

Public *Accommodation* Facilities *Regulations*

Effective April 2006

Appendix N: *Food Establishment Health Permit Exemptions*

*Serving Boulder City, Clark County, Henderson,
Las Vegas, Mesquite and North Las Vegas*



Southern Nevada District Board of Health
P.O. Box 3902, Las Vegas, NV 89127 | 702.759.1000

Food Establishment Health Permit Exemptions

Nevada Revised Statutes 446-Selected Excerpts from 2007 revision

PROVISIONS FOR ENFORCEMENT

NRS 446.870 Prohibited acts: Operation of food establishment without valid permit issued by health authority; sale, offer or display for consideration of food prepared in private home without valid permit issued by health authority; exemptions.

1. Except as otherwise provided in this section, it is unlawful for any person to operate a food establishment unless he possesses a valid permit issued to him by the health authority.
2. The health authority may exempt a food establishment from the provisions of this chapter if the health authority determines that the food which is sold, offered or displayed for sale, or served at the establishment does not constitute a potential or actual hazard to the public health.
3. Food that is prepared in a private home and given away free of charge or consideration of any kind is exempt from the provisions of this chapter, unless it is given to a food establishment.
4. Except as otherwise provided in subsection 5, food that is prepared in a private home must not be sold, or offered or displayed for sale or for compensation or contractual consideration of any kind, unless the person preparing the food possesses a valid permit issued to him by the health authority for that purpose.
5. A religious, charitable or other nonprofit organization may, without possessing a permit from the health authority, sell food occasionally to raise money, whether or not the food was prepared in a private home, if the sale occurs on the premises of the organization. If the sale is to occur off the premises of the organization, a permit from the health authority is required unless an exemption is granted pursuant to subsection 2. (Added to NRS by 1963, 753; A 1969, 810; 1987, 382; 2001, 1505)

NRS 446.875 Issuance of permit.

1. Any person desiring to operate a food establishment must make written application for a permit on forms provided by the health authority. The application must include:
 - (a) The applicant's full name and post office address.
 - (b) A statement whether the applicant is a natural person, firm or corporation, and, if a partnership, the names of the partners, together with their addresses.
 - (c) A statement of the location and type of the proposed food establishment.
 - (d) The signature of the applicant or applicants.
2. An application for a permit to operate a temporary food establishment must also include the inclusive dates of the proposed operation.
3. Upon receipt of such an application, the health authority shall make an inspection of the food establishment to determine compliance with the provisions of this chapter. When inspection reveals that the applicable requirements of this chapter have been met, the health authority shall issue a permit to the applicant.
4. A permit to operate a temporary food establishment may be issued for a period not to exceed 14 days.
5. A permit issued pursuant to this section:
 - (a) Is not transferable from person to person or from place to place.

(b) Must be posted in every food establishment. (Added to NRS by 1963, 753; A 1969, 811; 1987, 383)

NRS 446.940 Enforcement.

1. Except as provided in subsection 2, this chapter must be enforced by the health authority in accordance with regulations hereby authorized to be adopted by the State Board of Health to carry out the requirements of this chapter.
2. A local board of health may adopt such regulations as it may deem necessary to carry out the requirements of this chapter. Such regulations:
 - (a) Become effective when approved by the State Board of Health;
 - (b) Must be enforced by the health authority; and
 - (c) Supersede the regulations adopted by the State Board of Health pursuant to subsection 1.
3. All sheriffs, constables, policemen, marshals and other peace officers shall render such services and assistance to the health authority in regard to enforcement as he may request. (Added to NRS by 1963, 758; A 1969, 815; 1981, 606)

Nevada Administrative Code 446-Select Excerpts

NAC 446.042 Exemption from requirements; revocation of exemption. (NRS 439.150, 439.200, 446.870, 446.940)

1. For a food establishment to be exempted pursuant to the provisions of NRS 446.870, it must:
 - (a) Provide restroom facilities for its employees that meet the requirements of NAC 446.445. (***See below for the rest of NAC 446.042***)

(This section moved forward for relevancy to above statement)

NAC 446.445 Toilets. (NRS 439.150, 439.200, 446.940)

