

Subpart 4-Bureau of Regulatory Services  
Chapter 01-Retail Food Store Sanitation

Sanitation Requirements

100.01 Sanitation regulations.

1. The sanitation regulations for retail food establishments shall be the same as the sanitation requirements for food establishments published by the U.S. Department of Health and Human Services in the 2013 *Food Code* unless otherwise noted in subsequent regulations. A copy of the 2013 *Food Code* may be obtained at:  
<http://www.fda.gov/downloads/Food/GuidanceRegulation/RetailFoodProtection/FoodCode/UCM374510.pdf>.
2. “Critical” shall refer to Priority and Priority Foundation violations and “Non-critical” shall refer to Core violations. Foods considered to be “potentially hazardous foods” shall also be known as “time/temperature control for safety foods.”

(Amended June 30, 2006; November 17, 2008; July 27, 2010; November 2, 2014.)

Source: *Miss. Code Ann.* §69-1-18.

100.02 Department inspections:

1. Each retail food establishment will be issued an inspection result summary and an inspection report on each visit. The inspection report shall document certain information, which can be found in *Food Code* Section 8-403.10, “Documenting Information and Observations.”
2. The inspection result placard notifies the consumer of the result of the inspection. There are four placard results:
  - a. **Green “Passed” placard.** This result indicates that the retail food establishment passed inspection and had no critical violations as defined by the *Food Code*.
  - b. **Green “Conditional Pass” placard.** This result indicates that the retail food establishment had at least one critical violation that was corrected at the time of inspection. Because of the nature and severity of the violation(s), a follow-up inspection will be performed, as deemed necessary by the Commissioner or her agents.
  - c. **Yellow “Notice” placard.** This result indicates one of three outcomes:
    - i. a critical violation could not be corrected before the Inspector left the premises; or
    - ii. a critical violation was repeated from the last inspection, even if it was corrected at the time of the follow-up inspection; or
    - iii. excessive (more than 5) repeated noncritical violations were found on a follow-up inspection.

- d. **Red “Failed” placard.** This result indicates closure of the retail food establishment due to immediate danger to public health and safety.
- 3. Critical violations shall be corrected by the license holder immediately if possible, and within ten days after inspection, unless otherwise directed by the Department.
- 4. Excessive (more than five) repeated noncritical violations shall be corrected by the license holder within thirty days from the date of inspection.
- 5. If the Commissioner or her agents have evidence, based on an inspection, that a public health hazard could exist, a license holder shall assist the Department with its investigation, including sharing company reports and records that would supplement food safety and sanitation inspection findings.

(Adopted November 17, 2008; Amended April 30, 2016.)

100.03 Public notification of inspection results:

- 1. Inspection result summary. The most recent placard shall be posted by the retail food establishment on the front door, or on both front entrances if the establishment has two separate entrances;
  - a. Placards shall be at or near eye-level;
  - b. If placards cannot be placed on doors, they may be placed on adjacent windows at or near eye-level, as approved by the Department;
  - c. Placards may not be removed by anyone other than the Commissioner or her agents. Removal by anyone else is considered noncompliance.
- 2. Inspection report. The current inspection report shall be made available to a consumer who requests it from the retail food establishment management.
- 3. Noncompliance.
  - a. The failure to follow this section and its subparts is a violation of the Retail Food Law, and any violator is subject to the penalties therein, including up to a \$500.00 fine for the first violation and up to \$1,000.00 for subsequent violations and/or suspension or revocation of the retail food establishment’s license.
  - b. The Department will pursue legal action to collect unpaid fines.

(Adopted November 17, 2008; Amended April 30, 2016.)

Source: *Miss. Code Ann.* §69-1-18.

