and ensuring food is unadulterated and honestly presented when offered to the consumer. It represents FDA's best advice for a uniform system of provisions that address the safety and protection of food offered at retail and in food service.

"The 2013 edition of the model code reflects the input of regulatory officials, industry, academia, and consumers that participated in the 2012 meeting of the Conference for Food Protection (CFP). Collaboration with the CFP and our partners at the U.S. Department of Agriculture's Food Safety and Inspection Service and the Centers for Disease Control and Prevention of the U.S. Department of Health and Human Services helps ensure the Food Code establishes sound requirements that prevent foodborne illness and injury and eliminates the most important food safety hazards in retail and foodservice facilities.

Source: Food Code 2013, U.S. Food and Drug Administration, July 2, 2015, <http://www.fda.gov/Food/GuidanceRegulation/RetailFoodProtection/FoodCode/ucm374275.htm> (August 3, 2015).

A summary of changes to the 2013 FDA Food code is linked here:

Summary of Changes In the FDA Food Code 2013

[<http://www.fda.gov/Food/GuidanceRegulation/RetailFoodProtection/FoodCode/ucm374759.htm>].

Not all of the changes described in the "Summary of Changes" are applicable to the Oklahoma Food Code.

The proposed changes reflect the advice and consent of Oklahoma's Food Service Advisory Council and include the removal of unnecessary language, modifications to current language to make all language consistent, and removal of the word "service" from the term "food service establishment."

2. **DESCRIPTION OF PERSONS AFFECTED AND COST IMPACT RESPONSE:** *(a description of the classes of persons who most likely will be affected by the proposed rule, including classes that will bear the costs of the proposed rule, and any information on cost impacts received by the agency from any private or public entities [75 O.S. §303.D.2(b)])*

Those classes of persons potentially affected are owners and operators of food establishments. While the cost to the owners and operators is unknown, there will be some added costs to implement the changes in the regulations. The Department did not receive comment on cost impacts during the comment period. The advice and consent of Oklahoma's Food Service Advisory Council was obtained through rule drafting and with this submission.

3. **DESCRIPTION OF PERSONS BENEFITING, VALUE OF BENEFIT AND EXPECTED HEALTH OUTCOMES:** *(a description of the classes of persons who will benefit from the proposed rule [75 O.S. §303.D.2(c)])*

The potential benefit will be to the patrons of food establishments by updating requirements to ensure that all food products provided are safe for human consumption. Owners and operators will benefit by having the most modern food protection controls in place, reducing the risk of foodborne illness transmission in their establishments.

4. **ECONOMIC IMPACT, COST OF COMPLIANCE AND FEE CHANGES:** *(a description of the probable economic impact of the proposed rule upon affected classes of persons or political subdivisions, including a listing of all fee changes and, whenever possible, a separate justification for each fee change [75 O.S. §303.D.2(d)])*

While the cost to the food establishments is unknown at the present time, it is assumed that there will be costs to the owner or operator of a food establishment if the proposed rules are adopted. Necessary time and equipment will need to be obtained to meet compliance. No fee changes are proposed in this rule. The Department worked with the food service industry in the preparation of these rules and sought comment on cost impacts during the comment period from owners, operators and the public but did not receive comment on cost impacts during the comment period. The advice and consent of Oklahoma's Food Service Advisory Council was obtained through rule drafting and with this submission.

5. **COST AND BENEFITS OF IMPLEMENTATION AND ENFORCEMENT TO THE AGENCY:** *(the probable costs and benefits to the agency and to any other agency of the implementation and enforcement of the proposed rule, the source of revenue to be used for implementation and enforcement of the proposed rule, and any anticipated effect on state revenues, including a projected net loss or gain in such revenues if it can be projected by the agency [75 O.S. §303.D.2(e)])*

The cost to implement the rule for the Oklahoma State Department of Health is unknown at the present time. The proposed rules would modify the requirements for food establishments licensed in the State of Oklahoma. The changes proposed modify the existing food service establishment rules and are not expected to alter the inspection protocol or result in changes in enforcement.

The cost to the Department to implement the amendments will be approximately \$4,419.63 to cover the costs of rule drafting, adoption, publication, distribution, and education. The proposed rules will be implemented and enforced by existing Department personnel and will have no anticipated effect on state revenues.

6. **IMPACT ON POLITICAL SUBDIVISIONS:** *(a determination of whether implementation of the proposed rule will have an economic impact on any political subdivisions or require their cooperation in implementing or enforcing the rule [75 O.S. §303.D.2(f)])*

There will be no economic impact on any political subdivisions.

7. **ADVERSE EFFECT ON SMALL BUSINESS:** *(a determination of whether implementation of the proposed rule may have an adverse economic effect on small business as provided by the Oklahoma Small Business Regulatory Flexibility Act [75 O.S. §303.D.2(g)])¹²*

There may be an effect on small business, as many food establishments meet the definition of a small business. The Department sought comment on cost impacts during the comment period from owners, operators and the public. No comments were received. The advice and consent of Oklahoma's Food Service Advisory Council was obtained through rule drafting and with this submission.

8. **EFFORTS TO MINIMIZE COSTS OF RULE:** *(an explanation of the measures the agency has taken to minimize compliance costs and a determination of whether there are less costly or nonregulatory methods or less intrusive methods for achieving the purpose of the proposed rule [75 O.S. §303.D.2(h)])*

The model food code was developed with advice and consent of industry representatives and the Food Service Advisory Council. Those requirements in the model rule that would be overly

¹ 75 O.S. § 502. As used in the Oklahoma Small Business Regulatory Flexibility Act:

.....
3. "Small business" means a for-profit enterprise consisting of fifty or fewer full-time or part-time employees.

² 75 O.S. § 504(A). Prior to submitting proposed permanent rules for adoption, amendment, revision or revocation pursuant to the Administrative Procedures Act, the agency shall comply with the provisions of paragraph 4 of subsection A of Section 303 of this title in order to determine whether the proposed rules adversely affect small business.

75 O.S. § 303(A) Prior to the adoption of any rule or amendment or revocation of a rule, the agency shall:

.....
4. Consider the effect its intended action may have on the various types of business and governmental entities. Except where such modification or variance is prohibited by statute or constitutional constraints, if an agency finds that its actions may adversely affect any such entity, the agency may modify its actions to exclude that type of entity, or may "tier" its actions to allow rules, penalties, fines or reporting procedures and forms to vary according to the size of a business or governmental entity or its ability to comply or both. For business entities, the agency shall include a description of the probable quantitative and qualitative impact of the proposed rule, economic or otherwise, and use quantifiable data to the extent possible, taking into account both short-term and long-term consequences; and

burdensome to the industry have not moved forward for adoption. The Department sought further comment on cost impacts during the comment period from owners, operators and the public as well as comments for other *less costly or nonregulatory methods or less intrusive methods for achieving the purpose of the proposed rules.*

9. **EFFECT ON PUBLIC HEALTH AND SAFETY:** *(a determination of the effect of the proposed rule on the public health, safety and environment and, if the proposed rule is designed to reduce significant risks to the public health, safety and environment, an explanation of the nature of the risk and to what extent the proposed rule will reduce the risk [75 O.S. §303.D.2(i)])*

If the proposed modifications are adopted, the public health and safety may be improved. The proposed rules adopt the most modern information available for food safety and handling. If prepared food is not handled in a safe manner, there is a potential for the spread of foodborne diseases.

10. **DETRIMENTAL EFFECTS ON PUBLIC HEALTH AND SAFETY WITHOUT ADOPTION:** *(a determination of any detrimental effect on the public health, safety and environment if the proposed rule is not implemented [75 O.S. §303.D.2(j)])*

If the proposed modifications are not adopted, there may be a negative effect on the public health and safety. The proposed rules adopt the most modern information available for food safety and handling. If prepared food is not handled in a safe manner, there is a potential for the spread of foodborne diseases.

11. **PREPARATION AND MODIFICATION DATES:** *(the date the rule impact statement was prepared and if modified, the date modified [75 O.S. §303.D.2(k)])*

This rule impact statement was prepared on August 3, 2015. Modifications subsequent to the publication of the *Notice of Rulemaking Intent* were made on December 13, 2015. Changes were made on December 22, 2015, to correct formatting, grammar and spelling.

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

SUBCHAPTER 1. PURPOSE AND DEFINITIONS

310:257-1-1. Purpose.

The rules in this Chapter implement Article 11, 63 O.S. 2001, ~~Sections~~ 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 service 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. These ~~ANSI-CFP~~ 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. 2001, 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.

"aw" 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 aw.

"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 Title 7 USC of the United States Code, Section 136(i) 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.

"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.

"**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.

"**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.

~~"**Color additive**" has the meaning stated in the Federal Food, Drug, and Cosmetic Act, § 201(t) and 21 CFR 70.~~

"**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 service 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.

"**Community water system**" means any public water supply system, which serves at least 15 service connections, used year round or regularly serves 25 customers per day.

"**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 ~~service~~ establishment or food processing plant, and does not offer the food for resale.

"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, 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 leafy 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 the Oklahoma Public Health Code and this Chapter.

"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 40 CFR, Part 141 National Primary Drinking Water Regulations. It is traditionally known as "potable water." Drinking water does not mean "water" where the term used connotes that the water is not potable, such as "boiler water," "mop water," "rainwater," "wastewater," and "nondrinking" water.

"Dry storage area" means a room or area designated for the storage of packaged or containerized bulk food that is not potentially hazardous 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 the domesticated chicken, turkey, duck, goose, or guinea.~~ Egg does not include a balut, the egg of reptile species such as alligator or an egg product of avian species such as chicken, duck, goose, guinea,

quail, ratites, or turkey. Egg does not include a balut, the egg of 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 products 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, 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 service establishment.

~~**"Enterohemorrhagic Escherichia coli"** -- (EHEC) means *E. coli* which cause hemorrhagic colitis, meaning bleeding enterically or bleeding from the intestine. The term is typically used in association with *E. coli* that have the capacity to produce Shiga toxins and to cause attaching and effacing lesions in the intestine. EHEC is a subset of STEC, whose members produce additional virulence factors. Infections with EHEC may be asymptomatic but are classically associated with bloody diarrhea (hemorrhagic colitis) and hemolytic uremic syndrome (HUS) or thrombotic thrombocytopenic purpura (TTP). Examples of serotypes of EHEC include: *E. coli* O157:H7; *E. coli* O157:NM; *E. coli* O26:H11; *E. coli* O145:NM; *E. coli* O103:H2; or *E. coli* O111:NM. Also see Shiga Toxin-Producing *E. coli*.~~

"EPA" means the U.S. Environmental Protection Agency.

"Equipment" means an article that is used in the operation of a food service 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 a social gathering open to the general public that has been organized for a special occasion or purpose, having a limited time or serves a specific function.

"Exclude" means to prevent a person from working as a food employee or entering a food service establishment ~~except for these areas open to the general public~~ as an employee.

"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-potentially hazardous farm food products and whole shell eggs to the public. A portion of the raw food ingredients used by the individual

vendor to produce a product must have been grown or raised by the vendor. The individual vendors wishing to process food as defined by Good Manufacturing Practice, OAC 310:260 of the regulations must obtain a state food processor's license. A Farmers' Market must have written operational guidelines and a minimum of six vendors along with a designated market manager or advisory board who will be responsible for distribution of a copy of the guidelines to the vendors. Farmers' Markets must be registered by the Oklahoma Department of Agriculture, Food and Forestry and comply with the Food Service Establishments, OAC 310:257, and/or Good Manufacturing Practice, OAC 310:260. This definition does not include individual farmers who grow and sell unprocessed fruit and/or vegetables from the farm, roadside, or truck. Any vendors who prepare or sell any Time/Temperature Control for Safety Foods at the Farmers' Markets must abide by all applicable sections of Food Service Establishments, OAC 310:257 of the regulations including acquiring a license from the department.

"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.

~~**"Food additive"** has the meaning stated in the Federal Food, Drug, and Cosmetic Act, § 201(s) and 21 CFR 170.~~

"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 service 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; 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 ~~service~~ 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; ~~and regardless of whether there is a charge for the food.~~

(B) Food ~~service~~ 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 potentially hazardous is prepared for sale or service at a function such as a religious or charitable organization's bake sale if allowed by law ~~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) 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 3, breakfast is the only meal offered;
- (v) A private home that receives catered or home-delivered food;
- (vi) Incidental sales; or
- (vii) ~~The sale of whole produce grown by a producer and sold on a roadside or locations away from their property and transported by the grower or transported without third party intervention and/or storage, and the produce is maintained in a safe, unadulterated condition~~ A produce stand that offers only whole, uncut and unprocessed fresh fruits, melons, vegetables and legumes and/or whole uncracked and unprocessed nuts.

"Food service establishment - fee exempt" means a food service 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. 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. 2001, ~~§§~~ Section 6-183 et seq. (cattle, bison, sheep, swine and goats). Equines are not included due to the provisions of ~~63~~ O.S. 2001, ~~§ 1-1135~~ Title 2 O.S. Section 6-192 (prohibits the use of equine for food), 2 O.S. 2001, ~~§~~ Section 6-251 et seq. (poultry, including any domestic bird whether live or dead), 2 O.S. 2001, ~~§§~~ Section 6-280.1 et seq. (domesticated rabbits whether live or dead), 2 O.S. 2001, ~~§~~ 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" and ~~"Grade A Condensed and Dry Milk Ordinance"~~ with which certain fluid and dry milk and milk products comply.

"Group residence" means a private or public housing corporation or institutional facility that provides living quarters and meals or includes a domicile for unrelated persons.

"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: immunocompromised; preschool age children, or older adults; and 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 is offered for purchase as a convenience to the customer.

"Injected" means manipulating meat in which a solution has been a meat so that infectious or toxigenic microorganisms may be introduced into from its surface to its interior through tenderizing with deep penetration or injecting the meat such as by processes which may be by processes which are referred to as "injecting," "pinning," "pump marinating," or "stitch pumping."

"Juice" means, when used in the context of food safety, 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.

"License" means the document issued by the Department that authorizes a person to operate a food ~~service~~ establishment.

"License holder" means the entity that is legally responsible for the operation of the food ~~service~~ establishment such as the owner, the owner's agent, or other person; and possesses a valid license to operate a food ~~service~~ 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. 2001, ~~§~~ Section 1-1110.

"Mobile food ~~service~~ 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 12 hours at one time.

"Mobile pushcart" means a non-self propelled food unit that can be manually moved.

"Mobile retail food service establishment" means a unit which sells packaged foods from a stationary display at a location some distance from the unit but still at the same physical address for no more than 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 ~~Chapter~~ OAC 310:260, Good Manufacturing Practice Regulations, Oklahoma Department of Agriculture, Food and Forestry, the United States Department of Agriculture, or this Chapter.

"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-community water system" means any public water supply system, which serves an average of at least 25 individuals at least 60 days per year and is not a community water system.

"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.

"Non-transient non-community water system" means any public water supply system that is not a community water system and that regularly serves at least 25 of the same persons over 6 months per year.

"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.

"Occasional fund-raising event" means a re-occurring event that occurs four times a year or less.

"O.S." means Oklahoma Statute.

"Packaged" means bottled, canned, cartoned, securely bagged, or securely wrapped, whether packaged in a food service establishment or a food processing plant. ~~It~~ Packaged does not include ~~a wrapper, wrapped or placed in a carry-out box, or other nondurable container used to containerize food with the purpose of facilitating food protection during service and~~

receipt of the food by the consumer 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 ~~service~~ establishment who is responsible for the operation.

"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; ~~and~~ other items such as cosmetics_r; 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 ~~service~~ 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 Poultry Products Inspection Regulations; 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 Voluntary Poultry Inspection Regulations, Definitions.

"Premises" means the physical facility, its contents, and the contiguous land or property under the control of the license holder; or 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 ~~service~~ establishment personnel, facilities, or operations, and a food ~~service~~ establishment is only one component of a larger operation such as a health care facility, hotel, motel, school, recreational camp, or prison.

~~**"Prepared food"** means a food processed by the manufacturer or seller, by cooking, cleaning, or the like, so as to be ready to serve or use with little or no further preparation.~~

"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 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 310:257-5-48.1, 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 (2); or is prepared in accordance with a variance

that is granted as specified under OAC 310:257-5-46(d)(1) and (3); and may receive additional preparation for palatability or aesthetic, epicurean, gastronomic, or culinary purposes.

"Ready-to-eat food" 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 310:257-5-48.1; 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 and cooled as specified ~~in~~ 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~~ 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; ~~and~~ 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~~ 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 ~~surrounding,~~ atmosphere (approximately 21%) oxygen atmosphere, at sea level;

(B) ~~and a~~ A process as specified in paragraph (A) of this definition that involves a food for which hazards Clostridium botulinum or Listeria monocytogenes requires control is identified as a microbiological hazard 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, such as sous vide;

(D) ~~modified~~ 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; and

(E) ~~entrolled~~ 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.

"Refuse" means solid waste not carried by water through the sewage system.

"Regulatory authority" 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 the Oklahoma Public Health Code and this Chapter.

"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~~ 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~~ An additive that is used as specified in § Section 409 ~~or 706~~ of the Federal Food, Drug, and Cosmetic Act; or

(C) ~~other~~ 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% reduction⁷ 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 service establishment" means a facility that is open no more than 180 consecutive days per physical address per year. The seasonal food ~~service~~ establishment is limited to serving coffee and snow cones with use of liquid milk, cut raw fruits, cut raw vegetables, nuts in the shell, and commercially bottled syrup, sorghum, honey, sweet cider, and other non-Time/Temperature Control for Safety Foods.

~~**"Seasonal fruit stand"** means an establishment that is open no more than 180 consecutive days per physical address per year and is limited to whole, raw fruits and vegetables and unprocessed nuts in the shell that have been purchased from a third-party vendor.~~

"Service animal" means an animal such as a guide dog, signal dog, or other animal individually trained to provide assistance to an individual with a disability.

"Servicing area" means an operating base location to which a mobile food ~~service~~ 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).

"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.

"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.

"Temporary food service establishment" means a food service 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 the duration of the event or celebration.