1. If a food establishment is the only occupant of a building, the establishment must have toilets which are conveniently located within the building. Except as otherwise provided in subsection 8, if a food establishment occupies part of a building, the establishment must have toilets which are conveniently located within the part which it occupies. The toilets must be accessible to the employees of the establishment at all times.
2. A food establishment that provides public seating or where the consumption of food is authorized must have separate rooms with toilets for males and females. As used in this subsection, "public seating" includes seats, benches, stools and similar furniture provided by the owner or operator of a building, mall or similar operation for use by the food establishment and located within 25 feet of the establishment.
3. Toilets and urinals must be easy to clean. Trough-type urinals are prohibited.
4. Rooms with toilets must be completely enclosed and have solid doors which must fit tightly, close automatically and remain closed except during cleaning or maintenance. Doors from rooms with toilets must not open directly into any area used for the preparation of food or for the washing or cleaning of equipment, utensils or tableware.
5. Fixtures must be kept clean and in good repair. A supply of toilet tissue must be provided at each toilet at all times. Receptacles which are easy to clean must be provided for waste.

6. Rooms with toilets must have at least one covered receptacle for waste that is in close proximity to the toilet.
7. Exhaust fans and restroom facilities for the handicapped must be installed in all new facilities and in existing facilities if the food establishment is extensively remodeled.
8. Food establishments are not required to supply toilets within the facility if:
 - (a) Food is sold only for consumption off the premises of the seller and at least 50 percent of the food sold is prepackaged;
 - (b) No preparation or manufacturing of food occurs on the premises;
 - (c) The food establishment is located in a covered mall, casino, airport or similar location where toilet facilities are located conveniently to the establishment and where indoor access exists;
 - (d) A sink for washing hands is conveniently located as required by NAC 446.450; and
 - (e) The lease agreement of the food establishment provides that the lessor will at all times provide clean and appropriately stocked and maintained toilet facilities for employees of the food establishment. [Bd. of Health, Food Establishments Reg. Art. 9 § 9.1 subsecs. 9.1.1-9.1.5, eff. 9-17-82]—(NAC A 10-14-88; 9-16-92; 5-23-96)>

NAC 446.042.1: continued from above

- (b) Not serve, sell, give away, display or store potentially hazardous food.
 - (c) Store all food to be sold or offered for sale within the establishment.
 - (d) Ensure that the display or storage of food meets the requirements of NAC 446.050 to 446.195, inclusive.
 - (e) Ensure that food is not consumed on the premises.
 - (f) Not offer seating to the public.
 - (g) Ensure that the primary business of the establishment is not related to food and that the portion of the establishment that is related to food does not occupy more than 25 percent of the total area of the establishment.***
- 2. The food sold or offered for sale by a food establishment that has been exempted pursuant to the provisions of NRS 446.870 may include:***
- (a) Commercially canned or bottled beverages;***
 - (b) Coffee or coffee beans;***
 - (c) Prepackaged snacks and candies; and***
 - (d) Prepackaged food supplements such as spices, teas and herbs.***
3. The handling of food, including cooking food, opening containers of bulk food and repackaging or processing food of any kind, is not allowed within such an establishment.
 4. If a food establishment fails to comply with the requirements of this section, the health authority shall revoke the exemption and close the portion of the establishment that sells food. A food establishment that has had its exempt status revoked must obtain a permit pursuant to the provisions of NRS 446.875 before resuming any operation of a food establishment. (Added to NAC by Bd. of Health, eff. 9-16-92)

NAC 446.050 Safety of food for consumption; use of food from private home; labeling of certain food. (NRS 439.150, 439.200, 446.940)

1. All food must be free from spoilage, filth, adulteration, misbranding and contamination and must be safe for human consumption.