100.04. Retail Sale of Poultry Products.

- 1. Definition. "Poultry" means:
  - a. Any domesticated bird (chickens, turkeys, ducks, geese, guineas, ratites, or squabs), whether live or dead, as defined in 9 CFR 381.1 Poultry Products Inspection Regulations Definitions, Poultry; and
  - b. Any migratory waterfowl or game bird, pheasant, partridge, quail, grouse, or pigeon, whether live or dead, as defined in 9 CFR 362.1 Voluntary Poultry Inspection Regulations, Definitions.
- 2. Requirements.

- a. All poultry products offered for sale at a retail food establishment, as defined in *MISS. CODE ANN.* §69-1-18, shall be slaughtered, and processed under poultry inspection programs administered by the Mississippi Department of Agriculture and Commerce or the United States Department of Agriculture. These products shall bear marks of inspection from the appropriate program.
  - b. All poultry products offered for sale by a vendor at a farmers market must be sold by a vendor who holds a retail mobile food establishment license from the Department. The poultry products must bear marks of inspection from a poultry inspection program administered by the Mississippi Department of Agriculture and Commerce or the United States Department of Agriculture.
3. Labeling. In addition to marks of inspection, poultry products shall be labeled as required under the rules and regulations of the appropriate inspection program.  
(Adopted June 2013.)

Source: *Miss. Code Ann.* §69-1-18.

### Retail Food Salvage Requirements

#### 101 Definitions:

1. “Distressed merchandise” means any food which has had the label lost or which has been subjected to possible damage due to accident, fire, flood, adverse weather, or to any other similar cause, and which may have been rendered unsafe or unsuitable for human or animal consumption or use. Distressed merchandise shall not include food products that fail to meet manufacturer’s or packer’s specifications, but which do meet applicable federal and state regulation.
2. “Non-salvageable merchandise” means “distressed merchandise,” as defined in paragraph (1) which cannot be safely or practically reconditioned.
3. “Reconditioning” means any appropriate process or procedure by which distressed merchandise can be brought into compliance with all Federal and State Regulatory Authority requirements making it suitable for consumption or use as human or animal feed.
4. “Regulatory Authority” means the Mississippi Department of Agriculture and Commerce.
5. “Salvageable merchandise” means any distressed merchandise, as defined in paragraph (1) of this section, which can be reconditioned to the satisfaction of the Regulatory Authority.
6. “Salvaged merchandise” means previously distressed merchandise, as defined in paragraph (1) of this section which when reconditioned meets all Federal and State Regulatory Authority requirements.
7. “Salvage operation” means an establishment engaged in the business of selling or distributing salvaged merchandise or reconditioning distressed merchandise.

Source: *Miss. Code Ann.* §69-1-18.

102 Retail Salvage Food Operation.

1. General. Retail Salvage food operations shall comply with all applicable sections of the current Food Code except as otherwise provided in this section.
2. Handling of Distressed Merchandise.
  - a. Segregation of Merchandise. All salvageable merchandise shall be promptly sorted and segregated from non-salvageable merchandise to prevent further contamination of the merchandise to be reconditioned for sale or distribution.
  - b. Movement of Distressed Merchandise. It shall be the duty of any person owning or having possession of distressed merchandise to make personal contact with the Regulatory Authority within 24 hours after the merchandise becomes distressed and prior to its removal from the place where located when it became distressed merchandise. If emergency removal of distressed merchandise is required, notice to the Regulatory Authority shall be made as soon thereafter as possible. It shall be the duty of the processing facility to make contact with the Regulatory Authority within forty-eight (48) hours whenever distressed merchandise subject to the provisions of this regulation is obtained.
  - c. Transporting of Distressed Merchandise. Distressed merchandise shall be moved from the site of a fire, flood, wind storm, hurricane area, sewer backup, wreck or other cause as expeditiously as possible after compliance with paragraph (2)(b) above so as not to become putrid, rodent or insect harborage, or otherwise a menace to public health. All distressed and salvageable merchandise of a perishable nature shall, prior to reconditioning, be transported only in vehicles provided with sufficient refrigeration and freezing capabilities if necessary for product maintenance. No interstate movement of known embargoed merchandise shall be made without the prior approval of the Regulatory Authority and the responsible State agency in the State to receive the merchandise. Concurrence shall also be obtained from the U.S. Department of Health and Human Services, Food and Drug Administration prior to interstate movement.
3. Reconditioning of Distressed Merchandise.
  - a. All metal cans of food offered for sale or distribution shall be essentially free from rust (pitting) and dents (causing any deformation at the rim, end double seams and/or side seams). Leakers, springers, flippers, and swells shall be deemed unfit for sale or distribution. Containers, including metal and glass containers with press caps, screw caps, pull rings or other types of openings which have been in contact with liquid foam, or other deleterious substances, as a result of fire fighting efforts, flood, sewer backups or similar mishaps, shall be deemed unfit for sale or distribution, i.e., nonsalvageable merchandise as defined in section 101(2) of this chapter.
  - b. All food in containers, bags or packages where the container, bag or package has been torn or damaged, whereby the contained food has been exposed, except that if the owner of such food can demonstrate that said