"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, ~~meaning a food of animal origin,~~ that is raw or heat-treated; a ~~food of~~ plant food ~~origin~~ 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

that results in mixtures that do not support growth or toxin formation; and

(ii) Except as specified in subparagraph (B)(4) of this definition, a food that because of the interaction of its a_w and pH values as designated in the Product Assessment Required (PA) in Tables 1 and/or 2 of Appendix A of this Chapter;

(B) Time/Temperature Control for Safety Food does not include:

(i) an An air-cooled hard-boiled egg with shell intact, or a shell egg that is not hard-boiled, but has been ~~treated~~ pasteurized to destroy all viable *Salmonellae*;

(ii) a A food with an a_w value of 0.85 or less, a food with a pH level of 4.6 or below when measured at 24°C (75°F), a food, in an unopened hermetically sealed container, that is commercially processed to achieve and maintain commercial sterility under conditions of ~~nonrefrigerated~~ non-refrigerated storage and distribution;

(iii) a A food that because of its a_w or pH values, is designated as a non-TCS food as listed in Table 1 and/or 2 of Appendix A of this Chapter; for which laboratory evidence demonstrates that the rapid and progressive growth of infectious or toxigenic microorganisms or the growth of *S. Enteritidis* in eggs or *C. botulinum* can not occur, such as a food that has an a_w and a pH that are above the levels identified in this definition and that may contain a preservative, other barrier to the growth of microorganisms, or a combination of barriers that inhibit the growth of microorganisms; or a food that does not support the growth of microorganisms, even though the food may contain an infectious or toxigenic microorganism or chemical or physical contaminant at a level sufficient to cause illness

(iv) A food that is designated as Product Assessment Required (PA) in Table 1 and/or 2 of Appendix A of this Chapter 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

(IV) A food that does not support the growth or toxin formation of pathogenic microorganisms in accordance with subparagraphs (b)(1 - (b)(4) 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 in conformity with this Chapter to approve that authorizes a modification or waiver of one or more requirements of this Chapter, if, in the opinion of the Department, 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, or key, 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.

~~Title 7: Part 56 and 136(e), (i); Title 9:, 301, 308.3(d), 317, 317.2(i), Subpart B, 319, 319 Subpart A, 352, 354, 362, 381,~~

~~381.125(b), 381 Subpart N, 424.21, 424.21(b) Subpart C, 590, Title 21: 101, 101.17(g)(h), 113, 120, 120.24, 129, 130, 131 through 169, 133, 135, 141, 170 through 186, 176.3800, 181 through 186, 1030.10 and Subpart D 1240.60(d); Title 40: 141, 152 Subpart I, 152.175, and Title 50: 17 of the Code of Federal Regulations (CFR), as of April 1, 2002 are incorporated by reference. The Federal Food, Drug and Cosmetic Act Sections 201(s), 201(t), 401, 403(Q)(3-5), 409, and 706; Seven United States Code 56 and 136(e)(i) are incorporated by reference. The United States Department of Agriculture List of Proprietary Substances and Nonfood Compounds, Miscellaneous Publication No. 1419 are incorporated by reference. The United States Food and Drug Administration Over the Counter Health-Care Antiseptic Drug Products; 2 O.S. 2001 §§ 6-183 et seq., 6-251 et seq., 6-254, 6-280.1 et seq., and 6-290.3(6) et seq.; 2 O.S. 2000 §§ 7-406 and 7-407; 63 O.S. 2001 §§ 1-1110 and 1-1135 are incorporated by reference. National Shellfish Sanitation Program (NSSP), Model Ordinance, Guide for the Control of Molluscan Shellfish; Interstate Certified Shellfish Shipper's List (ICSSL) are incorporated by reference; Food Allergen Labeling and Consumer Protection Act of 2004 (Public Law 108-282) are incorporated by reference. American Society of Sanitary Engineers (A.S.S.E.) are incorporated by reference; OAC 252:631. Public Water Supply Operation are incorporated by reference. OAC 310:225. Bottled Drinking Water Regulations are incorporated by reference. OAC 252:626 Public Water Supply Construction Standards are incorporated by reference. OAC 252:641 Individual and Small Public On Site Sewage Disposal Systems are incorporated by reference. OAC 252:656 Water Pollution Control Facility Construction are incorporated by reference; International Plumbing Code are incorporated by reference; National Sanitation Foundation (NSF) are incorporated by reference; American National Standards Institute (ANSI) and OAC 158:50 Mechanical Industry Regulations are incorporated by reference.~~

(a) The following Code of Federal Regulation (CFR) citations are incorporated by reference as published on July 1, 2015:

Title 9 CFR, Part 424, Subpart (C);

Title 21 CFR, Part 129;

Title 21 CFR, Part 170;

Title 21 CFR, Part 171;

Title 21 CFR, Part 172;

Title 21 CFR, Part 173;

Title 21 CFR, Part 174;

Title 21 CFR, Part 175;

Title 21 CFR, Part 176;

Title 21 CFR, Part 177;

Title 21 CFR, Part 178;

Title 21 CFR, Part 179;
Title 21 CFR, Part 180;
Title 21 CFR, Part 181;
Title 21 CFR, Part 182;
Title 21 CFR, Part 184;
Title 21 CFR, Part 186;
Title 21 CFR, Part 333, Subpart E; and
Title 21 CFR, Section 1240.60 (d).

(b) The following publications are adopted by reference:

(1) United States Food and Drug Administration: National Shellfish Sanitation Program (NSSP), Guide for the Control of Molluscan Shellfish, 2009 Revision;

(2) United States Food and Drug Administration: Interstate Certified Shellfish Shipper's List, as published on July 1, 2011.

310:257-1-4. Exemptions.

The food ~~service~~ establishment definition does not include a food processing plant; a facility that sells only commercially pre-packaged, non-Time/Temperature Control for Safety Foods which are incidental to the business, and does not have food in storage; a kitchen in a private home if only food that is not potentially hazardous 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 three (3) 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, ~~and/or~~ 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 nuts. ~~The sale of whole produce is exempt if grown by a producer and sold on a roadside or locations away from the producer's property and transported by the grower or transported without third party intervention and/or storage, and if the produce is maintained in a safe, unadulterated condition.~~

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 ~~service~~ establishment during all hours of operation.

(b) In a food ~~service~~ 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 ~~service~~ 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.

310:257-3-3. Person in charge.

The person in charge shall ensure that:

(1) Food ~~service~~ establishment operations are not conducted in a private home or in a room used as living or sleeping quarters as specified under OAC 310:257-11-21;

(2) Persons unnecessary to the food ~~service~~ 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 as specified under OAC 310:257-7-23 and OAC 310:257-7-78(b);

~~(7)~~(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 4 ~~four~~ (4) hours, through daily oversight of the employees' routine monitoring of food temperatures during cooling;

~~(8)~~(9) Consumers who order raw or partially cooked ready-to-eat foods of animal origin are informed as specified under OAC 310:257-5-69 that the food is not cooked sufficiently to ensure its safety;

~~(9)~~(10) 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;

~~(10)~~(11) Consumers are notified that clean tableware is to be used when they return to self-service areas such as salad bars and buffets as specified under OAC 310:257-5-35;

~~(11)~~(12) Except when otherwise approved as specified in under OAC 310:257-5-21(b), 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; and

~~(12)~~(13) Employees are properly trained in food safety, including food allergy awareness of major food allergens, as it relates to their assigned duties; and

~~(13)~~(14) 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

(15) 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 person in charge to require

reporting by food employees and applicants.

(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 on any part of the body;
- (2) **Reportable diagnosis.** Has an infection diagnosed by a health practitioner or identified by the Department due to:
 - (A) Norovirus,
 - (B) Hepatitis A virus,
 - (C) *Shigella* species,
 - (D) ~~Enterohemorrhagic~~ or Shiga toxin-producing *Escherichia coli*, or
 - (E) *Salmonella* species Typhi, or
 - (F) *Salmonella* species, non-typhoidal;
- (3) **Reportable past illness.** Has been ill within the past three months due to diagnosed *Salmonella* Typhi but did not receive antibiotic therapy; or
- (4) **Reportable history of exposure.** Has been exposed to or is the suspected source of a recent confirmed disease outbreak related to an infection listed in (a)(2) of this Section.

(b) **Availability of educational materials.** The Department shall make available educational materials, employee interview forms, and employee reporting agreements to assist license holders, persons in charge, and employees in complying with the requirements in (a) of this Section. The materials and forms shall include guidance in gathering and reporting exposure-related information as necessary to assess the employee's level of risk for transmitting disease as a result of illness under (a)(3) of this Section or exposure under (a)(4) of this Section.

(c) **Responsibility of person in charge to notify the regulatory authority Department.** The person in charge shall notify the Department within twenty-four (24) hours or the next business

day, if the facility or Department is not open the following day, when a food employee is diagnosed with an illness due to a pathogen as specified under (a)(2) of this Section.

(d) **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 as specified under OAC 310:257-3-6; and

(2) **Had exposure.** Who will work as a food employee in a food service 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.

(e) **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) 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 Subsections OAC 310:257-3-5 and in compliance with the provisions specified under OAC 310:257-3-6.

(f) **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.

(g) **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.

(a) **Conditions for exclusion or restriction.** The person in charge shall exclude or restrict a food employee from a food service establishment in accordance with the following:

(1) **Symptomatic with vomiting or diarrhea.** Except when the symptom is from a noninfectious condition ~~as documented by a health practitioner~~, 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, non-typhoidal *Salmonella* spp., *Shigella* spp., or ~~Enterohemorrhagic~~ 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 7 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 7 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 infection due to *Salmonella*.** Exclude a food employee who is diagnosed with an infection from *Salmonella Typhi*, or reports a previous untreated infection from *Salmonella Typhi* within the past 3 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 service establishment serving a highly susceptible population; or

(B) Restrict the food employee who works in a food service establishment not serving a highly susceptible population.

(6) **Diagnosed with ~~Enterohemorrhagic~~ or Shiga toxin-producing *E. coli* (~~EHEC~~ or STEC) and asymptomatic.** If a food employee is diagnosed with an infection from ~~EHEC~~ or ~~STEC~~, Shiga Toxin Producing *E. coli* and is asymptomatic:

(A) Exclude the food employee who works in a food service establishment serving a highly susceptible population; or

(B) Restrict the food employee who works in a food service establishment not serving a highly susceptible population.

(7) **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 service establishment serving a highly susceptible population; or

(B) Restrict the food employee who works in a food service establishment not serving a highly susceptible population.

(8) **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 with ~~an impermeable cover~~ as specified under OAC 310:257-3-4 (a)(1)(E), restrict the food employee.

(9) **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.

(10) **Disgnosed with nontyphoidal *Salmonella* and asymptomatic.** If a food employee is diagnosed with an infection from nontyphoidal *Salmonella* and is asymptomatic, restrict the food employee who works in a food establishment from serving a highly susceptible population.

(b) **Availability of educational materials.** The Department shall make available educational materials, forms, and decision trees or algorithms to assist license holders, persons in charge, and employees in determining when a food employee shall be excluded or restricted.

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 hepatitis A virus, or *Salmonella*.** Except when a food employee is diagnosed with an infection from hepatitis A virus or *Salmonella*:

(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; 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 24 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 24 twenty-four (24) hours and works in a food service 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:

(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 24 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)(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 24 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) ~~EHEC~~ **or STEC diagnosis.** If a food employee was diagnosed with an infection from ~~Enterohemorrhagic~~ or 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 24 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)(6)(A) or (a)(6)(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 24 twenty-four (24) hours and works in a food ~~service~~ 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.

(2) **Hepatitis A virus or jaundice diagnosis - removing exclusions.** Reinstate 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 are met;

(A) **Jaundiced for more than 7 seven (7) days.** The food employee has been jaundiced for more than 7 seven (7) calendar days;

(B) **Symptoms other than jaundice.** The anicteric food employee has been symptomatic with symptoms other than jaundice for more than 14 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) **Salmonella diagnosis - removing exclusions.** Reinstate 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 Salmonella.** The food employee provides to the person in charge written medical documentation from a health practitioner that states the food employee is free from *Salmonella* infection.

(4) **Norovirus 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)(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 or public health official stating that the food employee is free of a Norovirus infection;

(B) **Symptoms resolved and more than 72 seventy-two (72) hours.** The food employee was excluded or restricted after symptoms of vomiting or diarrhea resolved, and more than 72 seventy-two (72) hours have passed since the food employee became asymptomatic; or

(C) **Excluded or restricted food employee did not develop symptoms and more than 72 seventy-two (72) hours have passed since diagnosis.** The food employee was excluded or restricted and did not develop symptoms and more than 72 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 or public health official stating that the food employee is free of a *Shigella* spp. infection based on test results showing 2 two (2) consecutive negative stool specimen cultures that are taken:

- (i) Not earlier than 48 forty-eight (48) hours after discontinuance of antibiotics, and
 - (ii) At least 24 twenty-four (24) hours apart;
- (B) **Symptoms resolved - more than four (4) days passed.** The food employee was excluded or restricted after symptoms of vomiting or diarrhea resolved, and more than four (4) calendar days have passed since the food employee became asymptomatic; or
- (C) **Excluded or restricted food employee did not develop symptoms and more than four (4) days passed since diagnosis.** The food employee was excluded or restricted and did not develop symptoms and more than four (4) calendar days have passed since the food employee was diagnosed.

(6) ~~EHEC~~ **or 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 or public health official stating that the food employee is free of an infection from ~~Enterohemorrhagic~~ **or** 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 48 forty-eight (48) hours after discontinuance of antibiotics; and
 - (ii) At least 24 twenty-four (24) hours apart;
- (B) **Symptoms resolved - more than ten (10) days passed.** The food employee was excluded or restricted after symptoms of vomiting or diarrhea resolved and more than ten (10) calendar days have passed since the food employee became asymptomatic; or
- (C) **Excluded or restricted employee did not develop symptoms and more than ten (10) days passed since diagnosis.** The food employee was excluded or restricted and did not develop symptoms and more than

ten (10) days have passed since the food employee was diagnosed.

(7) **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)(7)(A) or OAC 310:257-3-5(a)(7)(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* infection for more than 24 twenty-four (24) hours;

(B) Has at least one (1) negative throat specimen culture for *Streptococcus* infection; or

(C) Is otherwise determined by a health practitioner to be free of a *Streptococcus* infection.

(8) **Uncovered infected wound or pustular boil - removing restriction.** Reinstate a food employee who was restricted as specified in OAC 310:257-3-5(a)(8) 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.

(9) **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)(9) 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 72 seventy-two (72) hours have passed since the last day the employee was potentially exposed; or

(ii) More than 72 seventy-two (72) hours have passed since the food employee's household contact became asymptomatic or was deemed no longer communicable by a public health official.

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

(i) More than ~~4~~ four (4) calendar days for
Shigella, or more than ~~10~~ ten (10) calendar days
for STEC, have passed since the last day the food
employee was potentially exposed; or

(ii) More than ~~4~~ four (4) calendar days for
Shigella, or more than ~~10~~ ten (10) calendar days
for STEC, have passed since the food employee's
household contact became asymptomatic.

(C) **Salmonella spp.** Salmonella spp., with the
exception of Salmonella Typhi, and one (1) 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 was deemed no longer communicable by the
Department.

(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 receipt of anti-
hepatitis A immunoglobulin or hepatitis A vaccine
within ~~14~~ fourteen (14) days of exposure;

(iv) More than ~~50~~ fifty (50) calendar days have
passed since the last day the food employee was
potentially exposed;

(v) More than ~~50~~ fifty (50) calendar days have
passed since the food employee's household
contact became jaundiced or is deemed no longer
communicable by a public health official; or

(vi) The food employee does not use an
alternative procedure that allows bare hand
contact with ready-to-eat food until at
least ~~50~~ fifty (50) days after the potential
exposure, as specified in (a)(9)(D)(iv) and

(a)(9)(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.

(b) **Availability of educational materials.** The Department shall make available educational materials, forms, and decision trees or algorithms to assist license holders, persons in charge, employees and health care practitioners in determining when a food employee exclusion or restriction should be removed, adjusted, or retained.

310:257-3-10. Cleaning procedure.

(a) Except as specified in paragraph (b)(5) of this Section, food employees shall clean their hands and exposed portions of their arms, ~~or~~ including surrogate prosthetic devices, for hands or arms, for at least ~~20~~ twenty (20) seconds, using a cleaning compound in a ~~lavatory~~ 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 ~~10 to 15~~ 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 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.

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

Food employees shall clean their hands and exposed portions of their arms as specified under OAC 310:257-3-10 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 as specified in OAC 310:257-3-21(b);
- (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 ~~for~~ to initiate tasks that involve working with food; and
- (9) After engaging in other activities that contaminate the hands.

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) ~~Comply~~ Consist of only components which the intended use of each complies with one of the following:
 - (A) ~~Have components that are exempted from the requirement of being listed in federal food additive regulations as specified in~~ A threshold of regulation exemption pursuant to 21 CFR Section 170.39 -

Threshold of regulation for substances used in food-contact articles; or

~~(B) Comply with and be listed in:~~

~~(i) 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~~

~~(ii) (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; or,~~

~~(iii) 21 CFR, Part 184 - Direct Food Substances Affirmed as Generally Recognized as Safe for use in contact with food, and 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)(1)(B)(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.

(d) 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.

SUBCHAPTER 5. FOOD

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 ~~service~~ establishment.

(c) Packaged food shall be labeled as specified in 21 ~~CFR~~ 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 under OAC 310:257-5-15 and OAC 310:257-5-16.

(d) Fish, other than those specified ~~in~~ under OAC 310:257-5-48.1(b), that are intended for consumption in their raw 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 ~~in~~ 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 Oklahoma Department of Agriculture, Food and Forestry based on other evidence, such as written buyer specifications or invoices ~~by the processor/manufacturer~~ that indicates that the steaks explicitly meet the definition of whole-muscle, intact beef, and

(3) If individually cut in a food ~~service~~ 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) ~~of this Section~~,

(B) Prepared so they remain intact, and

(C) If packaged for undercooking in a food ~~service~~ 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~~ CFR, Section 317.2(1) and 9 ~~CFR~~ CFR, Section 381.125(b).

(g) ~~Shell eggs~~ 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).

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

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

310:257-5-7. Wild mushrooms

(a) Except as specified in (b) of this Section, mushroom species picked in the wild shall ~~be obtained from sources where each mushroom is individually inspected and found to be safe by an approved mushroom identification expert~~ 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.

310:257-5-9. 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 ~~shell~~ 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.

310:257-5-11. 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 7 CFR Part 56 Voluntary Grading of Shell Eggs and 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 shall be obtained pasteurized and comply with Grade A Standards as specified in 2 O.S. ~~Supp. 1999,~~ Section 7-401 et seq.
- (c) Frozen milk products, such as ice cream, shall be as specified in 2 O.S. ~~Supp. 1999,~~ Section 7-401 et seq.
- (d) Cheese shall be obtained as specified in 2 O. S. ~~Supp. 1999,~~ Section 7-401 et seq.