2. Food must be protected from contamination and spoilage while it is being handled, packaged, stored, displayed, dispensed and transported.
3. Food must be protected from cross-contamination between foods, equipment, utensils or other surfaces which may come into contact with food and from contamination by insects, insecticides, rodents, rodenticides, probe price markers or probe identification markers.
4. No food prepared or stored in a private home may be used, stored, served, offered for sale, sold, given away or offered to the public in a food establishment.
5. Prepackaged sandwiches made for sale and consumption off the premises must have a label that has been approved by the health authority. The label must include:
 - (a) The name of the food establishment;
 - (b) The mailing address of the food establishment, including:
 - (1) The number of the street or post office box;
 - (2) The city;
 - (3) The state; and
 - (4) The zip code;
 - (c) A list of ingredients in descending order of predominance; and
 - (d) The last date of sale shown clearly as the three letters of the month followed by the date. Frozen sandwiches that have been thawed must also be dated to indicate the last date of sale.
6. Food that is prepared and stored in a food establishment for later use must have a label that includes the contents and the date on which the food was prepared.
7. Packages of food, including packages of food repackaged from bulk that was prepared in this State, that are for sale in a food establishment must have a label which has been approved by the health authority. [Bd. of Health, Food Establishments Reg. Art. 2 § 2.1 subsecs. 2.1.1 & 2.1.2, eff. 9-17-82]—(NAC A 10-14-88; 9-16-92; 5-23-96)

NAC 446.055 Food stored in hermetically sealed containers. (NRS 439.150, 439.200, 446.940)

1. Food may not be used in a food establishment if it was stored in hermetically sealed containers that were not prepared in a food processing establishment approved by the health authority.
2. Hermetically sealed packages from an approved food processing establishment must be handled to maintain the integrity of the product and the containers. [Bd. of Health, Food Establishments Reg. Art. 2 § 2.1 subsec. 2.1.3, eff. 9-17-82]—(NAC A 10-14-88)

NAC 446.060 Bulk food. (NRS 439.150, 439.200, 446.940)

1. Bulk food must be labeled by common name if stored in something other than its original container unless the food can be identified.
2. Bulk food sold at retail must be labeled with:
 - (a) The bulk container labeling of the manufacturer or processor in plain view; or
 - (b) A counter card, sign or other appropriate device,→bearing prominently and conspicuously the common name of the product, a list of ingredients in descending order of predominance and a declaration of any artificial color or flavor or chemical preservative contained in the product.
3. Labels or marking pens must be made available to customers to identify the food they select from a bulk container for purchase.

4. Only containers in the display area that comply with subsections 1 and 8 of NAC 446.215, NAC 446.230 and subsection 1 of NAC 446.235 may be filled with bulk food.[Bd. of Health, Food Establishments Reg. Art. 2 § 2.1 subsec. 2.1.4, eff. 9-17-82]—(NAC A 10-14-88; 5-23-96)

NAC 446.065 Milk and milk products. (NRS 439.150, 439.200, 446.940)

1. Fluid milk and products made from milk used or served in a food establishment must be pasteurized and from a source approved by the health authority.
2. Dry milk and products made with dry milk must be made from pasteurized milk and products made with pasteurized milk. [Bd. of Health, Food Establishments Reg. Art. 2 § 2.1 subsecs. 2.1.5 & 2.1.6, eff. 9-17-82]

NAC 446.070 Frozen desserts. (NRS 439.150, 439.200, 446.940) All frozen desserts and mix must be from a source approved by the health authority. [Bd. of Health, Food Establishments Reg. Art. 2 § 2.1 subsec. 2.1.7, eff. 9-17-82]

NAC 446.075 Shellfish. (NRS 439.150, 439.200, 446.940)

1. Except as otherwise provided in subsection 3, fresh and frozen shellfish, such as oysters, clams or mussels, must be packed in nonreturnable packages which are labeled with the name and address of the original processor or the person who repacked them, and the number for interstate certification. Shell stock and shucked shellfish must be kept in the container in which they were received until they are used.
2. Each container of unshucked shellfish, such as oysters, clams or mussels, must be identified by a tag attached to the container, to be retained for 90 days, that states the name and address of the original processor, the kind and quantity of shellfish in the container, and the number for interstate certification issued by the state or a foreign agency.
3. Fresh shellfish may be displayed in a tank that is designed to support the life of shellfish if:
 - (a) No water that is used for fish other than shellfish is able to flow into the tank for shellfish.
 - (b) The operation of the tank does not adversely affect the safety and quality of the shellfish.
 - (c) The shellfish are identified pursuant to subsection 1. [Bd. of Health, Food Establishments Reg. Art. 2 § 2.1 subsecs. 2.1.8 & 2.1.9, eff. 9-17-82]—(NAC A 10-14-88; 5-23-96)