- food was in a clean environment at the time of exposure, the container, bag or package may be repaired or replaced.
- c. All containers of food being sold after the stated expiration date must be in sound condition and the expired date must be visible.
  - d. All metal containers of food, other than those mentioned in (a.) above, whose integrity has not been compromised and whose integrity would not be compromised by the reconditioning, and which have been partially or totally submerged in liquid foam, or other deleterious substance as the result of flood, sewer backup or other reasons shall, after thorough cleaning, be subjected to sanitizing rinse of a concentration of 100 ppm available chlorine for a minimum period of one minute, or shall be sanitized by another method approved by the Regulatory Authority. They shall subsequently be treated to inhibit rust formation.
4. Labeling of Distressed Merchandise.
- a. Label Removal. Any cans showing surface rust shall after having their labels removed, be inspected and destroyed if they contain pinholes. If salvageable, they shall then be cleaned by a method approved by the Regulatory Authority before relabeling. Any container of food with the label or mandatory information missing, that cannot be identified and relabeled correctly, shall not be sold. When original labels are missing or illegible, relabeling or overlabeling is required.
  - b. Relabeling. All salvageable merchandise shall be labeled to indicate that the merchandise has been salvaged. All salvaged merchandise in containers is to be provided with labels meeting the requirements of the Food, Drug, and Cosmetic Act, Fair Packaging and Labeling Act, National Labeling and Education Act of 1990, and regulations promulgated under these Acts for products in interstate commerce. Where original labels are removed from containers which are to be resold or redistributed, the replacement labels must show as the distributor the name and address of the salvage processing facility as well as the date of reconditioning for sale or distribution.
5. Non-Salvageable Merchandise.
- a. Handling. Foods contaminated and/or adulterated by pesticides or other chemicals; potentially hazardous foods (frozen or those requiring refrigeration) which have been exposed to a temperature above 41<sup>0</sup> F (5<sup>0</sup> C); foods found unfit for salvage on examination; and foods packaged in paper or other porous materials which have been subject to contamination shall be deemed to be non-salvageable merchandise, as defined in section 101(2).
  - b. Distribution. Non-salvageable merchandise shall not be sold or distributed as human food, but shall be disposed of in a manner approved by the Regulatory Authority.
6. Records. All persons or firms engaged in the business of selling or offering to sell food commonly known as salvage food or distressed food shall keep accurate records pertaining to the source and history of all shipments of said food received by them, type of damaged and the salvaged process conducted.

It shall include records of the disposition of said food that was later disposed of or destroyed as unsalvageable or adulterated. Said records shall be kept for a minimum of one year and be available for inspections and/or copying during business hours by the Regulatory Authority.

Source: *Miss. Code Ann.* §69-1-18.

Retail Sale of Fresh and Frozen Fish, Meat, Poultry and any Other Potentially Hazardous Foods, with the Exclusion of Seafood.

