

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

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).

Chapter 07- Meat and Poultry Inspection

Subchapter 01-Rules and regulations promulgated to carry out provisions of “The Meat, Meat Foods and Poultry Regulations and Inspection Law of 1960” and “The Mississippi Meat Inspection Law of 1968.”

Poultry Inspection Exemptions provided by *Miss. Code Ann.* §75-33-3(4):

211.01 The purpose of this section is to clarify how the Department applies the poultry exemptions in the Law. To qualify for any one of the poultry exemptions in the Law, poultry grower must slaughter poultry or process poultry products under sanitary conditions using procedures that produce sound, clean poultry products fit for human food.

(Adopted December 2014.)

211.02 For purposes of this section:

- 1. “Home-deliver” means the delivery by the grower of poultry produced under the exemptions to the private home of a customer. It does not include delivery to a customer on public property.
- 2. “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.

(Adopted December 2014; Amended February 16, 2019.)

211.03 All growers claiming an exemption for producing 1,000 or less poultry per calendar year must register with MDAC annually, and comply with the following:

1. Limitations. The poultry grower slaughters no more than 1,000 healthy birds of his/her own raising in a calendar year; and the poultry grower does not engage in buying or selling poultry products other than those produced from poultry raised on his/her own farm.

2. Records. The grower must keep accurate and legible records necessary for the effective enforcement of the Law. Records include slaughter records and records covering the sales of poultry products to customers. These records are subject to review by Department employees to determine compliance with 1) the requirement for sales not to exceed 1,000 poultry in a calendar year and 2) the requirement that poultry be pre-ordered for home delivery.

3. Labeling. The poultry must be labeled as provided in paragraph five, below.

(Adopted December 2014.)

211.04 All growers claiming an exemption for producing more than 1,000 and up to 20,000 poultry per calendar year must be licensed by MDAC annually and meet the following requirements in addition to those provided in 9 CFR 381.10:

1. Limitations. A person may slaughter and process on his/her farm poultry that he/she raised without mandatory, continuous inspection, as long as the number of poultry produced is between 1,000-20,000 per calendar year, and the poultry are healthy when slaughtered.

2. Records. The grower must keep accurate and legible records necessary for the effective enforcement of the Law. Records include slaughter records and records covering the sales of poultry products to customers. These records are subject to review by Department employees to determine compliance with 1) the requirement for sales not to exceed 20,000 poultry in a calendar year and 2) the requirement of pre-ordered poultry for home-delivery.

3. Sanitation requirements. The slaughter and processing at the Grower's premises is conducted under sanitary standards, practices, and procedures that produce products that are sound, clean, fit for human food and not adulterated. Sanitation requirements are the same as those found in 9 CFR 416.1 to 416.6, with the exception of §416.2(g)(2)-(6).

4. Buildings, Facilities & Equipment. The Department adopts by reference sections 202.01-.08, 203, and 205.01 for the buildings, facilities and equipment requirements.

5. Labeling. The poultry must be labeled as provided in paragraph five, below.

(Adopted December 2014.)

211.05 Poultry processed under an exemption must be labeled with all of the following:

1. “Exempt from Inspection”.
2. The Grower’s Name.
3. The Name of the farm, address and zip code of the farm.
4. Safe Handling Instructions.

(Adopted December 2014.)

211.06 Farm to Customer Delivery. A grower meeting the requirements of the exemption adopted in 9 CFR 381.10 and the requirements above, may home deliver poultry products within the State; provided that 1) the poultry products are preordered by the customer from the grower, and 2) the grower transports them to the customer’s home and delivers them to that customer only. To facilitate delivery, a customer who preorders poultry may go to another customer’s home to pick up his/her pre-ordered poultry, provided the homeowner agrees.

(Adopted December 2014; Amended February 16, 2019.)

Source: *Miss. Code Ann.* §75-33-5.