

ARTICLE 1 FOOD ESTABLISHMENTS

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R9-8-101. Purpose and Definitions

- A.** The Department incorporates by reference the United States Food and Drug Administration publication, Food Code: 2017 Recommendations of the United States Public Health Service, Food and Drug Administration and shall comply with the 2017 Food Code (FC) as specified in this Article. This incorporation by reference contains no future editions or amendments. The incorporated material is on file with the Department and is available for order at: <https://www.fda.gov/Food/ResourcesForYou/Consumers/ucm239035.htm>, refer to publication number IFS17.
- B.** The Department incorporates FC Chapter 1 in whole, unless otherwise specified:
1. Part 1-1 Title, Intent, Scope; and
 2. Part 1-2 Definitions in part.
- C.** In FC Part 1-2, Section 1-201.10(B), the Department:
1. Uses the word “License” in place of the word “Permit.”
 2. Uses the word “License holder” in place of the word “Permit holder.”
 3. Modifies the following:
 - a. “Additive” means:
 - i. “Food additive” means the same as in A.R.S. § 36-901(7); and
 - ii. “Color additive” means the same as in A.R.S. § 36-901(2).
 - b. “Adulterated” means possessing one or more of the conditions enumerated in A.R.S. § 36-904(A).
 - c. “Approved” means acceptable to the REGULATORY AUTHORITY or to the FOOD regulatory agency that has jurisdiction based on a determination of conformity with principles, practices, and generally recognized standards that protect public health.
 - d. “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 ESTABLISHMENT and does not offer the FOOD for resale.
 - e. “Food Establishment” does not include:
 - (i) An establishment that offers only prePACKAGED FOOD that are not TIME/TEMPERATURE CONTROL FOR SAFETY FOOD;
 - (ii) A produce stand that only offers whole, uncut fresh fruits and vegetables;
 - (iii) A kitchen in a private home if only FOOD that is not TIME/TEMPERATURE CONTROL FOR SAFETY FOOD, is prepared for sale or service at a function such as a religious or charitable

(organization's bake sale if allowed by 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 REGULATORY AUTHORITY;

- (iv) An area where FOOD that is prepared as specified in Subparagraph (iii) of this definition is sold or offered for human consumption;
- (v) 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 6, breakfast is the only meal offered, the number of guests served does not exceed 18, and the CONSUMER is informed by statements contained in published advertisements, mailed brochures, and placards posted at the registration area that the FOOD is prepared in a kitchen that is not regulated and inspected by the REGULATORY AUTHORITY; or

(vi) A private home that receives catered or home-delivered FOOD.

- g. "Packaged" means bottled, canned, cartoned, securely bagged, or securely wrapped compliant with LAW.
- h. "Person in charge" means the individual present at a FOOD ESTABLISHMENT who is responsible for the management of the operation of the FOOD ESTABLISHMENT at the time of inspection.
- i. "Regulatory authority" means the Department or a public health services district, local health department, department of environmental services, or department of environmental quality carrying out delegated functions, powers, and duties on behalf of the Department.

D. In addition to the requirements in FC Part 1-2, Section 1-201.10(B), the Department requires definitions for:

1. "Administrative completeness review time-frame" means the same as in A.R.S. § 41-1072.
2. "Agency" means any board, commission, department, office, or other administrative unit of the federal government, the state, or a political subdivision of the state.
3. "Applicant" means an individual requesting a FOOD ESTABLISHMENT license.
4. "Calendar day" means each day, not including the day of the act, event, or default from which a designated period of time begins to run, but including the last day of the period

unless it is a Saturday, Sunday, or legal holiday, in which case the period runs until the end of the next day that is not a Saturday, Sunday, or legal holiday.

5. “Department” means the Arizona Department of Health Services.
6. “Developmental disability” means the same as in A.R.S. § 36-551.
7. “FC” means the United States Food and Drug Administration publication, Food Code: 2017 Recommendations of the United States Public Health Service, Food and Drug Administration incorporated by reference in subsection (A).
8. “Inspection report” means a document used to record the compliance status of a FOOD ESTABLISHMENT and conveys compliance information to the license holder or PERSON IN CHARGE at the conclusion of an inspection.
9. “License” means the same as “permit” as in the FC.
10. “License holder” means the same as “permit holder” as in the FC.
11. “Overall time-frame” means the same as in A.R.S. § 41-1072.
12. “Public health nuisance” means an act, condition, or thing, specified in A.R.S. § 36-601, or any practice contrary to the health laws of this state that is harmful to the health of the public.
13. “Substantive review time-frame” means the same as in A.R.S. § 41-1072.