103.01 Definitions:

1. Transient vendor is a retailer who engages in the selling of (a) fresh fish, meat or poultry or (b) frozen fish, meat, poultry or any other fresh or frozen potentially hazardous food products, excluding seafood and frozen desserts, at any place in the state temporarily and who does not intend to become or does not become a permanent retailer of such place.
2. Fish means fresh fish and other forms of fresh water aquatic life (including alligator, frog, turtle, and the roe of such animals) other than birds or mammals if such animals are intended for human consumption.
3. Meat means the flesh of animals intended for human consumption including the dressed flesh of cattle, swine, sheep, or goats and other edible animals except fish and poultry.
4. Poultry means any domesticated bird intended for human consumption including chickens, turkeys, ducks, geese, or guineas but does not include ratites.
5. Frozen Desserts means any foods which conform to the provisions of the United States Food and Drug Administration, Title 21, Code of Federal Regulation, Part 135, Subpart B. Frozen Desserts shall include such products as ice cream, frozen custard, ice milk, sherbet, frozen yogurt, ice cream sandwiches, bars or cookies.
6. Seafood means edible fish or shellfish from the sea.
7. Potentially Hazardous Food means a food that is natural or synthetic and that requires temperature control because it is in a form capable of supporting: the growth of infectious or toxigenic microorganisms; the growth and toxin production of *Clostridium botulinum*; or in raw shell eggs, the growth of salmonella enteritis. "Potentially Hazardous Food" includes an animal food (of animal origin) that is raw or heat-treated; a food of plant origin that is heat-treated or consists of raw seed sprouts; and cut melons.
8. Pre-packaged Products mean commodities that are packaged in any manner in advance of sale in units suitable for direct retail sale to the consumer and packaged in a fixed facility under the jurisdiction of a federal (U.S.D.A or FDA) or state (MS Department of Health or MS Department of Agriculture and Commerce) agency.

(Amended August 2002; Temporary Amendment July 2006; Amended June 10, 2009; March 14, 2011; Amended February 16, 2019.)

103.02 Retail Sale of Pre-packaged Fresh Fish, Meat, Poultry or other Potentially Hazardous Foods, excluding Seafood by Transient Vendors.

1. A mobile retail food establishment license must be obtained for each transient vendor. The license must be maintained with the vendor.
2. Product temperature of 41° Fahrenheit or less must be maintained at all times.
3. All food shall be protected from contamination from dust, dirt, foreign or injurious contamination and from cross-contamination by other type food products.
4. Advertisements must be completely in accordance with the labeling of the containers. The price per pound of random weight products must be included in the advertisement. Standard weight packages may show a total price only in the advertisement. All products offered for sale shall be labeled in accordance with Chapter 3, Section 3-6 as defined by the U. S. Department of Health and Human Services in the current *Food Code* unless otherwise noted in subsequent regulations.
5. In addition to the above, applicable parts of the Mississippi Department of Agriculture and Commerce laws, rules and regulations covering foods would also apply.

(Amended August 2002; Temporary amendment July 2006; Amended June 10, 2009; March 14, 2011; Amended February 16, 2019.)

103.03 Retail Sale of Pre-packaged Frozen Fish, Meat, Poultry or other Potentially Hazardous Foods, excluding Seafood by Transient Vendors.

1. A mobile retail food establishment license must be obtained for each transient vendor. The license must be maintained with the vendor.
2. Products shall remain in a frozen state until sold. All sales must be from unbroken box or package.
3. All food shall be protected from contamination from dust, dirt, foreign or injurious contamination and from cross-contamination by other type food products.
4. Advertisements must be completely in accordance with the labeling on the containers. The price per pound of random weight products must be included in the advertisement. Standard weight packages may show a total price only in the advertisement. All products offered for sale shall be labeled in accordance with Chapter 3, Section 3-6 as defined by the U. S. Department of Health and Human Services in the current *Food Code* unless otherwise noted in subsequent regulations.
5. In addition to the above, applicable parts of the Mississippi Department of Agriculture and Commerce Laws, Rules and Regulations covering foods would also apply.