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~~ 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~~ CFR Subpart D - Specific Administrative Decisions Regarding Interstate Shipments, Section 1240.60(d) Molluscan shellfish.

310:257-5-17. Shellstock, condition

When received by a food ~~service~~ 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.

310:257-5-19. 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~~ self-service containers where allowed by law if:

(1) The labeling information for the shellfish is on each consumer ~~self-service~~ self-service container as specified under OAC 310:257-5-15, OAC 310:257-5-66(a) and OAC 310:257-5-66(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 and served;

(3) The labeling information and dates specified under Subparagraph (d)(2) of this section are maintained for ~~90~~ 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 ~~90~~ 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 310:257-3-9 and 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 service 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 310:257-257-3-15;

(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.

(e) The Department shall make available educational materials, forms, and decision trees or algorithms to assist license holders, persons in charge, and employees in complying with this section.

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;

(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 ~~service~~ 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 ~~service~~ establishment, such as cooking oils, flour, herbs, potato flakes, salt, spices, and sugar, shall be identified with the common name of the food.

310:257-5-26. 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 service 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 specifications.

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 310-257-7-92 310:257-7-91 of this Chapter and sanitized as specified under OAC 310:257-7-93 through 310:257-7-95 of this Chapter; ~~or~~

(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 310:257-7-97.

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

Linens, such as cloth and 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.

310:257-5-36. Refilling returnables

~~(a) A take-home food container returned to a food service establishment may not be refilled at a food service establishment with a Time/Temperature Control for Safety~~

Feed. Except as provided in paragraphs (b) through (e) of this section, empty containers which are returned for refilling to a food establishment, shall be cleaned and refilled in the food establishment.

~~(b) Except as specified in (c) of this Section, a take-home food container refilled with food that is not (Time/Temperature Control for Safety Food shall be cleaned as specified under 310:257-7-92(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 310:257-7-49;

(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;

(3) Returned to the food establishment by the consumer after use;

(4) Subject to the following steps prior to being refilled with food:

(A) Cleaned as specified under OAC 310:257-7-82 through 310:257-7-95;

(B) Sanitized as specified under OAC 310:257-7-93 through 310:257-7-95; and

(C) Visually inspected by a food employee to verify that the container, as returned, meets the requirements specified under OAC 310:257-7-1 through 310:257-7-49;

~~(c) Personal take-out beverage containers, such as thermally insulated bottles, nonspill coffee cups, and promotional beverage glasses, may be refilled by employees or the consumer if refilling is a contamination-free process as specified under 310:257-7-28(1), (2), and (4).~~ 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.

(d) Storage of single service articles and food for mobile food ~~service~~ establishments and pushcarts shall be stored as specified under (a) of this Section and as specified in OAC 310:257-5-38.

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 ~~service~~ establishment or food processing plant at which it was prepared.

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 ~~service~~ 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.

310:257-5-44. 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 ~~transferred~~ 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.

310:257-5-46. Raw animal foods

(a) Except as specified under (b), ~~and in~~ (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 ~~15~~ 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 meat, and pork~~ 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 fifteen (15) 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 fifteen (15) seconds 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) In an oven that is preheated to the temperature specified for the roast's weight and is held at that temperature, as follows in accordance with Table 4 of Appendix A of this Chapter:

~~(A) In a still dry oven, 177°C (350°F) or more if the roast weight is less than or equal to 4.5 kilograms (10 pounds) or 121°C (250°F) or more if the roast weight is greater than 4.5 kilograms (10 pounds); or~~

~~(B) In a convection oven, 163°C (325°F) or more if the roast weight is less than or equal to 4.5 kilograms (10 pounds) or 121°C (250°F) or more if the roast weight is greater than 4.5 kilograms (10 pounds); or~~

~~(C) In a high humidity oven in which relative humidity is greater than ninety percent (90%) for at least one (1) hour as measured in the cooking chamber or exit of the oven, or in a moisture impermeable bag that provides one hundred percent (100%) humidity, less than 121°C (250°F); and~~

(2) 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 of 112 minutes at 54.4°C (130°F), or 134 seconds at 63.9°C (147°F), or 89 minutes at 55°C (131°F), or 85 seconds at 65°C (149°F), or 56 minutes at 56.1°C (133°F), or 54 seconds at 66.1°C (151°F), or 36 minutes at 57.2°C (135°F), or 34 seconds at 67.2°C (153°F), or 28 minutes at 57.8°C (136°F), or 22 seconds at 68.3°C (155°F), or 18 minutes at 58.9°C (138°F), or 14 seconds at 69.4°C (157°F), or 12 minutes at 60°C (140°F), or 0 seconds at 70°C (158°F), or 8 minutes at 61.1°C (142°F), or 5 minutes at 62.2°C (144°F), or 4 minutes at 62.8°C (145°F). Holding time may include postoven post-oven heat rise.

(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 ~~service~~ 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(1) and OAC 310:257-5-71(2), the food ~~service~~ 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 ~~service~~ establishment meet the conditions of the variance.

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 ~~of at least 74°C (165°F) for 15 seconds~~ 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 ~~retail~~ 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 (7 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 15 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 24 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; ~~or~~

(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) and OAC 310:257-5-49(b), 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 ~~service~~ establishment for 90 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 310:257-5-5(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 ~~service~~ establishment for 90 ninety (90) calendar days beyond the time of service or sale of the fish.

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 ~~15~~ 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 2 two (2) minutes after reheating.

(c) Ready-to-eat ~~food~~ Time/Temperature Control for Safety Food that has been taken from a commercially processed, hermetically sealed container, or from an intact package from and packaged in a food processing plant that is inspected by the ~~food~~ regulatory authority 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 2 two (2) hours.

(e) Remaining unsliced portions of roasts of beef 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 ~~service~~ establishment shall be:

(1) Treated under a HACCP Plan ~~an~~ as specified in OAC 310:257-15-9(2) through 310:257-15-9(5) 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."

310:257-5-55. 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 as ~~specified under 310:257-5-59(a)(2)~~; 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 4 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(a), ~~or~~ OAC 310:257-5-46(b) or OAC 310:257-5-47, or
 - (B) Thawed in a microwave oven and immediately transferred to conventional cooking equipment, with no interruption in the process; ~~or~~
- (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.

310:257-5-60. 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 (d) and (e) of this Section, refrigerated, ready-to-eat, Time/Temperature Control for Safety Food prepared and held in a food ~~service~~ establishment for more than 24 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 7 seven (7) days. The day of preparation shall be counted as day one (1).

(b) Except as specified in (d) through (f) 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 ~~service~~ establishment and if the food is held for more than 24 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 ~~service~~ establishment shall be counted as ~~Day 1~~ day one (1); and

(2) The day or date marked by the food ~~service~~ 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 ~~service~~ 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 Department 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 OAC 310:260;
- (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 ~~that are labeled "Keep Refrigerated"~~ as specified in ~~9 CFR 317~~ Labeling, marking

~~devices, and containers, and which retain the original casing on the product; and~~

~~(7) Shelf stable salt-cured products such as prosciutto and Parma (ham) that are not labeled "Keep Refrigerated" as specified in 9 CFR 317 Labeling, marking devices, and containers.~~

(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 either of 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 appropriately 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 ~~service~~ 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 ~~retail~~ 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 4 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 ~~4~~ 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 ~~4~~ 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 ~~6~~ 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 ~~6~~ 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 ~~6~~ 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 ~~6~~ 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 service 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 potentially hazardous Time/Temperature Control for Safety Food;
- (4) Packaging Time/Temperature Control for Safety ~~food~~ 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 ~~service~~ 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 ~~service~~ establishment that obtains a variance as specified under OAC 310:257-5-63, a food ~~service~~ 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) ~~A~~ Except as specified under paragraph (f) of this Section, a food ~~service~~ establishment that packages Time/Temperature Control for Safety Food using a reduced oxygen packaging method shall ~~have~~ implement a HACCP plan that contains the information specified under 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~~ 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 ~~or by the Oklahoma Department of Agriculture, Food and Forestry (ODAFF)~~. 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 ~~14~~ 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 ~~14~~ 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 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; ~~and~~
- (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 and OAC 310:257-15-9(4); ~~and~~
- (7) Is provided to the Department prior to implementation as specified under OAC 310:257-15-9 (4).

(c) Except for fish that is frozen before, during, and after packaging, a food service 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 service establishment that packages Time/Temperature Control for Safety Food ~~food~~ using a cook-chill or sous vide process shall:

(1) ~~Implement~~ 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;

(C) Protected from contamination before and after cooking as specified under OAC 310:257-5-21 through OAC 310:257-5-53;

(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 ~~of~~ 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 ~~subsequently:~~

(i) Cooled to 1°C (34°F) within ~~48~~ forty-eight (48) hours of reaching 5°C (41°F) and held at that temperature until consumed or discarded within ~~30~~ thirty (30) days after the date of packaging;

(ii) ~~Cooled to 1°C (34°F) within 48 hours of reaching 5°C (41°F), removed from refrigeration equipment that maintains a 1°C (34°F) food temperature and then held at 5°C (41°F) or less for no more than 72 hours, at which time the food must be consumed or discarded~~ 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) ~~Cooled to 3°C (38°F) or less within 24 hours of reaching 5°C (41°F) and held there for no more than 72 hours from packaging, at which time the food must be consumed or discarded; or~~

~~(iv) 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 Department upon request; and

(B) Hold such records for at least ~~6~~ 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) A Except as specified in paragraph (f) of this Section, a food service 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 service 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 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 ~~30~~ 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 ~~30~~ 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.

310:257-5-67. Food labels

(a) Food packaged in a food ~~service~~ 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 ~~color or~~ colors, artificial flavor 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~~(e)~~ (g)(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), and (5) 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 ~~service~~ establishment or at another food ~~service~~ 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 ~~service~~ establishment or manufacturers' dating information on foods may not be concealed or altered.

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 ~~or discarded~~.
- (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 ~~reservice~~ re-service, and prohibited food

In a food ~~service~~ 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 9 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(2)-(5) and as specified under 21 CFR, Part ~~PART~~ 120 - Hazard Analysis and Critical Control Point (HACCP) systems, Subpart B Pathogen Reduction, ~~See~~ 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 shell 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

310:257-7-3. 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 following utensil categories as contained in Table 6 of Appendix A of this Chapter:

- ~~(1) Hot beverage mugs or coffee mugs shall not exceed .5 milligrams of lead per liter;~~
- ~~(2) Large hollowware mugs or bowls equal to or larger than 1.1 liters (1.16 quarts) shall not exceed 1 milligram per liter;~~
- ~~(3) Small hollowware or bowls equal to or smaller than 1.1 liters (1.16 quarts) shall not exceed 2 milligrams per liter; and~~
- ~~(4) Flat utensils or plates and saucers shall not exceed 3 milligrams per liter.~~

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.

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 7 seven (7) kilopascals (1 pound one (1) pound per square inch) or smaller and shall be accurate to 14 fourteen (14) kilopascals (2 two (2) pounds per square inch) ~~in the 100-170 kilopascals (15-25 pounds per square inch)~~ in the range indicated on the manufacturer's data plate.

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 310:257-5-58(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 NSF/ANSI American National Standards Institute (ANSI) 18-2006 Manual Food and Beverage Dispensing Equipment.

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

Beverage 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. This Section does not apply to cold plates that are constructed integrally with an ice storage bin.

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 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 ~~and~~ 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 ~~potentially hazardous~~ 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 ~~can not~~ 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 machine vending ~~potentially hazardous~~ food that contains Time/Temperature Control for Safety Food is activated:

(1) In a refrigerated vending machine, the ambient air temperature may not exceed ~~any time/temperature combination as specified under OAC 310:257-5-59(a)(2)~~ 5°C (41°F) for more than ~~30~~ 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.

310:257-7-42. 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 ~~or~~ 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.

310:257-7-51. Manual warewashing, sink compartment requirements

(a) Except as specified in (c) or (f) of this Section, a sink with at least ~~3~~ 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. The sink system shall be designed and installed so that warewashing of utensils cannot be contaminated by handwashing.

(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 ~~service~~ establishments.

(d) Before a 2-compartment sink is used:

- (1) The food ~~service~~ establishment is 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 ~~such as between cutting one type of raw meat and another or cleanup~~ 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 service 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.

310:257-7-57. 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.

310:257-7-75. 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 be listed in 21 CFR 178.1010 sanitizing solutions meet the criteria specified under OAC 310:257-13-7, shall be used in accordance with the EPA-approved manufacturer's 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 ~~follows:~~ contained in Table 7 of Appendix A of this Chapter

~~(A) If the pH is 10 or less, the temperature and concentration shall be:~~

~~(i) Forty-nine (49) degrees Celsius (120 degrees Fahrenheit) or greater with a concentration of twenty-five (25) milligrams~~

~~per liter through forty nine (49) milligrams per liter;~~

~~(ii) Thirty eight (38) degrees Celsius (100 degrees Fahrenheit) or greater with a concentration of fifty (50) milligrams per liter through ninety nine (99) milligrams per liter;~~

~~(iii) Thirteen (13) degrees Celsius (55 degrees Fahrenheit) or greater with a concentration of one hundred (100) milligrams per liter or higher; or~~

~~(B) If the pH is 8 or less, the temperature and concentration shall be:~~

~~(i) Forty nine (49) degrees Celsius (120 degrees Fahrenheit) or greater with a concentration of twenty five (25) milligrams per liter through forty nine (49) milligrams per liter;~~

~~(ii) Twenty four (24) degrees Celsius (75 degrees Fahrenheit) or greater with a concentration of fifty (50) milligrams per liter through ninety nine (99) milligrams per liter;~~

~~(iii) Thirteen (13) degrees Celsius (55 degrees Fahrenheit) or greater with a concentration of one hundred (100) milligrams per liter or higher.~~

(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 Department 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.

(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.

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

A food ~~service~~ establishment, without facilities specified under Sections 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.

310:257-7-83. 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 ~~raw animal foods~~ types of raw meat and poultry each requiring a higher cooking temperature as specified under OAC 310:257-5-46 than the previous food, ~~such as preparing raw fish followed by cutting raw poultry on the same cutting board 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 4 four (4) hours.

(d) Surfaces of utensils and equipment contacting Time/Temperature Control for Safety Food may be cleaned less frequently than every 4 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 ~~(A) of this Section~~ Table 8 of Appendix A of this Chapter, shall be cleaned at the minimum frequency established in Table 8 of Appendix A of this Chapter.

~~(A) The utensils and equipment are cleaned at the frequency in the following chart that corresponds to the temperature: food under preparation at temperatures of greater than 10°C to 12.8°C (50° to 55°F) shall be cleaned at least every 10 hours. Preparation temperatures of between 7.2°C and 10°C (45° to 50°F) shall be cleaned at least every 16 hours. Preparation temperatures of between 5° and 7.2°C (41° to 45°F) shall be cleaned at least every 20 hours. Preparation temperatures of less than 5°C (41°F) shall be cleaned at least every 24 hours; and~~

~~(B) The cleaning frequency based on and the ambient temperature of the refrigerated room or area, as established in Table 8 of Appendix A of this Chapter, is shall be documented in by the food service 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 24 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 24 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 potentially hazardous shall be cleaned:

- (1) At any time when contamination may have occurred;
- (2) At least every 24 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.

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

~~(a) Except as specified in (b) and (c) of this Section, returned empty containers intended for cleaning and refilling with food~~

~~shall be cleaned and refilled in a regulated food processing plant.~~

~~(b) A food specific container for beverages may be refilled at a food service establishment if:~~

~~(1) Only a beverage that is not a potentially hazardous food is used as specified under OAC 310:5-36(a);~~

~~(2) The design of the container and of the rinsing equipment and the nature of the beverage, when considered together, allow effective cleaning at home or in the food service 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 service 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 service establishment, or;~~

~~(B) The owner of the container if the beverage system includes a contamination-free transfer process that can not be bypassed by the container owner.~~

~~(c) Consumer owned containers that are not food specific may be filled at a water vending machine or system.~~

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 ~~30~~ 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 ~~10~~ ten

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

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

(C) A contact time of at least ~~30~~ 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 ~~Section~~ OAC 310:257-1-2.

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 ~~in~~ 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 ~~and napkins~~ 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.

310:257-7-99. Mechanical washing

(a) Except as specified in (b) of this Section, linens shall be mechanically washed.

(b) In food ~~service~~ establishments in which only wiping cloths are laundered as specified ~~in~~ 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 ~~service~~ 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 service establishment items.

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

Wiping cloths laundered in a food service establishment that does not have a mechanical clothes dryer as specified ~~in~~ 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.

310:257-7-109. Preset tableware

If tableware is preset:

(1) ~~It~~ 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: ~~unused settings are removed when a consumer is seated~~

(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

~~(3) Exposed, unused settings shall be cleaned and sanitized before further use if the settings are not removed when a consumer is seated.~~

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 ~~in~~ 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 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

310:257-9-3. Bottled drinking water

Bottled drinking water used or sold in a food ~~service~~ establishment shall be obtained from approved sources in accordance with 21 CFR, Part 129 - Processing and Bottling of Bottled Drinking Water and OAC 310:225.

310:257-9-7. Sample report

The most recent sample report for the non-community water system shall be retained on file in the food ~~service~~ establishment or the report shall be maintained as specified by the Oklahoma Department of Environmental Quality OAC 252:631 Public Water Supply Operation water quality regulations.

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 ~~service~~ establishment. Mobile and seasonal food ~~service~~ establishments shall have a minimum water capacity of at least ~~10~~ ten (10) gallons. Pushcarts shall have a minimum water capacity of at least ~~5~~ five (5) gallons.

(b) Hot water generation and distribution systems shall be sufficient to meet the peak hot water demands throughout the food ~~service~~ establishment.

310:257-9-9. Pressure

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 ~~service~~ establishment or in response to a temporary interruption of a water supply need not be under pressure. Mobile and seasonal food ~~service~~ establishments shall have a water system under pressure that produces a flow of at least two (2) gallons per minute.

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 ~~service~~ establishment without a permanent water supply, and for a food ~~service~~ establishment or mobile food ~~service~~ 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.

310:257-9-18. 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 utensil washing.

(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 ~~service~~ establishment that has at least one (1) handwashing lavatory.

(c) If approved, when food exposure is limited to prepackaged products where no food preparation takes place and handwashing lavatories are not conveniently available, such as in some mobile or temporary food ~~service~~ establishments or at some vending machine locations, employees may use chemically treated towelettes for handwashing.