R9-8-102. Management and Personnel

A. The Department incorporates FC Chapter 2 in whole unless otherwise specified:

1. Part 2-1 Supervision;
2. Part 2-2 Employee Health in part;
3. Part 2-3 Personal Cleanliness;
4. Part 2-4 Hygienic Practices; and
5. Part 2-5 Responding to Contamination Events.

B. In addition to the requirements in FC Part 2-2, the Department in:

1. Section 2-201.12(B)(3), adds hepatitis A virus requirements specified in A.A.C. R9-6-343(B)(1) through (3).
2. Section 2-201.13(C)(2),
 - a. Deletes “The FOOD EMPLOYEE provides to the PERSON IN CHARGE written medical documentation from a HEALTH PRACTITIONER that states the FOOD EMPLOYEE is free from Typhoid fever.^P” and
 - b. Adds Typhoid fever requirements in A.A.C. R9-6-388(A)(4)(a) and (b).

R9-8-103. Food

A. The Department incorporates FC Chapter 3 in whole, unless otherwise specified:

1. Part 3-1 Characteristics;
2. Part 3-2 Sources, Specifications, and Original Containers and Records;
3. Part 3-3 Protection From Contamination After Receiving in part;
4. Part 3-4 Destruction of Organisms of Public Health Concern;
5. Part 3-5 Limitation of Growth of Organisms of Public Health Concern;
6. Part 3-6 Food Identity, Presentation, and On-Premises Labeling;
7. Part 3-7 Contaminated Food; and
8. Part 3-8 Special Requirements for Highly Susceptible Populations.

B. In FC Part 3-3, the Department:

1. In paragraph 3-301.11(B), requires employees to use “non-latex SINGLE-USE gloves.”
2. In paragraph 3-304.15(E), requires “Latex gloves may not be used in direct contact with FOOD.”

R9-8-104. Equipment, Utensils, and Linens

The Department incorporates FC Chapter 4 in whole:

1. Part 4-1 Materials for Construction and Repair;
2. Part 4-2 Design and Construction;
3. Part 4-3 Numbers and Capacities;
4. Part 4-4 Location and Installation;
5. Part 4-5 Maintenance and Operation;
6. Part 4-6 Cleaning of Equipment;
7. Part 4-7 Sanitization of Equipment and Utensils;
8. Part 4-8 Laundering; and
9. Part 4-9 Protection of Clean Items.

R9-8-105. Water, Plumbing, and Waste

A. The Department incorporates FC Chapter 5 in whole, unless otherwise specified:

1. Part 5-1 Water in part;
2. Part 5-2 Plumbing System;
3. Part 5-3 Mobile Water Tank and Mobile Food Establishment Water Tank;
4. Part 5-4 Sewage, Other Liquid Waste, and Rainwater; and
5. Part 5-5 Refuse, Recyclables, and Returnable.

B. In FC Part 5-1, the Department in Section 5-101.13 requires “BOTTLED DRINKING WATER used or sold in a FOOD ESTABLISHMENT shall be obtained from APPROVED sources in accordance with LAW.”

R9-8-106. Physical Facilities

- A. The Department incorporates FC Chapter 6 in whole:
 - 1. Part 6-1 Materials for Construction and Repair;
 - 2. Part 6-2 Design, Construction, and Installation;
 - 3. Part 6-3 Numbers and Capacities;
 - 4. Part 6-4 Location and Placement; and
 - 5. Part 6-5 Maintenance and Operation.
- B. In addition to the requirements in FC Part 6-5, the Department requires:
 - 1. A license holder for a VENDING MACHINE to affix to a VENDING MACHINE a permanent sign that includes:
 - a. A unique identifier for the VENDING MACHINE, and
 - b. A telephone number for CONSUMERS to contact the license holder.
 - 2. A license holder operating a water vending machine shall comply with A.A.C. R18-4-216 and other applicable LAW.

R9-8-107. Poisonous or Toxic Materials

The Department incorporates FC Chapter 7 in whole:

- 1. Part 7-1 Labeling and Identification;
- 2. Part 7-2 Operational Supplies and Applications; and
- 3. Part 7-3 Stock and Retail Sale.

R9-8-108. Compliance and Enforcement

- A. The Department incorporates FC Chapter 8 in whole, unless otherwise specified:
 - 1. Part 8-1 Code Applicability;
 - 2. Part 8-2 Plans Submission and Approval;
 - 3. Part 8-3 Permit to Operate in part;
 - 4. Part 8-4 Inspection and Correction of Violations in part; and
 - 5. Part 8-5 Prevention of Foodborne Disease Transmission by Employees.
- B. In FC Part 8-3, the Department does not accept requirement in Section 8-303.30, Denial of Application for Permit, Notice.
- C. In addition to the requirements in FC Part 8-3, Section 8-302.14, the Department requires an applicant for a FOOD ESTABLISHMENT application include:
 - 1. The name, title, address, and telephone number of the owner’s statutory agent or the individual designated by the owner to accept service of process and subpoenas;
 - 2. Whether the applicant agrees to allow the REGULATORY AUTHORITY to submit a supplemental request for additional information or documentation in Subsection (E);