(Amended August 2002; Temporary amendment July 2006; Amended June 10, 2009; Amended February 16, 2019.)

Source: *Miss. Code Ann.* §69-1-18(2)(a) (2005).

### Posting Of Fish Consumption Advisory Notices

104 It is the responsibility of a retail food establishment to post any Fish Consumption Advisory Notice issued to the establishment by the State Department of Environmental Quality or the State Board of Health if that establishment sells fish falling under the coverage of said notice. Notices shall be conspicuously displayed for easy visibility to the consumer. Any retail food establishment in violation of this regulation may be assessed a penalty in an amount of not more than Five Hundred Dollars (\$500.00). Any additional violations within a six-month period may be assessed at a penalty of not more than One Thousand Dollars (\$1000.00). In addition, or in lieu of such penalties, the commissioner may suspend or revoke the retail food establishment's license.  
(Adopted May 31, 2002.)

Source: *Miss. Code Ann.* §69-1-18.

### Administrative Procedures; Review; Hearing

105.01 Upon the issuance of a written complaint against any retail food establishment licensed by the Mississippi Department of Agriculture & Commerce for a violation of the law or the regulations, a copy of the complaint and any supporting documentation shall be sent to the accused by any of the methods set forth in Rule 4 of the Mississippi Rules of Civil Procedure or by certified mail. Within thirty (30) days after receipt of a copy of the complaint, the accused shall file a written answer with and/or submit supporting documentation to the Reviewing Officer. Failure to file an answer may constitute an admission of the allegation(s).  
(Adopted 2002.)

105.02 The Chief of the Bureau of Regulatory Services of the Department, or his designee, shall act as Reviewing Officer. Upon receipt of the response and any supporting documentation from the accused, the Reviewing Officer shall screen all information on file to determine the merit of the complaint or lack thereof. Based on the evidence, the Reviewing Officer shall issue an order and send a copy of it to the accused by certified mail.  
(Adopted 2002.)

105.03 Either the accused or the Department shall have thirty (30) days from receipt of the Reviewing Officer's order within which to file a written request for a hearing. If a request for a hearing is made, a hearing shall be scheduled before a Hearing Officer within a reasonable time of receipt of a written request from the accused. Written notice of the date, time and place of such hearing shall be provided to the accused.  
(Adopted 2002.)

105.04 The Hearing Officer shall impose necessary restrictions to ensure an orderly and impartial proceeding. The testimony of the witnesses shall be upon oath or



affirmation and the witnesses shall be subject to cross-examination. The proceedings shall be recorded.

(Adopted 2002.)

105.05 At the conclusion of the hearing, the Hearing Officer shall prepare a written Recommendation to the Commissioner. The Commissioner shall decide, what, if any, action is to be taken on the recommendation and shall issue an order. The decision of the Commissioner shall be in writing and it shall be delivered to the accused by certified mail.

(Adopted 2002.)

105.06 Either the accused or the Department may appeal the decision of the Commissioner to the circuit court of the county of the residence of the accused, or, if the accused is a nonresident of the State of Mississippi, to the Circuit Court of the First Judicial District of Hinds County, Mississippi. The appellant shall have the record transcribed and filed with the circuit court. The appeal shall otherwise be governed by all applicable laws and rules affecting appeals to circuit court. If no appeal is perfected within the required time, the decision of the Commissioner shall then become final.

(Adopted 2002.)

105.07 The decision of the circuit court may then be appealed by either party to the Mississippi Supreme Court in accordance with the existing law and rules affecting such appeals.

(Adopted 2002.)

Source: *Miss. Code Ann.* §69-1-18.