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 ~~service~~ 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.

310:257-9-31. Materials, approved

Materials that are used in the construction of a mobile water tank, mobile food ~~service~~ establishment water tank, and appurtenances shall be:

- (1) Safe;
- (2) Durable, corrosion-resistant, and nonabsorbent; and
- (3) Finished to have a smooth, easily cleanable surface.

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

A hose used for conveying drinking water to and from a water tank in a mobile food ~~service~~ establishment and mobile pushcart 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.

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

A mobile food ~~service~~ 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.

310:257-9-45. Capacity and drainage

A sewage holding tank in a mobile food ~~service~~ establishment shall be:

- (1) Sized ~~15~~ fifteen percent (15%) larger in capacity than the water supply tank; and
- (2) Sloped to a drain that is ~~25~~ twenty-five (25) mm (~~+~~ one (1) inch) in inner diameter or greater, equipped with a shut-off valve.

310:257-9-46. Establishment drainage system

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

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

Sewage and other liquid wastes shall be removed from a mobile food ~~service~~ 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.

310:257-9-54. Indoor storage area

If located within the food ~~service~~ 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.

310:257-9-57. 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 ~~service~~ establishment, or within closed outside receptacles.

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 ~~service~~ 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 ~~service~~ 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.

310:257-9-63. 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 ~~and~~ 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 ~~service~~ 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 may not create a public health hazard or nuisance or interfere with the cleaning of adjacent space.

310:257-9-67. Covering receptacles

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

(1) Inside the food ~~service~~ 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 ~~service~~ establishment.

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 service establishment operations are conducted. In food preparation and warewashing areas, the Light Reflectivity Value (LRV) of walls and ceiling surfaces shall be ~~50~~ 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, employee toilet rooms, mobile food service establishment servicing areas, and areas subject to flushing or spray cleaning methods.

(b) In a temporary food service 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 may be constructed of a material that protects the interior from the weather and windblown dust and debris.

310:257-11-5. Floor and wall junctures, coved, and enclosed or sealed

(a) In food service 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 ~~1mm~~ one (1) mm (one thirty-second 1/32 inch).

(b) The floors in food service establishments in which water flush cleaning methods are used shall be provided with drains and be graded to drain, and the floor and wall junctures shall be coved and sealed.

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

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

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

Except where a toilet room is located outside a food ~~service~~ establishment and does not open directly in the food ~~service~~ establishment such as a toilet room that is provided by the management of a shopping mall, a toilet room located on the premises shall be completely enclosed and provided with a tight-fitting and self-closing door.

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

(a) Except as specified in (b), (c), and (d) of this Section, outer openings of a food ~~service~~ 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 ~~service~~ 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 ~~service~~ 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) of this Section, if the windows or doors of a food ~~service~~ establishment, or of a larger structure within which a food ~~service~~ establishment is located, are kept open for ventilation or other purposes or a temporary food ~~service~~ 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 designed and installed air curtains to control flying insects; or
- (3) Other effective means.

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

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

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 may not be used for conducting food service establishment operations.

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

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

310:257-11-54. Prohibiting animals

(a) Except as specified in (b), and (c) and (d) of this Section, live animals may not be allowed on the premises of a food service 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 outdoors;

(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) Food and water, either served or provided 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

310:257-13-4. Presence and use, restriction

(a) Only those poisonous or toxic materials that are required for the operation and maintenance of a food ~~service~~ establishment, such as for the cleaning and sanitizing of equipment and utensils and the control of insects and rodents, shall be allowed in a food ~~service~~ 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 ~~service~~ 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 ~~regulatory authority~~ 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.

310:257-13-7. Sanitizers, criteria

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

(1) ~~meet~~ Meet the requirements specified in 21 CFR 178.1010 sanitizing solutions 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 fruits and vegetables, criteria

(a) Chemicals, including those generated on-site, used to wash or peel raw, whole, uncut fruits and vegetables shall: ~~meet the requirements specified in 21 CFR 173.315 Chemicals used in washing or to assist in the peeling of fruits and vegetables~~

(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.

(b) Ozone as an antimicrobial agent used in the treatment storage, and processing of fruits and vegetables in a food establishment shall meet the requirements specified in 21 CFR Section 173.368 Ozone.

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) ~~Approved for use as a drying agent under a prior sanction specified in 21 CFR 181 - Prior-Sanctioned Food Ingredients~~ 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 Federal Food Drug and Cosmetic Act (FFDCA) Section 409(h),

(G) Approved for use as a drying agent under a prior sanction as described in the Federal Food Drug and Cosmetic Act (FFDCA); and

(2) When sanitization is with chemicals, the approval required as specified under (1)(C) or (1)(E) 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.

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

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

(b) 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.

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 ~~service~~ establishment.

(b) Medicines that are in a food ~~service~~ 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.

310:257-13-17. Storage

First aid supplies that are in a food ~~service~~ 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.

SUBCHAPTER 15. COMPLIANCE AND ENFORCEMENT

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

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

(b) The ~~regulatory authority~~ Department 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 ~~regulatory authority's~~ Department file for the food ~~service~~ establishment.

310:257-15-3. Modifications and waivers

(a) Whenever the Department adopts new rules or amends existing language in this Chapter, the owner of a food ~~service~~ establishment may request that a variance 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. Such variance shall only be granted for the term of the current license period, or less.

(b) Variances requested pursuant to this Subchapter are subject to approval by the Department. In order to have the variance approved, a license holder must submit a written application on a form provided by the Department. Any variance 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 variance, the new equipment or construction must conform to the rules of this Chapter.

(d) Variances may be reviewed and reconsidered for each successive licensing period. Prior to the expiration of the current license, the licensee must apply in writing for renewal of the variance, on a form provided by the Department. The process for approval of the renewal is the same as the process for granting the original variance. Each "renewal" shall be considered a new, separate variance, and must be independently justified.

(e) 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 shall not be 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 date certain.

310:257-15-6. When Plans are required

A license applicant or license holder shall submit to the ~~regulatory authority~~ Department properly prepared plans and specifications for review and approval before:

- (1) The construction of a food ~~service~~ establishment;
- (2) The conversion of an existing structure for use as a food ~~service~~ establishment; or
- (3) The remodeling of a food ~~service~~ establishment or a change of type of food ~~service~~ establishment or food operation as specified under OAC 310:257-15-15(3)(C) and (D) if the ~~regulatory authority~~ Department 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 ~~service~~ establishment, including a food ~~service~~ establishment specified under OAC 310:257-15-8, shall include, as required by the Department based on the type of operation, type of food preparation, and foods prepared, the following information to demonstrate conformance with Code provisions:

- (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 Department for the proper review of the proposed construction, conversion or modification, and procedures for operating a food ~~service~~ establishment.

310:257-15-9. Contents of a HACCP plan

For a food ~~service~~ establishment that is required under OAC 310:257-15-8 to have a HACCP plan, the plan and specifications shall indicate:

- (1) A categorization of the types of potentially hazardous 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~~ Department;

(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, and

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

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

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

(A) Each critical control point,

(B) The critical limits for each critical control point,

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

(E) Action to be taken by the person in charge if the critical limits for each critical control point 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

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

310:257-15-11. Preoperational inspections

The ~~regulatory authority~~ Department shall conduct one or more preoperational inspections to verify that the food ~~service~~ 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 ~~service~~ establishment without a valid license to operate issued by the ~~regulatory authority~~ Commissioner of Health.

310:257-15-14. Qualifications and responsibilities of applicants

To qualify for a license, an applicant shall:

- (1) Be an owner of the food ~~service~~ establishment or an officer of the legal ownership;
- (2) Comply with the requirements of this Chapter;
- (3) As specified under OAC 310:257-15-23, agree to allow access to the food ~~service~~ 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

The application shall include:

- (1) The name, mailing address, telephone number, approximate number of employees, and signature of the person applying for the license and the name, mailing address, and location of the food ~~service~~ establishment;
- (2) Information specifying whether the food ~~service~~ establishment is owned by an association, corporation, individual, partnership, or other legal entity;
- (3) The Department shall issue a license to the applicant after:
 - (A) A properly completed application is received;
 - (B) The required fees are received;
 - (C) The plans, specifications, and information, if applicable, are reviewed; and
 - (D) A pre-licensing inspection 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 and meets the Department's criteria for a license; or any
 - (E) Other information required by the ~~regulatory authority~~ Department.

310:257-15-16. New, converted, or remodeled establishments

For food ~~service~~ establishments that are required to submit plans as specified under OAC 310:257-15-6 the ~~regulatory authority~~ Commissioner of Health shall issue a license to the applicant 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~~ under OAC 310:257-15-11 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 ~~regulatory authority~~ Commissioner of Health may renew a license for an existing food ~~service~~ establishment or may issue a license to a new owner of an existing food ~~service~~ 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 Chapter.

310:257-15-20. Responsibilities of the license holder

Upon acceptance of the license issued by the ~~regulatory authority~~ Commissioner of Health, the license holder in order to retain the license shall:

(1) Post the license in a location in the food ~~service~~ establishment that is conspicuous to consumers;

(2) Comply with the provisions of this Chapter including the conditions of a granted variance as specified under OAC 310:257-15-5, and approved plans as specified under OAC 310:257-15-7;

(3) If a food ~~service~~ establishment is required under OAC 310:257-15-8 to operate under a HACCP plan, comply with the plan as specified under OAC 310:257-15-5;

(4) Immediately discontinue operations and notify the ~~regulatory authority~~ Department if an imminent health hazard may exist as specified under OAC 310:257-15-32;

(5) Allow representatives of the ~~regulatory authority~~ Department access to the food ~~service~~ establishment as specified under OAC 310:257-15-23;

(6) Replace existing facilities and equipment specified in OAC 310:257-15-1 with facilities and equipment that comply with this Chapter if:

(A) The ~~regulatory authority~~ Department 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~~ Department 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;
- (7) Comply with directives of the ~~regulatory authority~~ Department including time frames for corrective actions specified in inspection reports, notices, orders, warnings, and other directives issued by the ~~regulatory authority~~ Department in regard to the license holder's food ~~service~~ establishment or in response to community emergencies;
- (8) Accept notices issued and served by the ~~regulatory authority~~ Department according to law; and
- (9) Be subject to the administrative, civil, injunctive, and criminal remedies authorized in law for failure to comply with this Chapter or a directive of the ~~regulatory authority~~ Department, including time frames for corrective actions specified in inspection reports, notices, orders, warnings, and other directives; and
- (10) If applicable, submit the annual renewal application and pay all renewal license and late fees.

310:257-15-21. Licenses not transferable

A license may not be transferred from one person to another person, from one food ~~service~~ establishment to another, from one physical address to another, from one corporation to another, from one limited liability company or corporation to another, from one partnership to another or from one type of operation to another if the food operation changes from the type of operation specified in the application as ~~specified~~ under OAC 310:257-15-15(3) and the change in operation is not approved.

310:257-15-22. Competency of inspectors

An authorized representative of the ~~regulatory authority~~ Department who inspects a food ~~service~~ establishment or conducts plan review for compliance with this Chapter shall have the knowledge, skills, and ability to adequately perform the required duties.

310:257-15-23. Allowed at reasonable times after due notice

After the ~~regulatory authority~~ Department 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~~ Department to determine if the food ~~service~~ 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~~ Department is entitled

according to law, during the food ~~service~~ establishments 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~~ Department, the ~~regulatory authority~~ Department shall:

- (1) Inform the person that:
 - (A) The license holder is required to allow access to the ~~regulatory authority~~ Department as specified under OAC 310:257-15-23 of this Chapter,
 - (B) Access is a condition of the acceptance and retention of a food ~~service~~ establishment license to operate as specified under OAC 310:257-15-20(5), 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.

310:257-15-26. Inspection order to gain access

If denied access to a food ~~service~~ establishment for an authorized purpose and after complying with OAC 310:257-15-24, the ~~regulatory authority~~ Department may issue, or apply for the issuance of, an inspection order to gain access as provided in law.

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

The Department shall document on an inspection report form:

- (1) Administrative information about the food ~~service~~ establishment's legal identity, street and mailing addresses, type of establishment and operation as specified, 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 factual 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 specified under OAC 310:257-3-2,

(B) Failure of food employees to demonstrate their knowledge of their responsibility to report a disease or medical condition as specified under OAC 310:257-3-7,

(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 as specified under OAC 310:257-15-5,

(E) Failure of the person in charge to provide records required by the Department for determining conformance with a HACCP plan as specified under OAC 310:257-15-9(4)(F), and

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

310:257-15-30. Refusal to sign acknowledgment

The ~~regulatory authority~~ Department shall:

(1) Inform a person who declines to sign an acknowledgment of receipt of inspectional findings as specified ~~in~~ 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 ~~time—frames~~ timeframes specified, and

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

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

310:257-15-38. Restriction or exclusion of food employee, or summary suspension of license

Based on the findings of an investigation related to a food employee who is suspected of being infected or diseased, the ~~regulatory authority~~ 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;
- (2) Excluding the food employee; or
- (3) Closing the food ~~service~~ establishment by summarily suspending a license to operate in accordance with law.

**SUBCHAPTER 17. MOBILE PUSHCARTS, MOBILE FOOD SERVICE
ESTABLISHMENTS, AND MOBILE RETAIL FOOD SERVICE ESTABLISHMENTS**

310:257-17-1. General requirements

(a) The provisions of this Subchapter are in addition to the requirements for mobile pushcarts, mobile food service establishments, and mobile retail food service establishments as contained in this Chapter.

(b) Mobile food service establishments and push carts with open foods shall not be allowed to operate without water.

(c) The sink system shall be made of equipment and materials intended for the use of warewashing. The sink system shall be designed and installed so that warewashing of utensils cannot be contaminated by handwashing.

310:257-17-2. Mobile pushcarts

(a) An indoor or outdoor mobile pushcart shall not cook raw meat and poultry foods.

(b) ~~An outdoor~~ A mobile pushcart is exempt from mechanical refrigeration if it is able to maintain temperatures of 41°F or less as ~~allowed in~~ specified under OAC 310:257-5-28 and OAC 310:257-5-29.

(c) An indoor mobile pushcart shall be allowed to sell open Time/Temperature Control for Safety Foods. 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) Be located within 500 feet of an approved, permanent toilet facility ~~and~~ available during all hours of operation for employees;

(3) Have a licensed commissary within the confines of the facility.

(4) Perform preparation of fruits and vegetables and all cooking of meats, poultry and seafood from raw in a licensed food ~~service~~ establishment that is not a mobile pushcart, mobile food ~~service~~ establishment, or mobile retail food ~~service~~ establishment;

(5) Have hand washing facilities as required in this Chapter on the pushcart or immediately adjacent ~~with~~ to a pushcart; ~~and~~

(6) Have mechanical ~~refrigeration~~ and hot holding units as required by this Chapter; and

(7) An outdoor mobile pushcart shall not be required to install a three (3) compartment sink, provided that an adequate supply of clean utensils are available.

(d) Outdoor mobile pushcarts shall be limited to non-Time/Temperature Control for Safety Foods and condiments (i.e. processed cheese products, onions, and ~~sauer-kraut~~ sauerkraut), pre-packaged food, or the preparation and serving of precooked frankfurters or sausages including those made of meat and poultry and return daily to a commissary to service the unit as required by this Chapter. Each outdoor mobile pushcart shall:

(1) Be located within ~~500~~ five-hundred feet (500') of an approved, permanent toilet facility and available during all hours of operation for employees;

(2) Have a licensed commissary;

(3) Have hand washing facilities as required in this Chapter, either on the pushcart or immediately adjacent with a to the pushcart; and

(4) Have mechanical ~~refrigeration~~ and hot holding units as required by this Chapter; and

(5) An indoor mobile pushcart shall not be required to install a three (3) compartment sink, provided that an adequate supply of clean utensils are available.

310:257-17-3. Mobile food ~~service~~ establishments

(a) A mobile food ~~service~~ establishment shall have wheels and one or more ~~axels~~ axles, and shall have approval from the Oklahoma Department of Transportation for road travel.

(b) A mobile food ~~service~~ establishment shall:

(1) Remain at one physical address for no more than ~~12~~ twelve (12) hours, unless the mobile food establishment is parked at its commissary and not operating; or

(2) Shall operate and can remain stationary in conjunction with a single event or celebration.

(c) A mobile food ~~service~~ establishment shall return to a commissary daily, except as established in paragraph (b)(2) of this section Section, to dispose of waste water, refill with potable water, and service the mobile unit. The mobile food ~~service~~ establishment is required to remain at the commissary for a time period necessary to adequately service the unit.

(d) The name of the business and the Oklahoma State Department of Health license number shall be clearly visible on the outside of the vehicle, in print of no less than three inches (3") in size during hours of operation.

(e) A mobile food ~~service~~ establishment that remains less than 4 four (4) hours at one location is exempt from the ~~written toilet agreement~~ required requirements under OAC 310:257-9-19.

310:257-17-4. Mobile retail food ~~service~~ establishments

(a) A mobile retail food ~~service~~ establishment or mobile retail pushcart can sell packaged foods prepared by a facility that is

in compliance with OAC 310:260 (relating to good manufacturing practices), United States Department of Agriculture, ~~or~~ Oklahoma Department of Agriculture Food and Forestry requirements, or food that is prepared in a facility licensed as a food ~~service~~ establishment under this Chapter that is not a mobile pushcart or mobile food ~~service~~ establishment.

(b) A mobile retail food ~~service~~ establishment may sell from a stationary table, such as at an event or farmers market.

(c) A mobile retail food ~~service~~ establishment shall sell foods at one physical address for no more than ~~12~~ twelve (12) hours.

(d) The mobile retail food ~~service~~ establishment shall have no personal property or hazardous items in the same compartment in which the food is transported or stored.

(e) The name of the business and the Oklahoma State Department of Health license number shall be clearly visible on the outside of the mobile retail food ~~service~~ establishment, in print of no less than three inches (3") in size during hours of operation.

(f) A mobile retail food ~~service~~ establishment that remains less than 4 four (4) hours at one location ~~are~~ is exempt from the ~~written toilet agreement required~~ requirements under OAC 310:257-9-19.

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

(a) The commissary shall have a location available for flushing and draining liquid waste separate from fresh water supply, and be able to dispose of water in a manner that properly collects grease laden waste water.

(b) The commissary shall have the ability to properly store back stock of food and single service articles separate from personal items.

(c) Commissaries shall be licensed food ~~service~~ establishments if used for food production and/or utensil washing for sale from a mobile food ~~service~~ establishment or mobile pushcart. Commissaries used only to store prepackaged foods and/or cleaning and servicing of the units shall be exempt from licensure of that commissary.