3. An attestation that the applicant authorizes the REGULATORY AUTHORITY to verify all information provided in the application packet; and
 4. An applicant who operates FOOD ESTABLISHMENTS at multiple locations shall submit an application for each location.
- D.** In addition to the requirements in FC Part 8-3, Section 8-303.20, the Department requires a licensee for a FOOD ESTABLISHMENT license renewal include:
1. Except for a FOOD ESTABLISHMENT operated by a state prison or behavioral health facility licensed by the Department, a FOOD ESTABLISHMENT'S license number and expiration date;
 2. Whether the applicant agrees to allow the REGULATORY AUTHORITY to submit supplemental request for additional information or documentation in Subsection (E); and
 3. An attestation that the applicant authorizes the REGULATORY AUTHORITY to verify all information provided in the application packet.
- E.** In addition to FC Part 8-3, the Department adds application and license renewal time-frame requirements:
1. The overall time-frame begins, for:
 - a. An application packet, on the date a REGULATORY AUTHORITY receives the applicant's application packet.
 - b. A license renewal packet, on the date a REGULATORY AUTHORITY receives the applicant's license renewal packet.
 2. An applicant and a REGULATORY AUTHORITY may agree in writing to extend the substantive review time-frame and the overall time-frame. The substantive review time-frame and the overall time-frame may not be extended by more than 25% of the overall time-frame.
 3. Within the administrative completeness review time-frame specified in Table 1.1, a REGULATORY AUTHORITY shall:
 - a. Provide a notice of administrative completeness to an applicant; or
 - b. Provide a notice of deficiencies to an applicant, including a list of the missing information or documents.
 4. If the REGULATORY AUTHORITY provides a notice of deficiencies to an applicant:
 - a. The administrative completeness review time-frame and the overall time-frame are suspended from the date of the notice of deficiencies until the date the REGULATORY AUTHORITY receives the missing information or documents from the applicant;

- b. If the applicant submits the missing information or documents to the REGULATORY AUTHORITY within the time-frame in Table 1.1, the substantive review time-frame resumes on the date the REGULATORY AUTHORITY receives the missing information or documents; and
 - c. If the applicant does not submit the missing information or documents to the regulatory authority within the time-frame in Table 1.1, the regulatory authority shall consider the application withdrawn.
- 5. If a REGULATORY AUTHORITY issues a license or notice of approval during the administrative completeness review time-frame, the REGULATORY AUTHORITY may choose not to issue a separate written notice of administrative completeness.
- 6. Within the substantive review time-frame specified in Table 1.1, a REGULATORY AUTHORITY:
 - a. Shall approve or deny:
 - i. An application, or
 - ii. A license renewal;
 - b. May make one written comprehensive request for additional information or documentation; and
 - c. May make supplemental requests for additional information and documentation if agreed to by the applicant or license holder.
- 7. If a REGULATORY AUTHORITY provides a written comprehensive request for additional information or documentation or a supplemental request to an applicant or license holder:
 - a. The substantive review time-frame and overall time-frame are suspended from the date of the written comprehensive request or supplemental request until the date the REGULATORY AUTHORITY receives the information and documents requested; and
 - b. An applicant or license holder shall submit the information and documents listed in the written comprehensive request in a format provided by the REGULATORY AUTHORITY within 15 calendar days after the date of the written comprehensive request or supplemental request.
- 8. The REGULATORY AUTHORITY shall issue to an applicant or license holder, as applicable:
 - a. An approval for:
 - i. An application, or

- ii. A license renewal; or
 - b. A denial, including the reason for the denial and the appeal process in A.R.S. Title 41, Chapter 6, Article 10, if an applicant or license holder:
 - i. Does not submit all of the information and documentation listed in a written comprehensive request or supplemental request for additional information or documentation; or
 - ii. Does not comply with A.R.S. § 36-136 and this Article.
- F. In FC Part 8-4, the Department:
 - 1. In Section 8-402.11 requires “The REGULATORY AUTHORITY to comply with A.R.S. § 41-1009 when performing inspections.”
 - 2. Does not accept requirements in:
 - a. Section 8-402.20, Refusal, Notification of Right to Access, and Final Request for Access;
 - b. Section 8-402.30, Refusal, Reporting;
 - c. Section 8-402.40, Inspection Order to Gain Access; and
 - d. Section 8-403.10, Documenting Information and Observation.
 - 3. In Section 8-403.50 requires “A REGULATORY AUTHORITY treat the inspection report as a public document and shall make it available for disclosure to a PERSON who requests it as provided in LAW.”
 - 4. In Section 8-404.12 requires “A REGULATORY AUTHORITY approve or deny resumption of operations within five days after receipt of the license holder’s request to resume operations.”