106 (Repealed, February 16, 2019.)

107 (Reserved.)

Egg Producers Selling “Unclassified Eggs” of Their Own Production Off the Farm, Directly to Consumers

108 1. Purpose. This regulation provides that egg producers, as defined herein, be licensed by the Department and meet the requirements set out in this section.

2. Definitions:

- a. Unclassified eggs – Eggs that meet, as a minimum, the U.S.D.A. Grade B Quality Standards.
- b. Grade B Quality Standards - The shell must be unbroken, may be abnormal, and may have slightly stained areas. Moderately stained areas are permitted if they do not cover more than 1/32 of the shell surface if localized, or 1/16 of the shell surface if scattered. Eggs having shells with prominent stains or adhering dirt are not permitted. The air cell may be over 3/16 inch in depth, may show unlimited movement, and may be free

- or bubbly. The white may be weak and watery so that the yolk outline is plainly visible when the egg is twirled before a candling light. The yolk may appear dark, enlarged, and flattened, and may show clearly visible germ development but no blood due to such development. It may show other serious defects that do not render the egg inedible. Small blood spots or meat spots (aggregating not more than 1/8 inch in diameter) may be present.
- c. Egg Producer - A Mississippi egg producer, with 500 or less laying hens or pullets, who sells “unclassified eggs” from his/her own production directly to the consumer off the farm.
  - d. Ambient Temperature – Is the temperature surrounding the eggs and not the actual eggs’ temperature.
3. Licensing Requirements:
- a. All egg producers shall obtain a “Retail Food Sanitation License-Eggs” by completing the appropriate application and paying the \$10.00 license fee.
  - b. Licenses shall be renewed annually.
  - c. A copy of the “Retail Food Sanitation License-Eggs” shall be displayed and made available to the consumer at the location where the eggs will be offered for sale.
4. The following requirements must be met by all egg producers:
- a. Clean Eggs. Egg producers must sell eggs that are cleaned in accordance with Department guidelines or other cleaning methods accepted by industry.
  - b. Temperature and Storage Requirements.
    - i. Clean dry eggs shall be refrigerated within 36 hours after the time of lay.
    - ii. Eggs shall be maintained at or below 45°F ambient temperature until sold to the consumer.
    - iii. A small NSF approved thermometer shall be kept in the cooler with the eggs to assure that the correct ambient temperature is being maintained at all times.
  - c. Packing and Labeling Requirements:
    - i. The egg container or the label on the container shall have the following:
      - A. name and address of the egg producer;
      - B. the wording, “Keep Refrigerated;”
      - C. the statement “SAFE HANDLING INSTRUCTIONS: To prevent illness from bacteria: keep eggs refrigerated, cook eggs until yolks are firm and cook foods containing eggs thoroughly.” This label statement shall appear prominently and conspicuously, with the words "SAFE HANDLING INSTRUCTIONS" in bold type, on the information panel or principal display panel of the container.
      - D. the word “eggs,”
      - E. the numerical count of the contents; and

- F. the date of pack (examples – 01/01/11, January 1, 2011, Jan. 1, 2011).
- ii. If egg cartons are to be used that were previously labeled and used by an egg company, all labeling of the previous company shall be obscured or blackened out where this information is not visible to the consumer. No labeling shall indicate that the eggs are graded by U.S.D.A.; therefore, the shield must also be obscured, removed or blackened out.
- d. Sale of Eggs Prohibited Past Pack Date. No eggs that have exceeded 30 days from the date of pack, including the date of pack, shall be sold by egg producers in the Mississippi channels of trade.
- e. Animal Health Requirement. For any eggs sold by an egg producer off the farm at another location, the layers are required to have NPIP (National Poultry Improvement Program) testing by the Mississippi Board of Animal Health.

(Adopted May 3, 2011; Amended February 16, 2019.)

Source: *Miss. Code Ann.* §69-1-18 (Rev. 2005).