(d) Mobile pushcarts and mobile food establishments shall return daily to a commissary for servicing and cleaning, if not associated with an event or celebration.

(e) The approved service area shall maintain safe and sanitary operations for supplies, cleaning, and servicing of the units operations.

310:257-17-6. Storage

Single service articles and food for mobile food ~~service~~ establishments and pushcarts shall be stored as specified under OAC 310:257-5-37(a), ~~and~~ OAC 310:257-5-38 and OAC 310:257-7-105.

APPENDIX A. TABLES [NEW]

The following tables are used in OAC 310:257:

Table 1.
(OAC 310:257-1-2. Definitions)

Interaction of PH and a_w for control of spores in FOOD heat-treated to destroy vegetative cells and subsequently PACKAGED

a _w values	PH values		
	4.6 or less	> 4.6 - 5.6	> 5.6
<0.92	non-TCS FOOD**	non-TCS	non-TCS
>0.92 - .95	non-TCS	non-TCS	PA***
>0.95	non-TCS	PA***	PA***
** TCS FOOD means TIME/TEMPERATURE CONTROL FOR SAFETY FOOD *** PA means Product Assessment required			

Table 2.
(OAC 310:257-1-2. Definitions)

Interaction of PH and a_w for control of vegetative cells and spores in FOOD not heat-treated or heat-treated but not PACKAGED

a _w values	PH values			
	<4.2	4.2 - 4.6	>4.6 - 5.0	>5.0
<0.88	non-TCS**	non-TCS	non-TCS	non-TCS
0.88 - 0.90	non-TCS	non-TCS	non-TCS	PA***
>0.90 - 0.92	non-TCS	non-TCS	PA	PA
>0.92	non-TCS	PA	PA	PA
** TCS FOOD means TIME/TEMPERATURE CONTROL FOR SAFETY FOOD *** PA means Product Assessment required				

Table 3.
(OAC 310:257-5-46. Raw animal foods)

<u>Minimum Temperature °C (°F)</u>	<u>Minimum Time</u>
63 (145)	3 minutes
66 (150)	1 minute
70 (158)	< 1 second (instantaneous)

Table 4.
(OAC 310:257-5-46. Raw animal foods)

<i>Oven Type</i>	<u>Oven Temperature Based on Roast Weight</u>	
	Less than 4.5 kg (10 lbs)	4.5 kg (10 lbs) or More
Still Dry	177°C (350°F) or more	121°C (250°F) or more
Convection	163°C (325°F) or more	121°C (250°F) or more
High Humidity¹	121°C (250°F) or less	121°C (250°F) or less

¹ Relative humidity greater than 90% for at least 1 hour as measured in the cooking chamber or exit of the oven; or in a moisture-impermeable bag that provides 100% humidity.

Table 5.
(OAC 310:257-5-46. Raw animal foods)

Temperature °C (°F)	Time¹ in Minutes	Temperature °C (°F)	Time¹ in Seconds
54.4 (130)	112	63.9 (147)	134
55.0 (131)	89	65.0 (149)	85
56.1 (133)	56	66.1 (151)	54
57.2 (135)	36	67.2 (153)	34
57.8 (136)	28	68.3 (155)	22
58.9 (138)	18	69.4 (157)	14
60.0 (140)	12	70.0 (158)	0
61.1 (142)	8		
62.2 (144)	5		
62.8 (145)	4		

¹ Holding time may include post oven heat rise.

Table 6.
(OAC 310:257-7-3. Lead in ceramic, china and crystal utensils, use limitation)

UTENSIL Category	Ceramic Article Description	Maximum Lead mg/L
Beverage Mugs, Cups, Pitchers	Coffee Mugs	0.5
Large Hollowware (excluding pitchers)	Bowls \geq 1.1 Liter (1.16 Quart)	1
Small Hollowware (excluding cups & mugs)	Bowls $<$ 1.1 Liter (1.16 Quart)	2.0
Flat Tableware	Plates, Saucers	3.0

Table 7.
(310:257-7-75. Manual and mechanical warewashing equipment, chemical sanitization - temperature, pH, concentration, and hardness)

Concentration Range	Minimum Temperature	
	pH 10 or less °C (°F)	pH 8 or less °C (°F)
mg/L 25 - 49	49 (120)	49 (120)
50-99	38 (100)	24 (75)
100	13 (55)	13 (55)

Table 8.
(310:257-7-83. Equipment food-contact surfaces and utensils)

Temperature	Cleaning Frequency
5.0°C (41°F) or less	24 hours
$>5.0^{\circ}\text{C}$ - 7.2°C ($>41^{\circ}\text{F}$ - 45°F)	20 hours
$>7.2^{\circ}\text{C}$ - 10.0°C ($>45^{\circ}\text{F}$ - 50°F)	16 hours
$>10.0^{\circ}\text{C}$ - 12.8°C ($>50^{\circ}\text{F}$ - 55°F)	10 hours

RULE COMMENT SUMMARY AND RESPONSE

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

The rule report submitted to the Governor, the Speaker of the House of Representatives and the President Pro Tempore of the Senate, pursuant 75:303.1(A) of the Administrative Procedures Act, shall include: (9) *A summary of the comments and explanation of changes or lack of any change made in the adopted rules as a result of testimony received at all hearings or meetings held or sponsored by an agency for the purpose of providing the public an opportunity to comment on the rules or of any written comments received prior to the adoption of the rule. The summary shall include all comments received about the cost impact of the proposed rules;* (10) *A list of persons or organizations who appeared or registered for or against the adopted rule at any public hearing held by the agency or those who have commented in writing before or after the hearing.*[75:303.1(E)(9)&(10)]

Name & Organization: Mona King, Director, Child Nutrition Services, Vinita Public Schools

Rule Subchapter and Section: 310:257-1-2 and 310:257-3-2

Comment: Please allow Schools to use the "FOOD SAFETY in SCHOOLS" as an approved training program in place of Serve Safe or Safe Serve. This program has been written specifically for Schools with same training points as these other programs.

Name & Organization: Kevin Ponce, School Nutrition Services Director, Oklahoma City Public Schools

Rule Subchapter and Section: 310:257-1-2 and 310:257-3-2

Comment: "FOOD SAFETY in SCHOOLS" as an approved program. Currently under the new proposed rule the "approved" certificates/programs can be found under 357:257-1-2 Definitions and specifically under "Accredited Program". I know they may tell you Food Safety in Schools is not an accredited program, however our intent is to ask them for this to be an approved course in addition to them.

Name & Organization: Nancy Sitler, Director, Child Nutrition Sapulpa Public Schools

Rule Subchapter and Section: 310:257-1-2 and 310:257-3-2

Comment: It is my understanding that there is a proposal to update the food sanitation codes for the State of Oklahoma. Specifically, Chapter 257. I would like to request that the program Food Safety in Schools be included for school food service use. This program was developed by the National School Food Management Institute at Ole Miss, under the direction of USDA. It is specifically designed for schools. I have sent employees to Serve it Safe, and while the program is very comprehensive, much of the program does not relate to schools. I pay for the program, but if the employee doesn't pass, they have to pay to take it again. I have trained all of my safe in Food Safety in Schools, and we have never had an issue with Food Borne illness at Sapulpa Schools.

Response: All three (3) comments ask for the same result, that the “Food Safety in Schools” from the National School Food Management Institute at Mississippi University be deemed an “Accredited program” as that term is defined in Oklahoma Administrative Code (OAC), Title 310, Chapter 257. Pursuant to definition of the term “Accredited program” as defined in OAC 310:257-1-2, any such program, like “Food Safety in Schools” may receive ANSI-CFP Accreditation to meet the definition. The list of programs in the definition are illustrative, but not all inclusive.

The defined term “Accredited Program” is used only once in Chapter 257, specifically at OAC 310:257-3-2 and is one of three options for a licensed food establishment to demonstrate knowledge of foodborne disease prevention, application of the Hazard Analysis Critical Point Control principles and the requirements of Chapter 257. There are two other options (other than receiving a passing score from an “Accredited program”) to demonstrate knowledge, which are: having no priority violations during an inspection; or documenting the implementation of certain operating procedures listed in OAC 310:257-15-7 (5) & (6).

The OSDH is willing to work with the commenters to have the “Food Safety in Schools” program be an option to “demonstrate knowledge” under OAC 310:257-3-2, as ANSI-CFP has not accredited the program to date. Given that the “Food Safety in Schools” program was designed with USDA oversight by the University of Mississippi and is specifically targeted to those issues that arise in a school food preparation and service setting, the demonstration of this knowledge could be beneficial for the protection from foodborne diseases in such settings.

The OSDH has contacted a representative of the Oklahoma City Public Schools. Based on the discussion, the Oklahoma City Public School System, in conjunction with the Sapulpa Public School System, will work with the OSDH to have the “Food Safety in Schools” program be an option to demonstrate knowledge pursuant to OAC 310:257-3-2.

Therefore, no change in the rules is warranted due to these comments. The Oklahoma State Department of Health will continue to work with the Oklahoma City Public Schools and the Sapulpa Public Schools so that the “Food Safety in Schools” program will meet the option of “demonstrating knowledge” for one of the three options listed in OAC 310:257-3-2. The agency will take the comments to the Food Service Advisory Council and update the Council if future consideration by the Council is determined to be warranted.

Agency Rule Contact:

Donald D. Maisch, General Counsel, Oklahoma State Department of Health, 1000 N.E. 10th St, Oklahoma City, OK 73117, (405) 271-5779, donm@health.ok.gov .

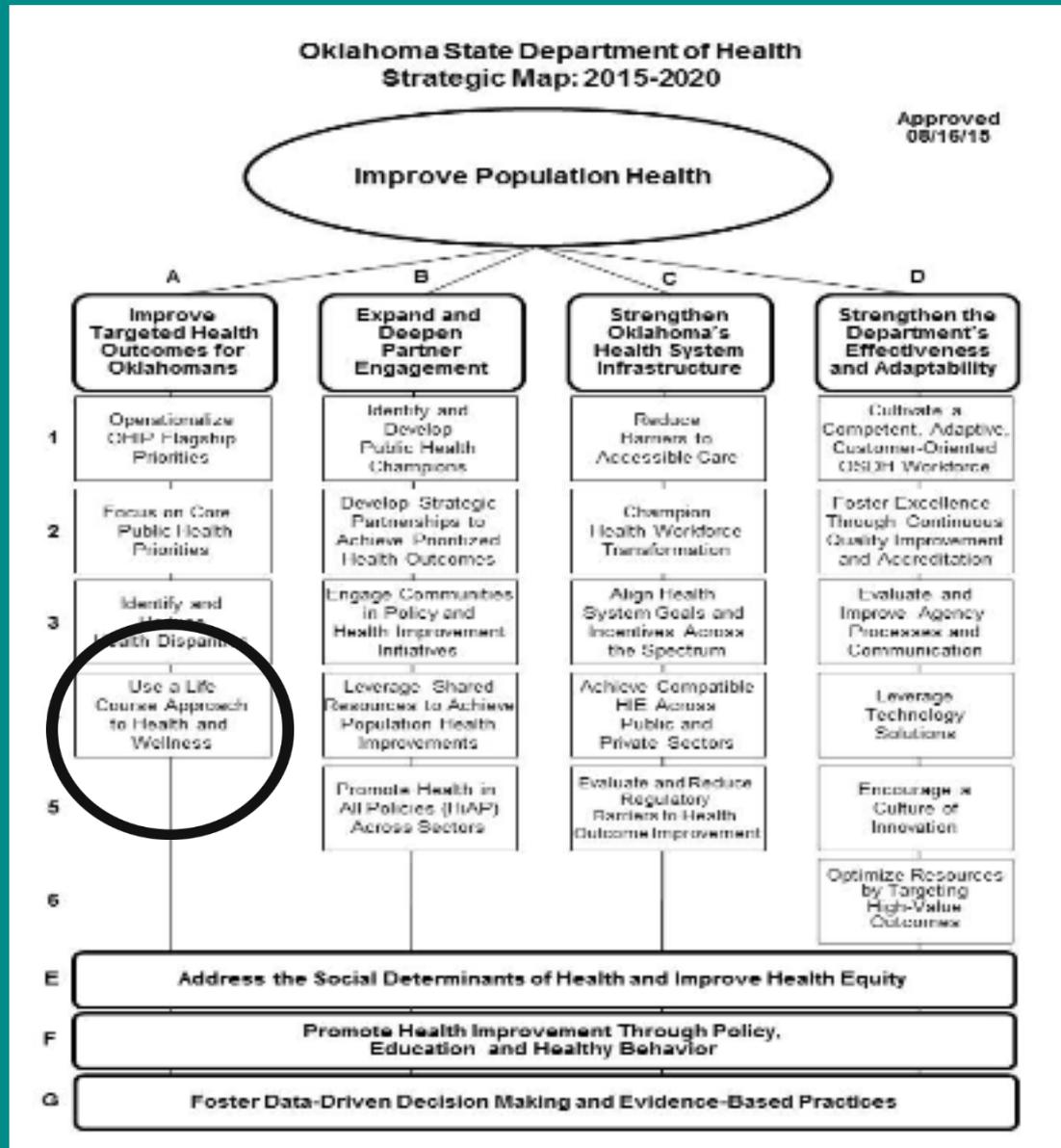
The Life Course Approach to a Healthy Oklahoma

Implementing a winning strategy



Timothy Cathey, MD, Team Leader
Henry F. Hartsell Jr., PhD, Team Champion
Oklahoma State Board of Health Meeting
January 12, 2016

OSDH Strategic Map



Why Life Course?

OHIP 2020 Flagship Issues

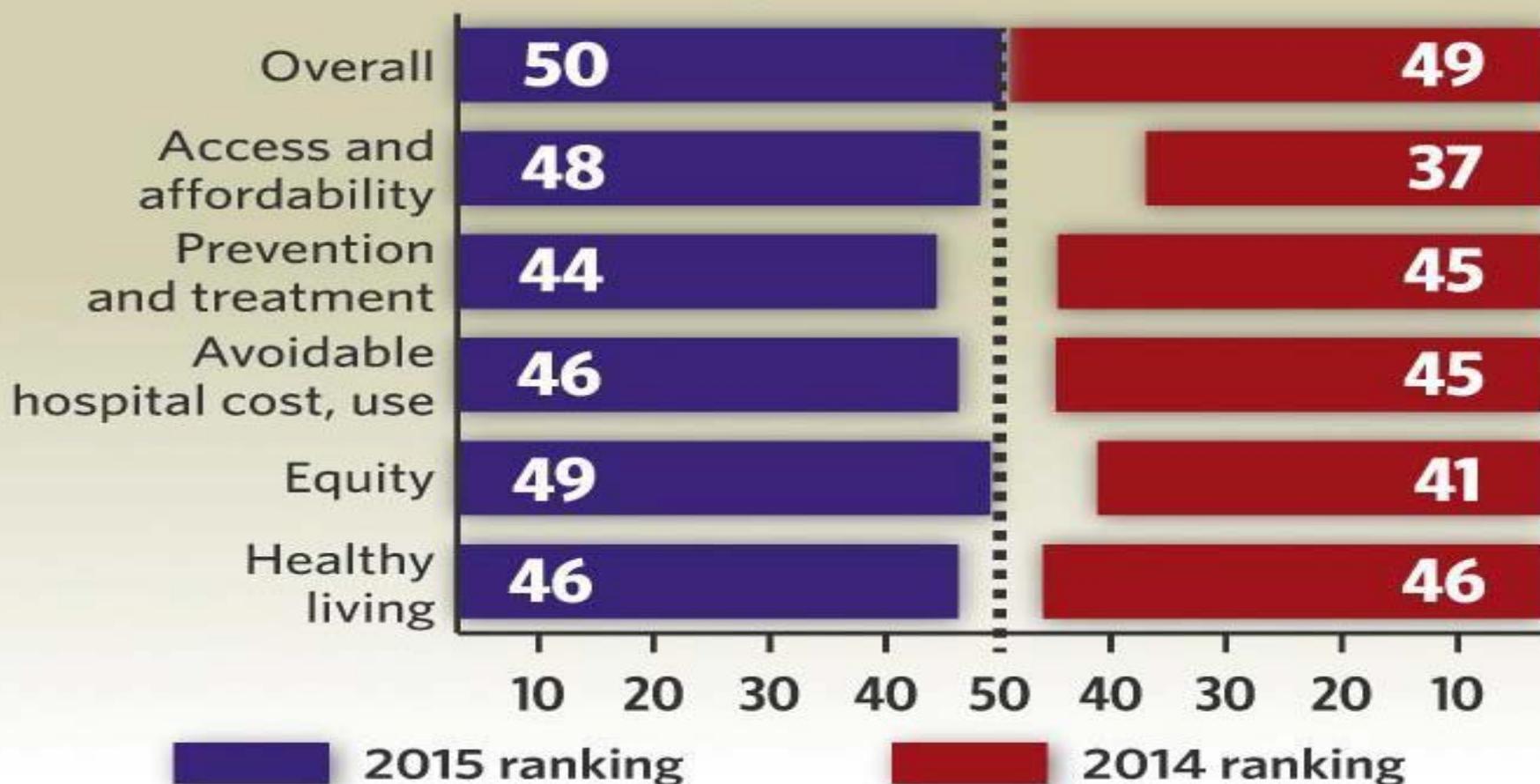
- Tobacco Use
- Adolescent Obesity
- Children's Health
- Behavioral Health



Team Members

- Nancy Atkinson
- Sheryll Brown
- Dawn Butler
- Janette Cline
- Neil Hann
- Annette Jacobi
- Kristi Kear
- Alesha Lilly
- Jon Lowry
- Joyce Marshall
- Beth Martin
- Derek Pate
- Stephanie U'ren
- Sharon Vaz
- Timothy Cathey, Team Leader
- >200 years of Public Health experience