Table 1.1 Time-frames (in calendar days)

Type of Approval	Statutory Authority	Overall Time-frame	Administrative Completeness Review	Respond to Deficiency Notice	Substantive Review
Application	A.R.S. § 36-136(I)(4)	90	45	180	45
License Renewal	A.R.S. § 36-136(I)(4)	90	45	180	45

R9-8-109. Repealed

R9-8-110. Mobile Food Units

A. In addition to the definitions in A.R.S. § 36-1761 and in this Article, the following definitions apply to this Section, unless otherwise specified:

1. “Commissary” means a facility that:
 - a. Is APPROVED by a REGULATORY AUTHORITY as safe and sanitary for FOOD preparation consistent with the FC and other state statutes and laws; and
 - b. Provides support and servicing activities to a mobile food unit that may include:
 - i. A cooking facility or commercial kitchen used to prepare FOOD for sale and consumption;
 - ii. A space for storing FOOD, including refrigeration, and supplies;
 - iii. A source for potable water and disposing of wastewater;
 - iv. A source for refuse disposal; and
 - v. An area for cleaning equipment or a mobile food unit.
2. “Commercially processed” means FOOD prepared or packaged by a FOOD manufacturer or licensed-permanent FOOD ESTABLISHMENT compliant with LAW.
3. “County” means a public health services district, local health department, department of environmental services, or department of environmental quality authorized to issue a mobile food unit state-license.
4. “Individually packaged” means pre-packaged FOOD that are ready for consumption and are not re-packaged prior to sale to consumers.
5. “Food manufacturer” means a business engaged in making FOOD from one or more ingredients, or synthesizing, preparing, treating, modifying or manipulating FOOD, including FOOD crops or ingredients.
6. “Other servicing area” means a facility that may provide one or more services, such as:
 - a. Disposing of refuse,
 - b. Disposing of wastewater,
 - c. Recharging potable water tank,
 - d. Disposing of excreta, or
 - e. Cleaning mobile food unit.
7. “Permit” means a document issued by a county authorizing a state-licensed mobile food unit, whose state-license was issued by a different county, to operate in the county issuing the permit according to A.R.S. § 36-1761(A)(3).
8. “Pre-packaged foods” means edible products sealed in a box, bag, can, or other container and sold to retailers or consumers in the same packaged box, bag, can, or other container.

9. “State-license” means a document:
 - a. Issued by the county where a mobile food unit’s commissary is located according to A.R.S. 36-1761(A)(3)(c); and
 - b. Authorizes the mobile food unit to dispense FOOD for immediate service and human consumption.
 10. “Statewide inspection” means a visual examination of a mobile food unit to ensure that the mobile food unit meets the standards specified A.R.S. § 36-1761 and in this Article.
- B.** A mobile food vendor shall not operate a mobile food unit:
1. Without a state-license authorizing the mobile food unit to dispense FOOD for immediate service and human consumption;
 2. Without a service agreement with an APPROVED commissary according to A.R.S. § 36-1761(A);
 3. In another county, other than the county that issued the mobile food unit’s state-license, without a permit authorizing the mobile food unit to dispense FOOD for immediate service and human consumption; and
 4. If the mobile food unit maintains or engages in a public health nuisance specified A.R.S. § 36-601.
- C.** A mobile food vendor shall for each mobile food unit:
1. Obtain a state-license that includes a statewide inspection specified in subsection (H).
 2. Obtain a renewal state-license annually that includes a statewide inspection specified in subsection (H).
 3. Except for the county in which a mobile food unit has a state-license, obtain a permit annually for each county where the mobile food unit operates.
 4. Ensure all employees have a valid food handler card or a certificate from an accredited food handler training-provider as specified in the FC.
 5. Comply with random statewide inspections at no additional cost except as provided in A.R.S. § 11-269.24.
- D.** A mobile food unit:
1. Shall display in a conspicuous location for public viewing the mobile food unit’s:
 - a. State-license, and
 - b. County permits, if applicable.
 2. Shall clearly indicate on the sides or back of the exterior of the vehicle in permanent letters the name of the licensed FOOD ESTABLISHMENT.