Commonwealth Fund Rankings on Health System Performance



Paradigm Shift

The Evolving Health Care System

Healthcare 1.0

Focus on acute and infectious disease

Germ theory

Reducing deaths

Healthcare 2.0

Increasing focus on chronic disease

Chronic disease management

Acute medical care

Prolonging disability free life

Healthcare 3.0

Focus on achieving optimal health status

Multiple risk factors

Complex causal pathways

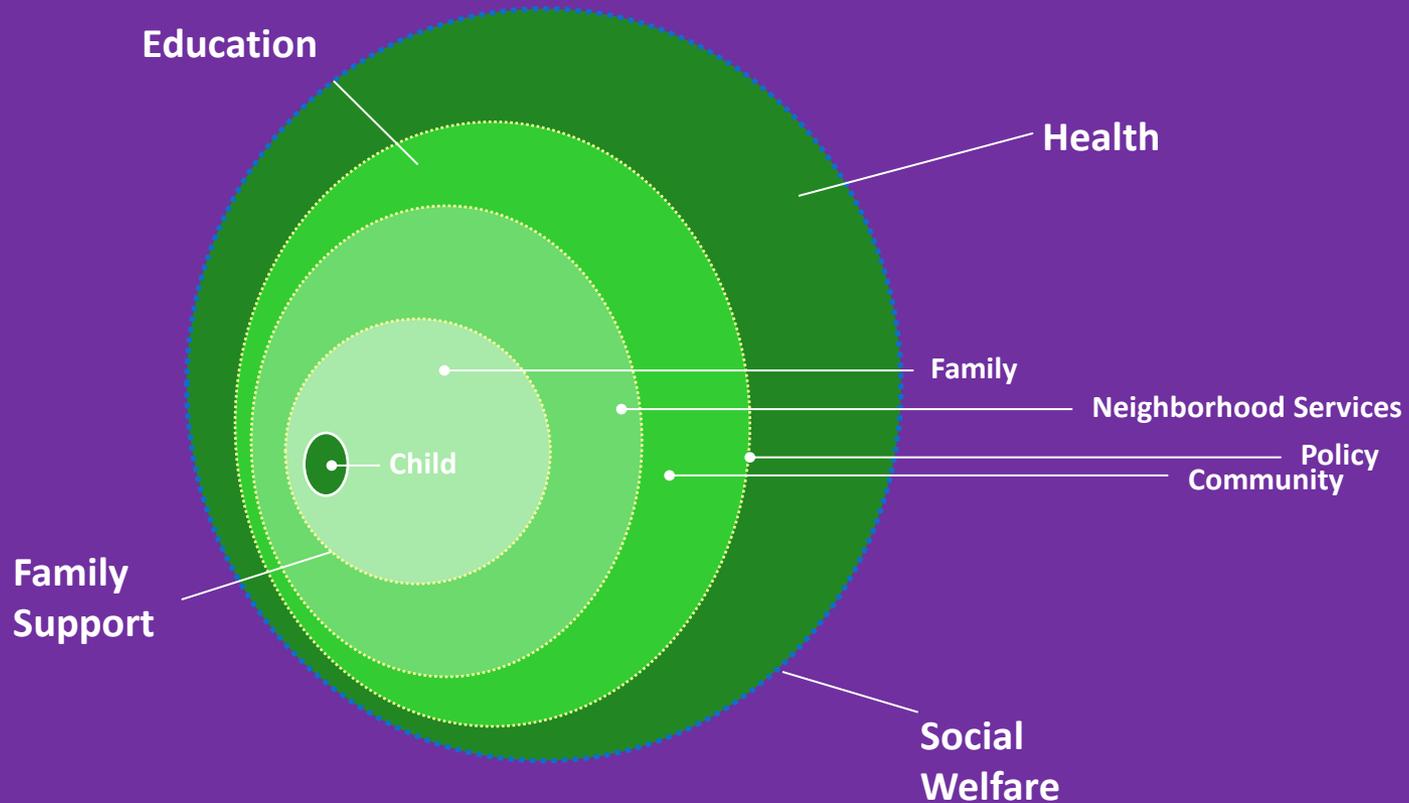
Invest in population based prevention

Producing optimal health for all

Why the Life Course Perspective?

- A **paradigm shift away** from disease management toward fully averting disease and poor health outcomes
- The current system focuses enormous resources to do too much too late

Our Health Outcomes are Multi-Factoral



The Role of Influence Over a Lifetime

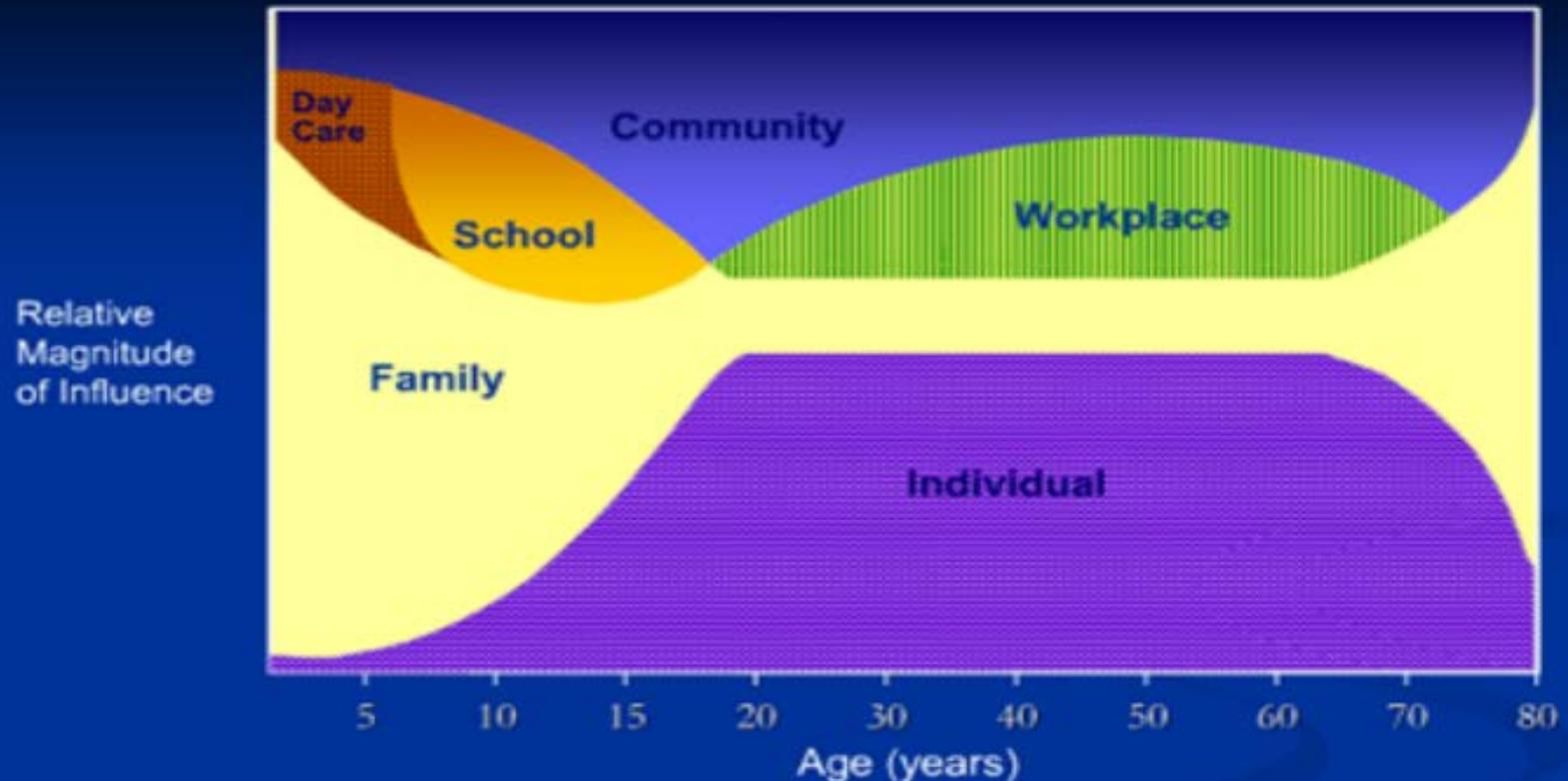


FIGURE 2: INFLUENCE OF HEALTH STATUS ACROSS THE LIFE COURSE. Across the life course, the health status of individuals is a function of endogenous factors (genetic, physiological, psychological), family influences, and a range of influences from the immediate community (school and workplace), and the larger community (neighborhood, city, and nation). As illustrated in figure 2, the relative influence of these factors changes as a function of age. Adapted from Nordio S. 1978. Needs in Child and Maternal Care. Rational Utilization and Social-Medical Resources. *Rivista Italiana di Pediatria* 4:3-20.

Key Chronic Disease Risk Factors

Non-modifiable Risk Factors

Age
Sex
Genes

Individual Risk Factors

- Tobacco
- Diet
- Alcohol
- Physical Activity

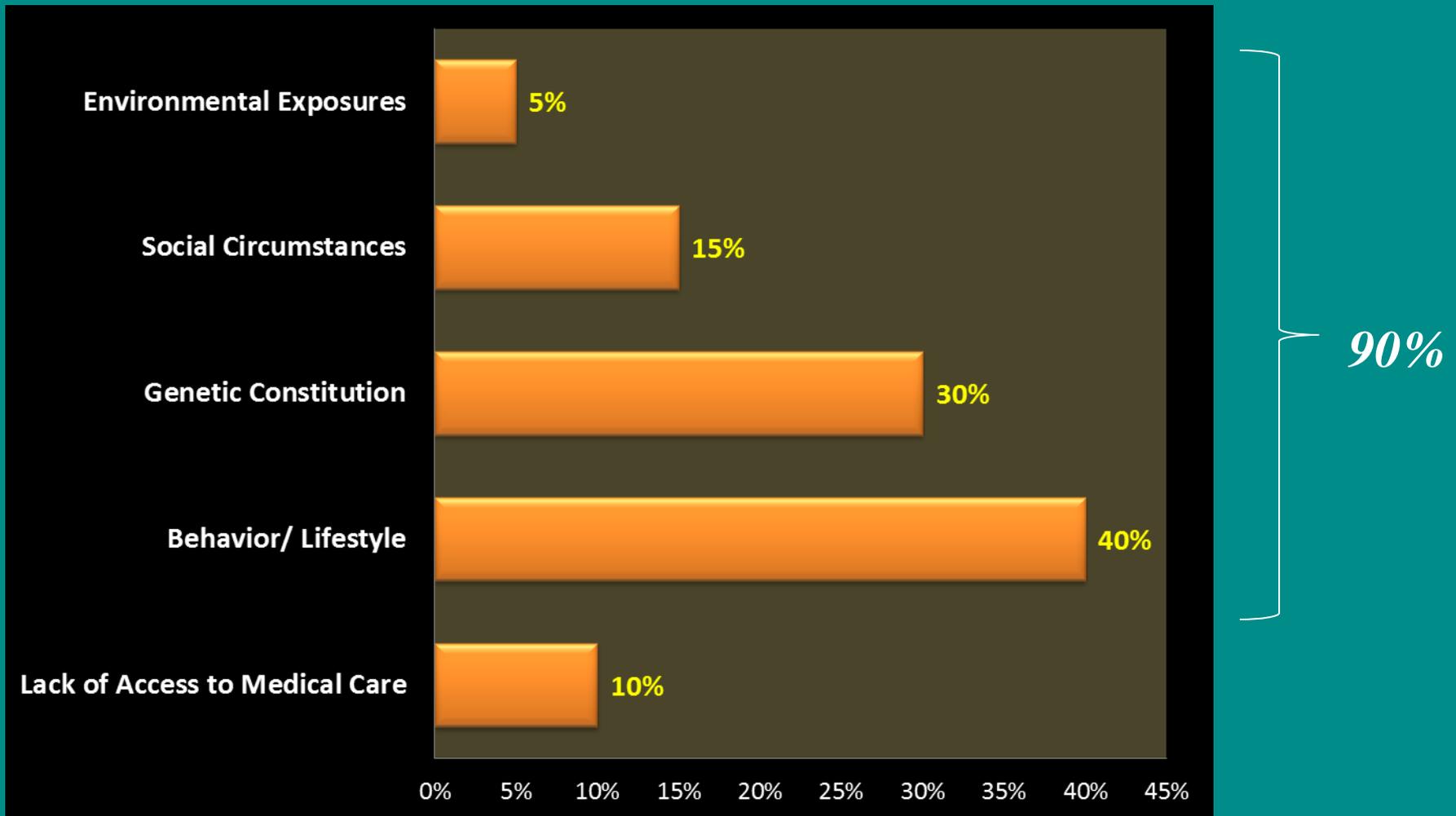
Socioeconomic,
Cultural and
Environmental
Conditions

Intermediate Risk Factors

- Hypertension
- Diabetes
- Overweight/
Obesity
- Blood pressure
- Blood lipids
- Impaired blood glucose

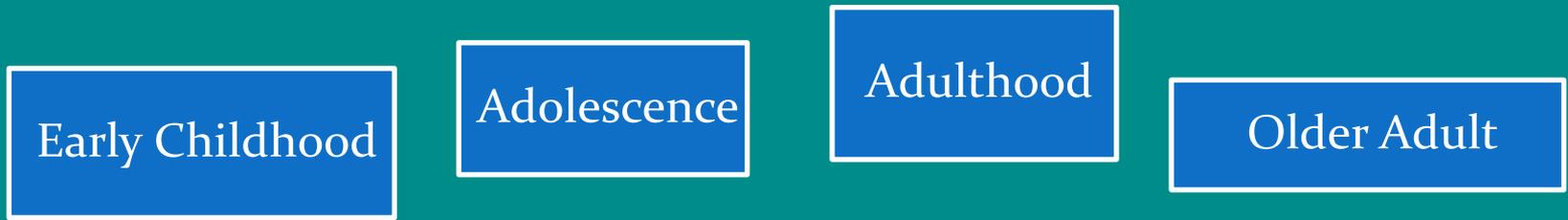
- Coronary heart disease
- Stroke
- Peripheral vascular disease
- Several cancers
- COPD
- Other chronic disease
- Disability

Contributors to Chronic Disease



Source: "The Case for More Active Policy Attention to Health Promotion,"
Health Affairs 21(2), 78-93, March/April 2002

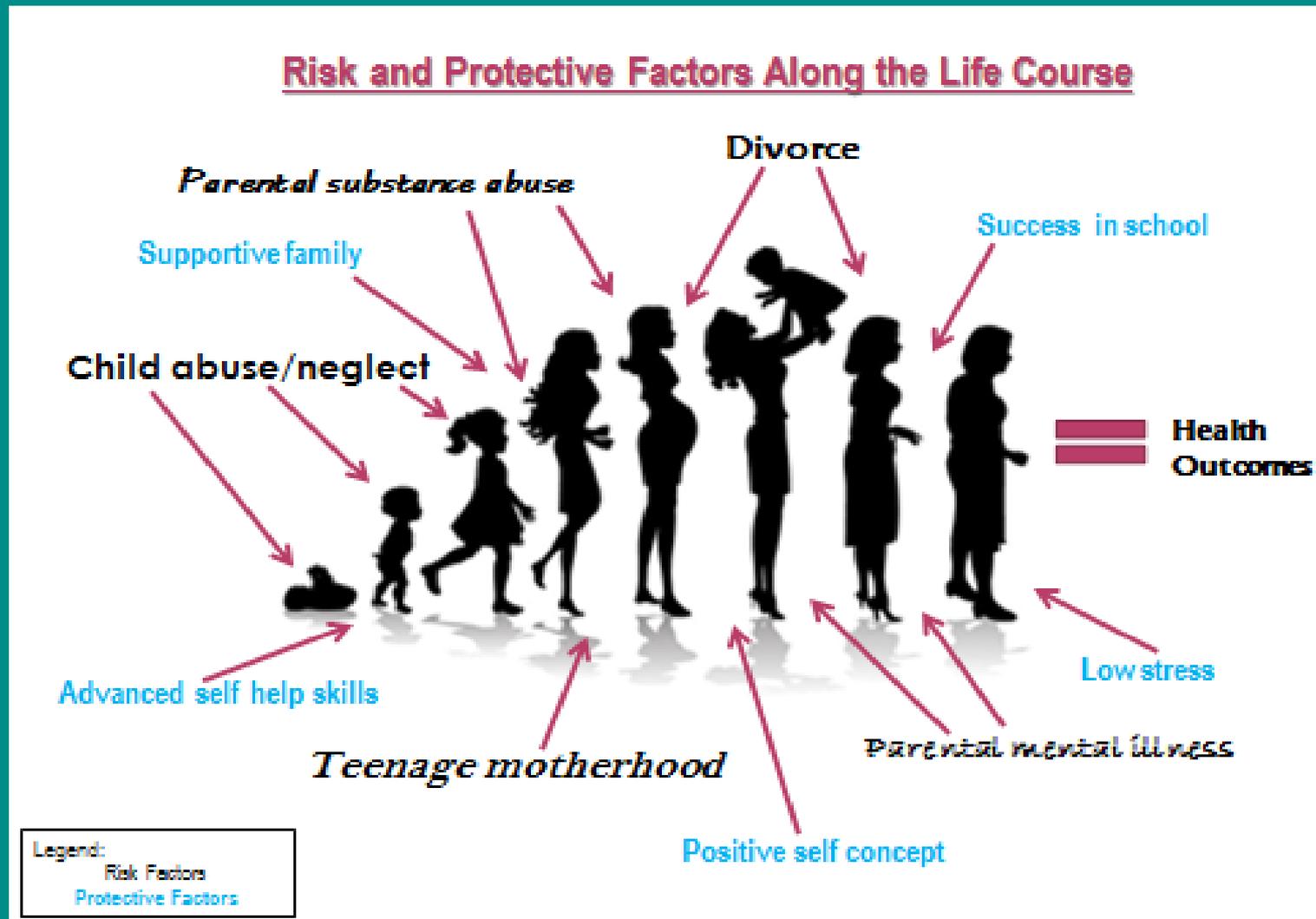
The Interconnected Life Span



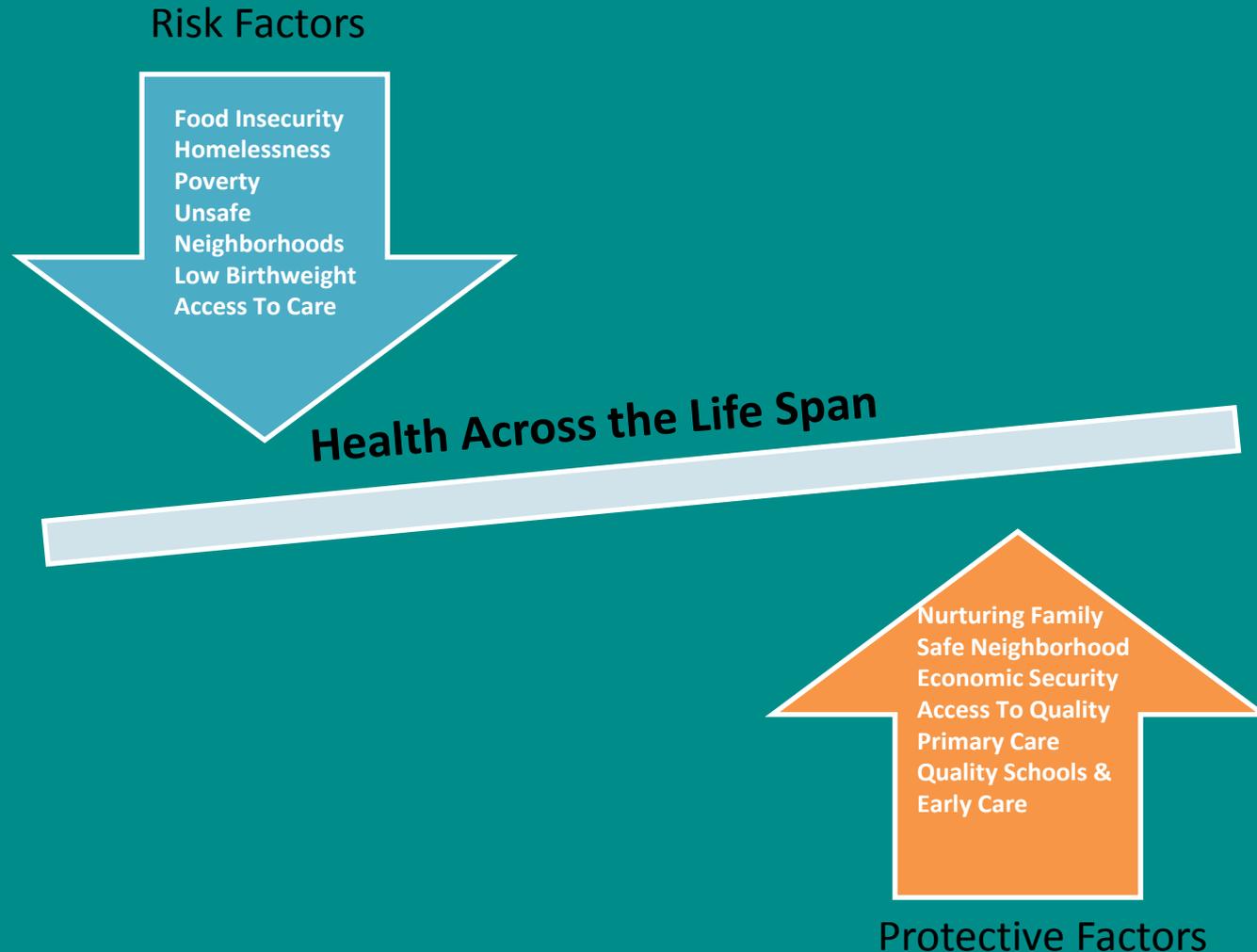
-- Versus --



Each Life Stage Influences the Next



Protective Factors Improve Health Risk Factors Diminish Health



What is the Life Course Perspective?

The importance of looking at health over a life span, not disconnected stages

A complex interplay of

- biological,
- behavioral,
- psychological, social
- And environmental factors



Identifying ***protective factors as well as chains of risk*** that contribute to health outcomes across the span of a person's life

Key Terms

- *Critical /Sensitive Periods/Chains of Risk*
 - Timing of exposure to risk factors matters
 - Timing of exposure to protective factors matters
 - Windows of opportunity
- *Trajectories*
 - A sequence of linked transitions and experiences
 - Long term patterns of stability and change
 - Includes risk and protective factors

The Quest For Positive Change

PLASTICITY **(flexibility)**

- The potential for change in intrinsic characteristics in response to environmental stimuli.

RESILIENCE

- A dynamic process of positive adaptation in the face of adversity.

Why the Life Course Perspective?

- This framework prioritizes life-long prevention and provides powerful rationale for health system transformation
- It has implications for the ways we will reduce racial and ethnic disparities as well as disparities across income groups
- It points out the importance of critical periods for intervention and cumulative impacts of multiple variables on health

Reducing Disparities in Health Outcomes

- Improve health care services and access for at-risk populations, including communities of color and low-income families
- Strengthen families and communities
- Achieve the highest level of health for all people

The Intergenerational Aspect of Life Course

Looking at health through a life course perspective hopes to address three key areas:

- Your health as an **individual**;
- Your health before your conception (i.e. your mom's **preconception** health);
- Your children's health (**intergenerational** component).



ACEs = ADVERSE CHILDHOOD EXPERIENCES

The three types of ACEs include

ABUSE



Physical



Emotional



Sexual

NEGLECT



Physical



Emotional

HOUSEHOLD DYSFUNCTION



Mental Illness



Incarcerated Relative



Mother treated violently



Substance Abuse



Divorce

HOW PREVALENT ARE ACEs?

The Initial ACE study¹ and an analysis of Iowa's Behavioral Risk Factor Surveillance System (BRFSS)² participants revealed the following estimates:

Death



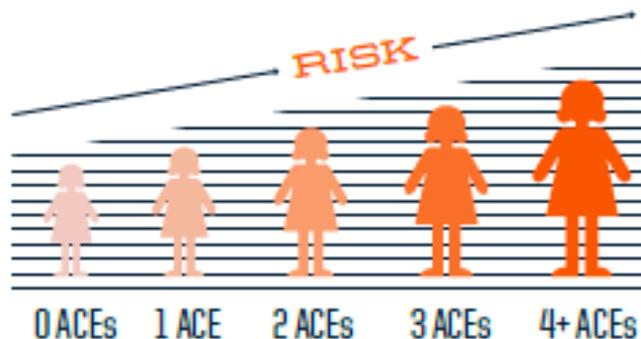
Conception



Mechanisms by which Adverse Childhood Experiences Influence Health and Well-being Throughout the Lifespan

WHAT IMPACT DO ACEs HAVE?

As the number of ACEs increases, so does the risk for negative health outcomes



Possible Risk Outcomes:

BEHAVIOR



Lack of physical activity



Smoking



Alcoholism



Drug use



Missed work

PHYSICAL & MENTAL HEALTH



Severe obesity



Diabetes



Depression



Suicide attempts



STDs



Heart disease



Cancer



Stroke



COPD



Broken bones

Life Course Approach

Timeline



Preconception /Prenatal Care

- Healthy weight
- Folic acid
- Smoking
- Nutrition
- Chronic conditions
- Substance abuse
- Stress management
- STDs
- Planned pregnancy
- Full-term birth (39 weeks)
- Pre-term birth labor assessment
- Prior spontaneous pre-term birth
- Home visiting

Postpartum Period/Infant

- Postpartum visit
- Well baby visit
- Infant safe sleep
- Breastfeeding
- Parent Education
- Maternal Depression Screening
- Immunizations
- Family Planning
- Home visiting (prenatal thru age 6)

Childhood (1-12 years)

- Immunizations
- Positive Role Models
- Family Involved in Learning Related Activities
- High-quality Early Childhood Education
- Positive School Climate
- School Attendance
- Health Education/Prevention
- After School Activities
- Home visiting (prenatal thru age 6)

Adolescence (13-19 years)

- Immunizations
- Quality Education
- School Attendance
- Health Education/Prevention
- Prosocial Peers/Role Models
- Positive Youth Development
- Life Plan

Adulthood

- Preventive Health Care
- Appropriate Screenings
- Nutrition
- Immunizations
- Physical Activity
- Resilience
- Social Connections
- Concrete Support in Times of Need

Healthy Aging

- Regular Physical Activity
- Nutrition
- Preventive Health Care
- Social Connections
- Immunizations

Healthy Aging: Living Longer Better Strategic Priorities for 2015 – 2019

Reduce the percent of older adults who report they have fallen at least once in the past 12 months from 32.6% to 28.4%.

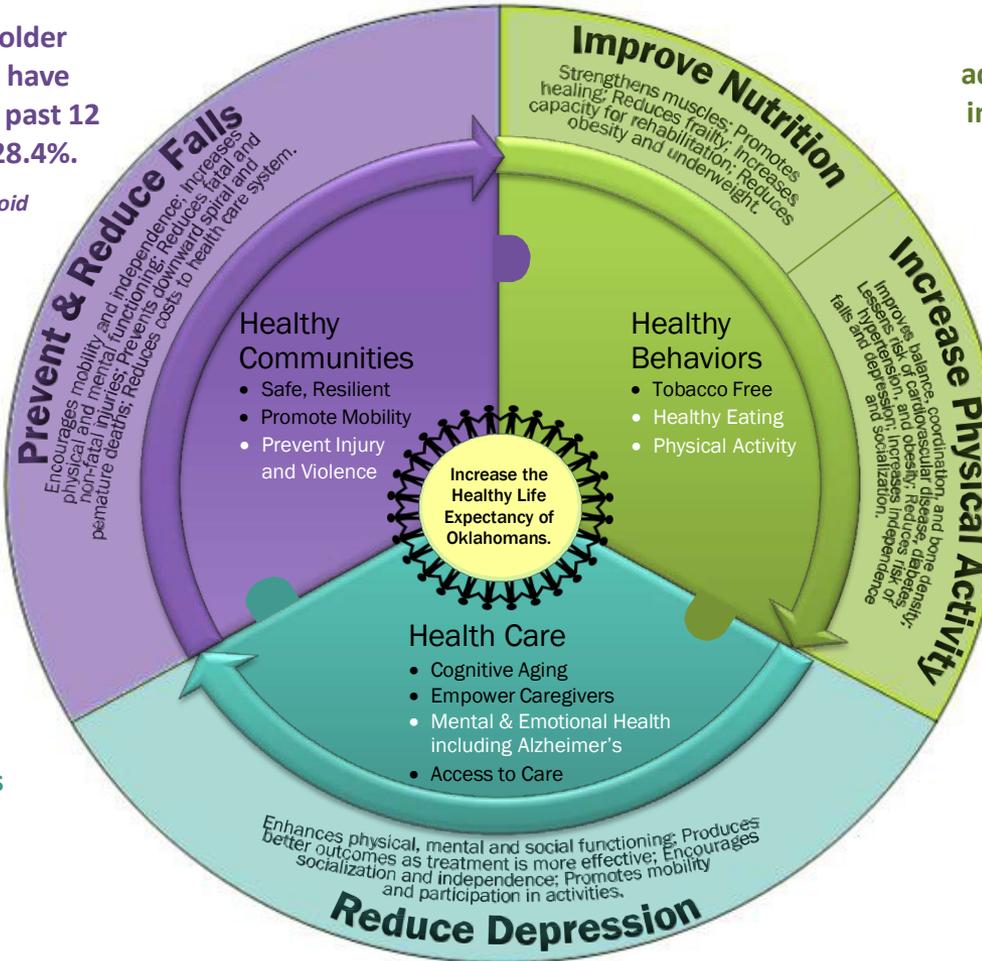
21,000 older adults will avoid falling each year.

Reduce nursing facility falls with major injury from 5.4% to 3%.

1,700 nursing facility residents will avoid serious injury from a fall each year.

Reduce days in the last month when older adults say they were limited due to mental health difficulties from 2.7 to 2.2 days.

This represents an additional three million days when older adults were not limited due to mental health difficulties each year.



Reduce the percent of older adults who are marginally food insecure from 15.4% to 14.8%.

3,000 older adults will not have to choose between eating regularly and purchasing medications or paying bills.

Increase the percent of older adults who participated in a physical activity in the last 30 days from 57.7% to 66.9%.

An additional 57,000 older adults will exercise at least once per month.

Reduce the percent of older adults who experienced one or more mentally unhealthy days from 19.6% to 16.7%.

15,000 fewer older adults in Oklahoma will report experiencing mentally unhealthy days.

Race, Income, and Place Impact Health



Compared to a White child in the affluent Oakland Hills, an African American born in high-poverty West Oakland is...



2 times more likely to be born low birth weight

12 times less likely to have a mother who graduated from college

INFANT

13 times more likely to live in poverty

4 times less likely to read at grade level

CHILD

5 times more likely to be unemployed

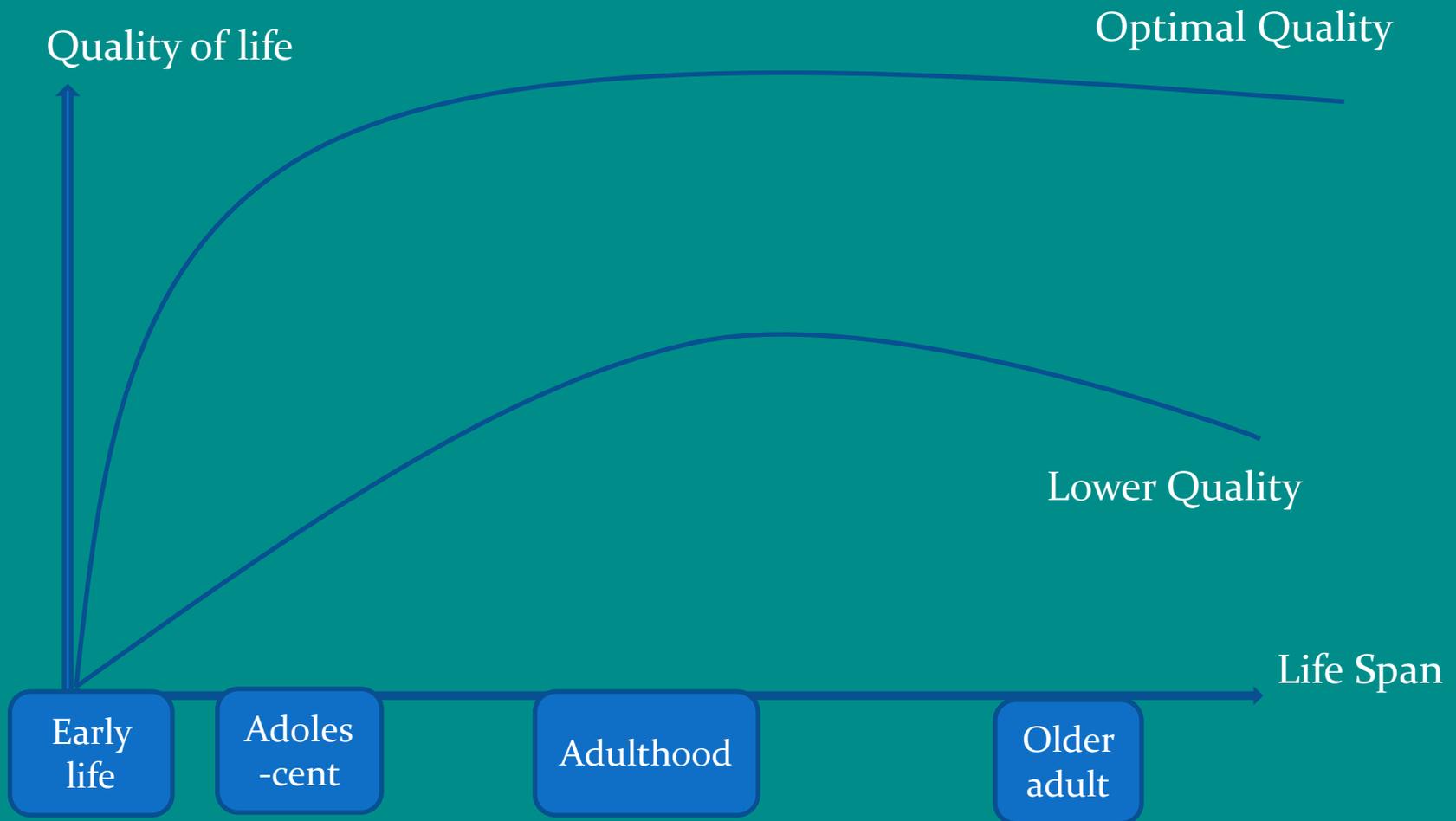
3 times more likely to die of stroke

ADULT

Cumulative impact: 14 year difference in life expectancy

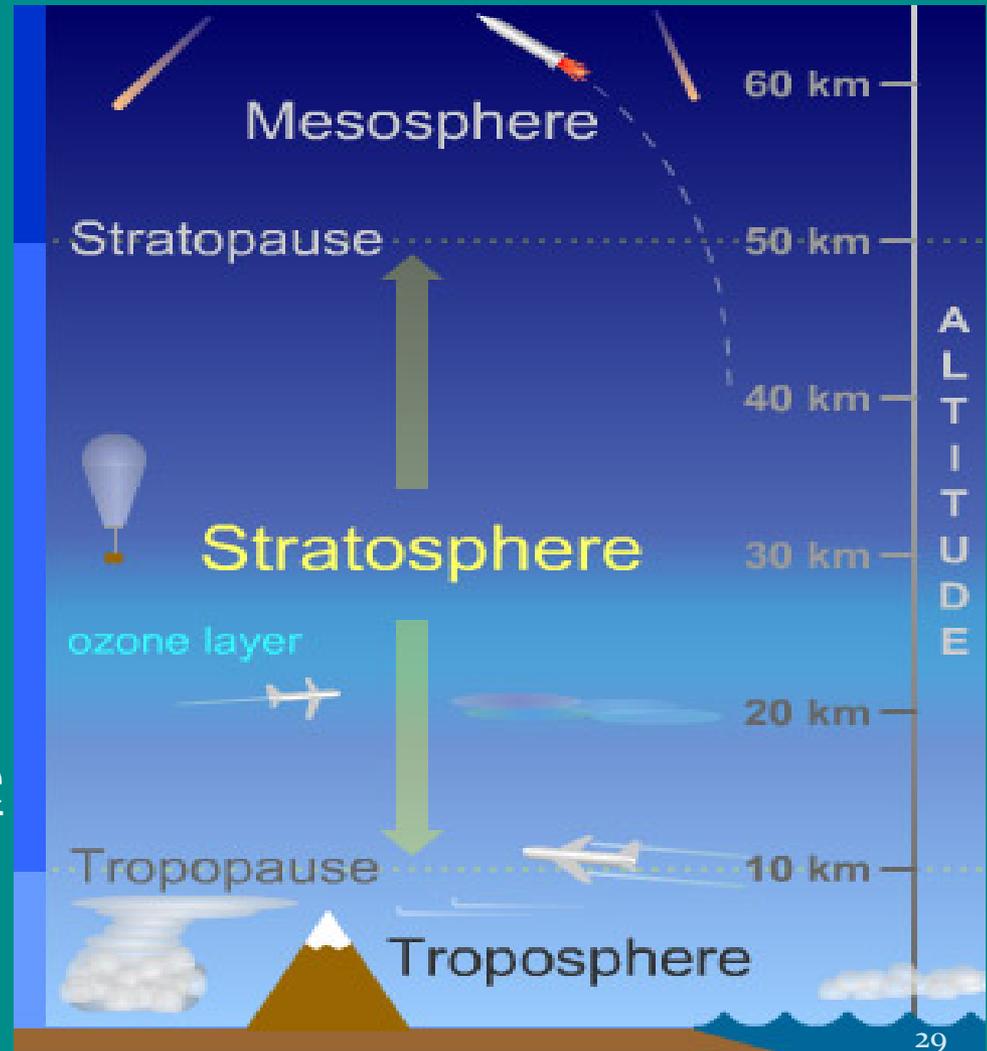
Source: Alameda County Death files, 2010-2012; Alameda County Birth files, 2009-2011; American Community Survey, 2007-2011; California Dept of Education, 2012-2013