3. Shall report to a commissary or other serving area, as applicable, at least every 96 hours following A.R.S. § 11-269.24 or as determined by the county in which the mobile food unit's commissary is located for receiving necessary services during operations to ensure public health and safety.
 4. May sell a cottage FOOD prepared for commercial purposes specified in R9-8-118(B)(13).
 5. Is not required to operate a specific distance from the perimeter of an existing commercial establishment or restaurant.
 6. Shall operate during hours determined by the mobile food vendor.
 7. Shall ensure toilet facilities are accessible to employees at a location where the mobile food unit is proposed to stay during all hours of operation.
- E.** A mobile food unit's state-license shall indicate the mobile food unit classification based on the type of FOOD dispensed and the amount of handling and preparation required:
1. Type I mobile food unit is a FOOD ESTABLISHMENT that dispenses FOOD that are commercially processed, individually PACKAGED and frozen that requires time/temperature control for safety.
 2. Type II mobile food unit is a FOOD ESTABLISHMENT that dispenses FOOD that requires limited handling and preparation and:
 - a. Includes assemble-serve, heat-serve, and hold-serve of commercially processed FOOD;
 - b. Except for bacon-wrapped hotdogs pre-wrapped at a mobile food unit's commissary, shall not cook raw animal FOOD for service from the mobile food unit;
 - c. Shall only use produce that is commercially pre-washed or washed in advance at a commissary; and
 - d. All cooking, processing, preparing, grilling, assembling, storage, and service of any FOOD shall be conducted from the mobile food unit and commissary.
 3. Type III mobile food unit is a FOOD ESTABLISHMENT that prepares, cooks, holds, and serves FOOD and:
 - a. Includes assemble-serve, heat-serve, cook-serve, and hold-serve of commercially processed FOOD;
 - b. May prepare raw animal FOOD for service from the mobile food unit; and
 - c. All cooking, processing, preparing, grilling, assembling, storage, and service of any FOOD shall be conducted inside the mobile food unit and commissary.

- F.** A mobile food vendor for each mobile food unit shall have a written agreement with a commissary or other servicing area, as applicable, located in the county that issues a mobile food unit's state-license:
1. Is APPROVED by a REGULATORY AUTHORITY as safe and sanitary for FOOD preparation consistent with the FC and other state statutes and laws;
 2. Has a signed agreement with a commissary that includes:
 - a. The commissary's name, address, and telephone number;
 - b. The commissary's permit number issued by a REGULATORY AUTHORITY;
 - c. The mobile food vendor's name, address, and telephone number;
 - d. The manager's name, address, and telephone number, if applicable;
 - e. A list of services to be provided to the mobile food vendor; and
 - f. The expiration date of the agreement, if applicable; or
 3. Has a signed agreement with an other servicing area that includes:
 - a. The other servicing area's name, address, and telephone number;
 - b. The other servicing area's permit number, if applicable, issued by a REGULATORY AUTHORITY or other jurisdiction having authority to regulate the other servicing area;
 - c. The mobile food vendor's name, address, and telephone number;
 - d. The manager's name, address, and telephone number, if applicable;
 - e. A list of services to be provided to the mobile food vendor; and
 - f. The expiration date of the agreement, if applicable.
- G.** A mobile food vendor for each mobile food unit shall maintain a service log in a Department-provided format that:
1. Documents the type of services, specified in Subsection (E), and dates received;
 2. Is maintained in the mobile food unit for at least a period of 30 days; and
 3. Is made available to a REGULATORY AUTHORITY upon request.
- H.** In addition to complying with the FC incorporated by reference in this Article, a mobile food unit is required to maintain general physical and operation requirements for:
1. Installation of compressors, generators, and similar mechanical units that are not an integral part of the FOOD preparation or storage equipment;
 2. Waste disposal requirements during and after operation on public or private property, which may not include the size or dimensions of any required solid waste receptacle; and
 3. A mobile food unit and equipment used in the mobile food unit shall:
 - a. Be free of dirt, debris, insects, and vermins;

- b. Be maintained in a clean and sanitary condition;
- c. Be in good repair and maintained according to manufacturer's requirement, as applicable;
- d. Be properly ventilated; and
- e. Not maintain or engage a public health nuisance.

I. A mobile food unit statewide inspection shall ensure:

1. A Type I mobile food unit:

- a. Has equipment, including compressors, generators, and similar mechanical units approved by the National Sanitation Foundation or American National Standards Institute;
- b. If selling or dispensing open FOOD, has a handwashing station that:
 - i. Is at least a 5 gallon insulated container for potable water that ensures proper handwashing consistent with FC;
 - ii. Has a catch-bucket to retain waste water generated from handwashing handwashing that is 15% greater than the potable water tank; and
 - iii. Has adequate soap and paper towels for time in service; and
- c. Does not cook, prepare, or assemble FOOD.

2. A Type II mobile food unit:

- a. Has equipment, including compressors, generators, and similar mechanical units are approved by the National Sanitation Foundation or American National Standards Institute;
- b. Has a potable water tank that is at least five gallons;
- c. Has a waste water tank that is 15% greater than the potable water tank and any other applicable hot water storage or water storage capacity;
- d. Has a handwash sink;
- e. Has a combination mixing faucet of hot and cold water at all sinks;
- f. Has plumbing connections;
- g. Has a waste water tank to drain at lowest point of tank;
- h. Has a water tank with a fill connection located at the top;
- i. Has a National Sanitation Foundation or American National Standards Institute approved FOOD grade water hose;
- j. Has a water heater or other APPROVED hot water source; and
- k. Has a quick-disconnect design for sewer and potable water.

3. In addition to Subsection (2)(a) through (k), a Type III mobile food unit:

- a. Has a three-compartment sink that includes:
 - i. A potable water system under pressure, supplying hot and cold water with a minimum capacity of 30 gallons permanently installed for warewashing, sanitization, and handwashing;
 - ii. A waste water capacity that is 15% greater than the potable water tank and
 - iii. A minimum flow rate of one-half gallon per minute; and
- b. May include a FOOD preparation sink for the purpose of washing product if an additional 20 gallons of potable water is available for use.

J. Except for the Department, regulatory authorities through delegation in the county where a mobile food vendor's commissary is located shall issue state licensure and statewide inspection standards adopted pursuant to this section.

R9-8-111. Compliance and Enforcement, Annex 1

A. The Department incorporates FC Annex 1 in whole, unless otherwise specified:

- 1. Section 1, Purpose;
- 2. Section 2, Explanation;
- 3. Section 3, Principle;
- 4. Section 4, Recommendation; and
- 5. Section 5, Parts in part.

B. In Annex 1, Section 5, the Department does not accept Part 8-911.10(B).

C. In addition to Annex 1, Section 5, the Department adds licensure suspension or revocation requirements that:

- 1. A REGULATORY AUTHORITY may suspend or revoke a FOOD ESTABLISHMENT license if the license holder:
 - a. Maintains or engages in a public health nuisance;
 - b. Falsifies records to interfere with or obstruct an investigation or regulatory process of the REGULATORY AUTHORITY; or
 - c. Provides false or misleading information to a regulatory authority.
- 2. A license revocation or suspension hearing shall be conducted as follows:
 - a. If a REGULATORY AUTHORITY is the Department, a hearing shall be conducted in accordance with A.R.S. Title 41, Chapter 6, Article 10;
 - b. If a REGULATORY AUTHORITY is a public health district, local health department, department of environmental services, or department of

environmental quality, the hearing shall be conducted in accordance with A.R.S. Title 41, Chapter 6, Article 6 or Article 10.

- D.** In addition to Annex 1, Section 5, the Department adds cease and desist requirements that:
1. If a REGULATORY AUTHORITY determines a FOOD ESTABLISHMENT is creating, maintaining, or engaging a public health nuisance the REGULATORY AUTHORITY shall serve the FOOD ESTABLISHMENT'S license holder a written cease and desist order pursuant to A.R.S. Title 36, Chapter 6, Article 1.
 2. If a written notice of appeal is not provided as specified in A.R.S. § 36-601(B), the cease and desist order shall become final.

R9-8-112. References, Annex 2

The Department incorporates FC Annex 2 in whole:

1. Section 1, United States Code and Code of Federal Regulations;
2. Section 2, Bibliography;
3. Section 3, Principle; and
4. Section 4, Food Defense Guidance from Farm to Table.

R9-8-113. Public Health Reasons and Administrative Guidelines, Annex 3

The Department incorporates FC Annex 3 in whole:

1. Section 1, Purpose and Definitions;
2. Section 2, Management and Personnel;
3. Section 3, Food;
4. Section 4, Equipment, Utensils, and Linens;
5. Section 5, Water, Plumbing, and Waste;
6. Section 6, Physical Facilities;
7. Section 7, Poisonous or Toxic Materials; and
8. Section 8, Compliance and Enforcement.

R9-8-114. Management of Food Safety Practices, Annex 4

The Department incorporates FC Annex 4 in whole:

1. Section 1, Active Managerial Control;
2. Section 2, Introduction to HACCP;
3. Section 3, The HACCP Principles;
4. Section 4, The Process Approach - A Practical Application of HACCP;
5. Section 5, FDA Retail HACCP Manuals;
6. Section 6, Advantages of Using the Principles of HACCP;
7. Section 7, Summary;

8. Section 8, Acknowledgements; and
9. Section 9, Resources and References.

R9-8-115. Conducting Risk-based Inspections, Annex 5

The Department incorporates FC Annex 5 in whole:

1. Section 1, Purpose and Scope;
2. Section 2, Risk-Based Routine Inspections;
3. Section 3, What is Needed to Properly Conduct a Risk-Based Inspection;
4. Section 4, Risk-Based Inspection Methodology;
5. Section 5, Achieving On-Site and Long-Term Compliance;
6. Section 6, Inspection Form and Scoring;
7. Section 7, Closing Conference; and
8. Section 8, Summary.