An Illustration of the Impact of Life Course Approach on Quality and Span of Life

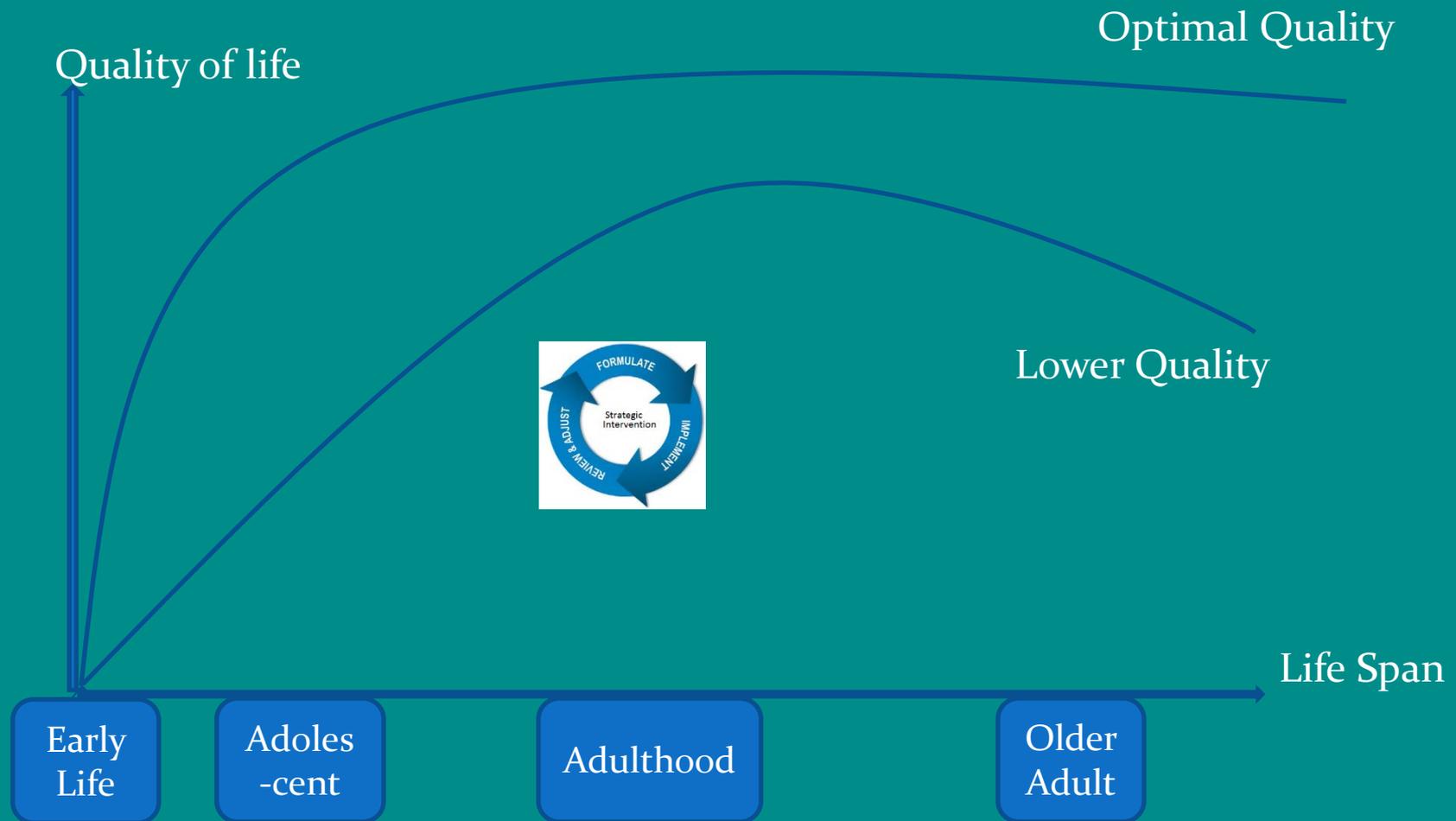


Flying in the Stratosphere

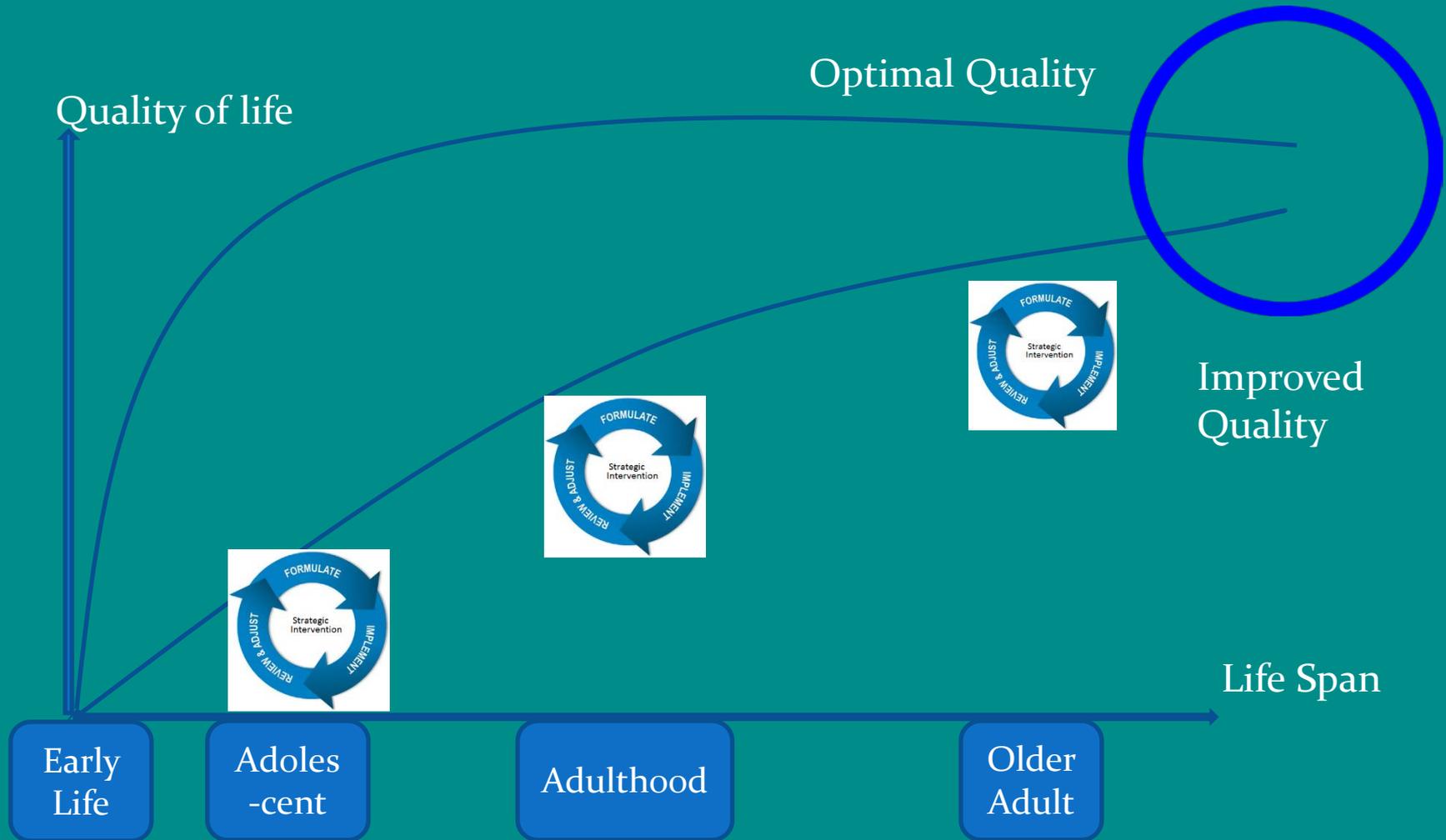
- No weather occurs
- Air 1000x thinner
- No turbulence
- Fly further, faster
- Dynamically stable
- Anything that gets there can stay there a long-time



Strategic Interventions at Important Times in the Life Course



The Impact of Strategic Interventions Throughout the Life Course



Increase Healthy Life Expectancy

- Life Expectancy (LE) is the average remaining years of life a person can expect to live on the basis of the current mortality rates for the population.
- Healthy Life Expectancy (HLE) estimates the expected years of life in good health for persons at a given age.

Oklahoma Life Expectancy and Healthy Life Expectancy at 65 Years of Age



Life Course Approach

- Focuses on the importance of considering health and wellness across the entire life span
- Pre-natal through end-of-life care
- Recognizes the critical role of adverse childhood experiences (ACEs)
- Works to place everyone into the highest trajectory and orbit

Implementing a Life Course Perspective

- **Involves three broad areas of change:**
 - Rethinking and realigning the organization and delivery of individual and population-based health services.
 - Linking health services with other services and supports (educational, social services, etc).
 - Transforming social, economic, and physical environments to promote health.

The Life Course Approach to a Healthy Oklahoma

Implementing a winning strategy

<https://www.youtube.com/watch?v=yl25H2tl7go>



Timothy Cathey, MD, Team Leader
Henry F. Hartsell Jr., PhD, Team Champion
Oklahoma State Board of Health Meeting
January 12, 2016

**OKLAHOMA STATE DEPARTMENT OF HEALTH
BOARD OF HEALTH FINANCE COMMITTEE BRIEF
JANUARY 2016**

SFY 2016 BUDGET AND EXPENDITURE FORECAST: AS OF 12/18/2015

<u>Division</u>	<u>Current Budget</u>	<u>Expenditures</u>	<u>Obligations</u>	<u>Forecasted Expenditures</u>	<u>Not Obligated or Forecasted</u>	<u>Performance Rate</u>
Public Health Infrastructure	\$ 17,056,470	\$ 4,711,744	\$ 5,093,714	\$ 6,813,644	\$ 437,367	97.44%
Protective Health Services	\$ 62,790,218	\$ 21,620,490	\$ 13,044,677	\$ 26,472,987	\$ 1,652,064	97.37%
Prevention & Preparedness Services	\$ 61,929,565	\$ 16,726,693	\$ 28,314,198	\$ 13,842,228	\$ 3,046,446	95.08%
Health Improvement Services	\$ 25,543,646	\$ 7,096,673	\$ 6,936,643	\$ 10,098,569	\$ 1,411,761	94.47%
Community & Family Health Services	\$ 235,882,821	\$ 70,819,098	\$ 40,500,121	\$ 121,566,558	\$ 2,997,044	98.73%
Totals:	\$ 403,202,720	\$ 120,974,698	\$ 93,889,354	\$ 178,793,985	\$ 9,544,682	97.63%
< 90%	90% - 95%		95% - 102.5%		102.5% - 105%	>105%

Expenditure Forecast Assumptions

- Payroll forecasted through June 30, 2016
- Budgeted vacant positions are forecasted at 50% of budgeted cost
- Forecasted expenditures includes the unencumbered amounts budgeted for:
 - Travel reimbursements
 - WIC food instrument payments
 - Trauma fund distributions
 - FQHC reimbursements
 - Amounts budgeted for county millage
 - Budget amounts for fiscal periods other than state fiscal year not yet active

Explanation of Change

- The amounts reported as 'Not Obligated or Forecasted' are not an estimate of lapsing funds. This represents planned expenditures that OSDH is currently taking action to execute.
- Health Improvement Services (HIS) has a "yellow light" status as of December 18, 2015. All other divisions have a "green light" status.
- The HIS performance rate of 94.47% is a 1.39% increase from the previous month's 93.08% rate. This division is expected to improve as the year progresses.
- The overall Department performance rate of 97.63% is a .61% increase from the previous month's 97.02%.

**OKLAHOMA STATE DEPARTMENT OF HEALTH
BOARD OF HEALTH FINANCE COMMITTEE BRIEF
JANUARY 2016**

UNDERSTANDING TYPES OF FUND RESTRICTIONS

Understanding Restriction Classifications

➤ **Programatically Restricted**

- Funds received by the OSDH for a specific program that cannot be redirected to another program
- Constitutes a large majority of OSDH funding
- Examples: Federal grants, contracts, revolving funds used to support specific programs

➤ **Geographically Restricted**

- These are local millage funds which must be spent for the benefit of the county of origin

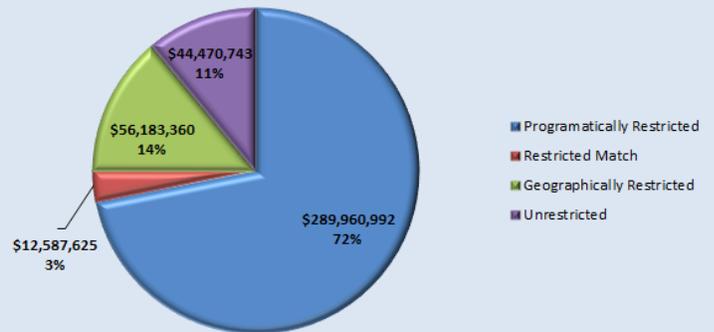
➤ **Unrestricted**

- State funds, which are strategically spent on priority programs

➤ **Restricted Match**

- These are unrestricted funds the OSDH directs to programs in order to meet a match obligation
- Examples: The Public Health Emergency Preparedness grant requires a 10% match (\$1 of state funds to match \$10 of federal funds)

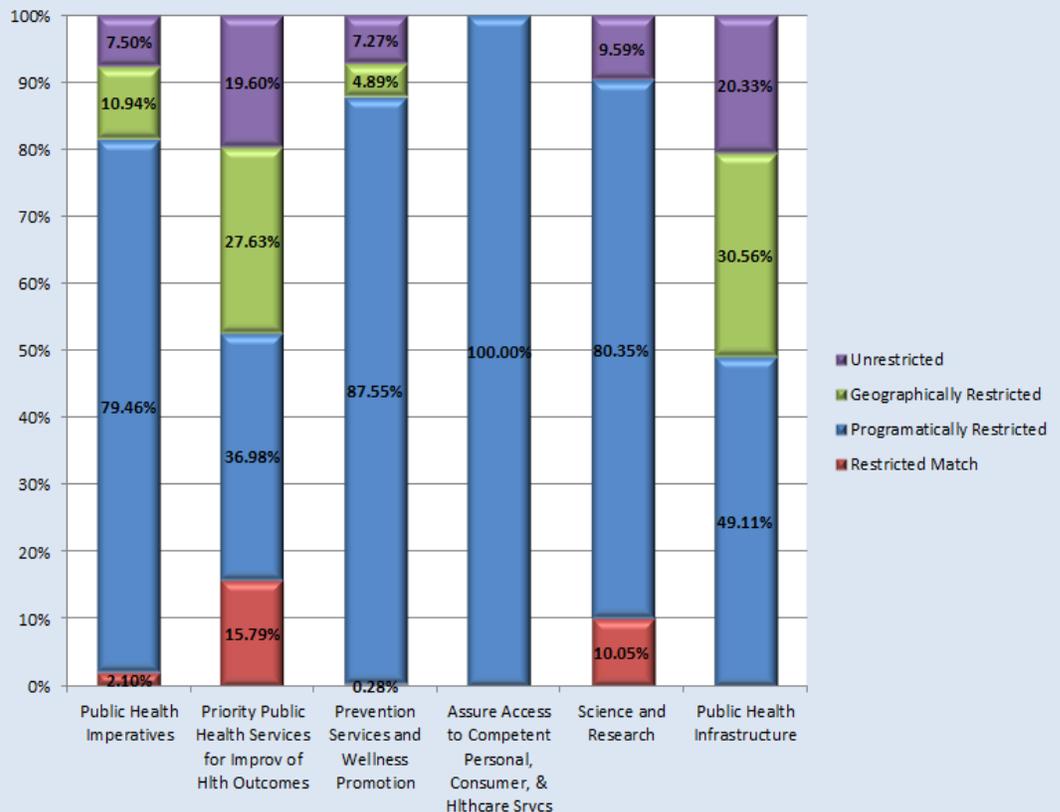
OSDH FY16 Funding by Restriction Classification, 12/18/15



Prioritizing Use of Unrestricted Funds

- OSDH has prioritized its programs in 6 classifications
- With a large majority of its funding restricted to specific programs, OSDH must strategically use unrestricted funding
- The goal of this strategic approach is to ensure critical functions are supported

OSDH FY16 Funding By Restriction Classification and Program Priority Level, 12/18/15



OKLAHOMA STATE BOARD OF HEALTH
COMMISSIONER'S REPORT
Terry Cline, Ph.D., Commissioner
January 12, 2016

PUBLIC RELATIONS/COMMUNICATIONS

ASTHO Million Hearts Meeting, speaker

STATE/FEDERAL AGENCIES/OFFICIAL

Dean Raskob, College of Public Health
Secretary Preston Doerflinger
Governor's Cabinet Meeting
Oklahoma Health & Human Services Cabinet Meeting
Chairman Earl Sears, House Appropriations Committee
OSDH Tribal Public Health Advisory Committee
Governor Mary Fallin, Katie Altshuler, Denise Northrup, Secretary Chris Bengé
Chairman Clark Jolley, Senate Appropriations Committee
Department of Agriculture Lab Tour
Department of Environmental Quality Lab Tour

SITE VISITS

Lincoln County Health Department
Okfuskee County Health Department

OTHERS:

Barry Smith, McAfee & Taft
Ted Haynes, President, Blue Cross and Blue Shield of Oklahoma
Sally Miller, Ministry of Jesus
Ken King, Executive Director, Oklahoma State Medical Association
Oklahoma City County Health Department Board Meeting
Tulsa Health Department Board Meeting
Michael Botticelli, Director, Office of National Drug Control Policy
PHAB Board Meeting
Reforming States Group Steering Committee, Milbank Memorial Fund