R9-8-116. Food Processing Criteria, Annex 6

The Department incorporates FC Annex 6 in whole:

1. Section 1, Introduction;
2. Section 2, Reduced Oxygen Packaging; and
3. Section 3, Smoking and Curing.

R9-8-117. Model Forms, Guides, and Other Aids, Annex 7

The Department incorporates FC Annex in whole:

1. Section 1, Employee Health Information;
2. Section 2, Adoption Information; and
3. Section 3, Summary Information.

R9-8-118. Exempt from Requirements and Inspections

- A.** Except as provided in subsection (B), this Article applies to any FOOD ESTABLISHMENT.
- B.** This Article does not apply to the following, which are not subject to routine inspection or other regulatory activities by a REGULATORY AUTHORITY:
 1. The beneficial use of wildlife meat authorized in A.R.S. § 17-240 and 12 A.A.C. 4, Article 1;
 2. Group homes, as defined in A.R.S. § 36-551;
 3. Child care group homes, as defined in A.R.S. § 36-897 and licensed under 9 A.A.C. 3;
 4. Residential group care facilities, as defined in A.A.C. R6-5-7401 that have 20 or fewer clients;
 5. Assisted living homes, as defined in A.R.S. § 36-401(A) and licensed under 9 A.A.C. 10, Article 8;

6. Adult day health care facilities, as defined in A.R.S. § 36-401(A) and licensed under 9 A.A.C. 10, Article 11, that are authorized by the Department to provide services to 15 or fewer participants;
7. Behavioral health residential facilities, as defined in A.A.C. R9-10-101 and licensed under 9 A.A.C. 10, Article 7, that are authorized by the Department to provide services to 10 or fewer residents;
8. Hospice inpatient facilities, as defined in A.A.C. R9-10-101 and licensed under 9 A.A.C. 10, Article 6, that are authorized by the Department to provide services for 20 or fewer patients;
9. Substance abuse transitional facilities, as defined in A.A.C. R9-10-101 and licensed under 9 A.A.C. 10, Article 14, that are authorized by the Department to provide services to 10 or fewer participants;
10. Behavioral health respite homes, as defined in A.A.C. R9-10-101 and licensed under 9 A.A.C. 10, Article 16;
11. Adult behavioral health therapeutic homes, as defined in A.A.C. R9-10-101 and licensed under 9 A.A.C. 10, Article 18;
12. FOOD that is:
 - a. Served at a noncommercial social event, such as a potluck;
 - b. Prepared at a cooking school if:
 - i. The cooking school is conducted in the kitchen of an owner-occupied home,
 - ii. Only one meal per day is prepared and served by students of the cooking school,
 - iii. The meal prepared at the cooking school is served to not more than 15 students of the cooking school, and
 - iv. The students of the cooking school are provided with written notice that the FOOD is prepared in a kitchen that is not regulated or inspected by a REGULATORY AUTHORITY;
 - c. Not potentially hazardous and prepared in a kitchen of a private home for occasional sale or distribution for noncommercial purposes;
 - d. Prepared or served at an employee-conducted function that lasts less than four hours and is not regularly scheduled, such as an employee recognition, an employee fund-raising, or an employee social event;
 - e. A demonstration of FOOD preparation or cooking class offered by:

- i. A culinary school or educational institution and all FOOD prepared is consumed by attending students;
 - ii. A school or business and samples are not offered for human consumption; and
 - iii. A business where an individual provides, prepares, cooks, and consumes their own FOOD.
 - f. Offered at a child care facility and limited to commercially pre-packaged FOOD that is not potentially hazardous and whole fruits and vegetables that are washed and cut onsite for immediate consumption; or
 - g. Offered at locations that sell only commercially pre-packaged FOOD that is not potentially hazardous;
- 13. A cottage FOOD product, as defined in A.R.S. § 36-136(Q), prepared for commercial purposes that:
 - a. Is not potentially hazardous as defined in A.R.S. § 36-136(I)(4)(g); or
 - b. Is not a FOOD that requires time and temperature control for safety to limit pathogenic microorganism growth or toxin formation; and
 - c. Is prepared in the kitchen of a home by a food preparer or under the supervision of an individual who:
 - i. Has a certificate of completion from completing a food handler training course from an accredited program;
 - ii. Maintains an active certification of completion; and
 - iii. If a food preparer, is registered with the Department, as required in A.R.S. § 36-136(I)(4)(g) and specified in subsection (D); and
 - d. Is PACKAGED at the home with an attached label that includes:
 - i. The name, and registration number of the food preparer registered with the Department as specified in subsection (D);
 - ii. A list of the ingredients in the cottage FOOD;
 - iii. The date the cottage FOOD was prepared; and
 - iv. The statement: This product was produced in a home kitchen that may process common FOOD allergens and is not subject to public health inspection; and
 - v. If applicable, a statement that the cottage FOOD was prepared in the home kitchen of a facility for individuals with developmental disabilities.
- 14. Fruits and vegetables grown in a garden at a public school, as defined in A.R.S. § 15-101,

that are washed and cut on-site for immediate consumption.

- C. A food preparer who meets the requirements in subsection (B)(13) is authorized to prepare cottage FOOD for commercial purpose.
- D. To be exempt from the requirements in this Article, a food preparer identified in subsection (C) shall:
 - 1. Complete a food handler training course from an accredited program;
 - 2. Register with the Department by submitting:
 - a. An application in a Department-provided format that includes:
 - i. The food preparer's name, address, telephone number, and e-mail address;
 - ii. If the food preparer is supervised, the supervisor's name, address, telephone number, and e-mail address;
 - iii. The address, including the county, of the home where the cottage FOOD is prepared;
 - iv. Whether the home where the cottage FOOD is prepared is a facility for developmentally disabled individuals; and
 - v. A description of each cottage FOOD prepared for commercial purposes;
 - b. A copy of the food preparer's certificate of completion for the completed food handler training course;
 - c. If the food preparer is supervised, the supervisor's certificate of completion for the completed food handler training course; and
 - d. An attestation in a Department-provided format that the food preparer:
 - i. Has reviewed Department-provided information on FOOD safety and safe FOOD handling practices;
 - ii. Based on the Department-provided information, believes that the cottage FOOD prepared for commercial purposes is not potentially hazardous or is not a FOOD that requires time or temperature control for safety to limit pathogenic microorganism growth or toxin formation; and
 - iii. Includes the food preparer's printed name and date.
 - 3. Maintain an active certification of completion for the completed food handler training course;
 - 4. Renew the registration in subsection (D)(2) every three years;
 - 5. Submit any change to the information or documents provided according to subsection (D)(2)(a) through (c) to the Department within 30 calendar days after the change; and

6. Display the food preparer's certificate of registration when operating as a temporary FOOD ESTABLISHMENT and selling cottage FOOD.
- E. Food establishments shall have until January 31, 2022 to comply with the certified food protection manager requirement specified in this Article.

R9-8-119. Manufactured Food Plants

- A. The following definitions apply to this Section, unless otherwise specified:
1. "Consumer" means a person who:
 - a. Is a member of the public,
 - b. Takes possession of FOOD,
 - c. Is not functioning in the capacity of an operator of a manufacture food plant, and
 - d. Does not offer the FOOD for resale.
 2. "FOOD PROCESSING PLANT" means a commercial operation that:
 - a. Manufactures, packages, labels, or stores FOOD for human consumption;
 - b. Provides FOOD for sale or distribution to other business entities such as FOOD ESTABLISHMENTS and retailers; and
 - c. Does not provide FOOD directly to a consumer.
- B. In FC Part 3-2, Subpart 3-202, the Department:
1. In paragraph 3-203.11(A) requires "Except as specified in ¶¶ (B), (C), and (D) of this Section, MOLLUSCAN SHELLFISH may not be removed from the container in which they are received other than immediately before sale, preparation for service, or preparation in a FOOD PROCESSING PLANT licensed by the REGULATORY AUTHORITY.
 2. In paragraph 3-203.12(C) requires "The identity of the source of SHELLSTOCK that are prepared by a FOOD PROCESSING PLANT licensed by the REGULATORY AUTHORITY, sold, or served shall be maintained by retaining SHELLSTOCK tags or labels for 90 calendar days from the date the container is emptied by:
 - a. Using an APPROVED record keeping system that keeps the tags or labels in chronological order correlated to the date when, or dates during which, the SHELLSTOCK are prepared by a FOOD PROCESSING PLANT licensed by the REGULATORY AUTHORITY, sold, or served; and
 - b. If SHELLSTOCK are removed from their tagged or labeled container:
 - i. Using only one tagged or labeled container at a time, or

- ii. Using more than one tagged or labeled container at a time and obtaining a VARIANCE from the REGULATORY AUTHORITY as specified in § 8-103.10 based on a HACCP PLAN that:
 - (a) Is submitted by the license holder and APPROVED as specified under § 8-103.11,
 - (b) Preserves source identification by using a record keeping system as specified under Subparagraph (B)(1) of this Section, and
 - (c) Ensures that SHELLSTOCK from one tagged or labeled container are not commingled with SHELLSTOCK from another container before being ordered by the CONSUMER or prepared by a FOOD PROCESSING PLANT licensed by the REGULATORY AUTHORITY.