NAC 446.080 Eggs. (NRS 439.150, 439.200, 446.940)

1. Only clean whole eggs with their shells intact or pasteurized liquid, frozen or dry eggs or products made from dry eggs may be used in a food establishment, except that eggs which have been hard-boiled, peeled and commercially prepared and packaged may be used.
2. A food establishment shall use pasteurized liquid, frozen or dry eggs or products made from pasteurized eggs instead of whole, fresh eggs in the preparation of dishes and condiments that are not cooked, such as a Caesar salad, hollandaise or bernaise sauce, noncommercial mayonnaise, eggnog, ice cream or any beverage that is fortified with eggs. [Bd. of Health, Food Establishments Reg. Art. 2 § 2.1 subsec. 2.1.10, eff. 9-17-82]—(NAC A 5-23-96)

NAC 446.085 Meat, game animals, fish and poultry. (NRS 439.150, 439.200, 446.940)

All meat, products made from meat, game animals, products made from game animals, fish, products made from fish, poultry and products made from poultry must be from a source approved by the health authority. [Bd. of Health, Food Establishments Reg. Art. 2 § 2.1 subsec. 2.1.11, eff. 9-17-82]—(NAC A 5-23-96)

NAC 446.090 Baked products. (NRS 439.150, 439.200, 446.940)

1. Baked products must be prepared in an approved food establishment or food processing establishment, and handled and transported in an approved manner.
2. Baked products filled with synthetic ingredients that will not support the rapid and progressive growth of infectious or toxigenic microorganisms must be labeled to state that refrigeration is not required. [Bd. of Health, Food Establishments Reg. Art. 2 § 2.1 subsec. 2.1.12, eff. 9-17-82]

NAC 446.095 Storage of potentially hazardous food. (NRS 439.150, 439.200, 446.940)

Except as otherwise provided in this chapter, potentially hazardous food must be stored at a temperature of 40°F (4.44°C) or below or 140°F (60°C) or above. [Bd. of Health, Food Establishments Reg. Art. 3 § 3.1 subsec. 3.1.1, eff. 9-17-82]—(NAC A 9-16-92; 5-23-96)

NAC 446.100 Emergencies. (NRS 439.150, 439.200, 446.940) If the occurrence of an emergency such as a fire, flood, loss of power or similar event might result in the contamination of food or prevent potentially hazardous food from being stored at required temperatures, the person in charge at the food establishment shall immediately contact the health authority. Upon receiving notice of the emergency, the health authority will take any action necessary to protect the public health. [Bd. of Health, Food Establishments Reg. Art. 3 § 3.2 subsec. 3.2.1, eff. 9-17-82]

NAC 446.105 Storage of food. (NRS 439.150, 439.200, 446.940)

1. Except as otherwise provided in subsection 3, if food is removed from the container or package in which it was obtained, it must be stored in a clean covered container unless it is being prepared or served.
2. The cover of the container must be impervious and nonabsorbent, except that clean linens or napkins may be used for lining or covering containers for bread or rolls. The linens or napkins must be changed or discarded after each use.
3. Solid cuts of meat must be covered while in storage, except that quarters or sides of meat may be hung uncovered on clean sanitized hooks if no food is stored beneath the meat. No meat may be stored in direct contact with shelves.
4. Whole, uncut and raw fruits and vegetables, and nuts in their shells may be kept in their original shipping containers until they are used. [Bd. of Health, Food Establishments Reg. Art. 3 § 3.3 subsections. 3.3.1-3.3.3, eff. 9-17-82]—(NAC A 10-14-88; 5-23-96)

NAC 446.110 Storage of food, containers of food and packaged food; resale of food from bulk containers. (NRS 439.150, 439.200, 446.940)

1. Containers of food in a food establishment must be stored at least 6 inches (15 centimeters) above the floor in a manner that protects the food from contamination and permits easy cleaning of the storage area with the following exceptions:

- (a) Metal containers for beverages which have been pressurized and cases of food packaged in cans, glass or other waterproof containers need not be elevated when the containers are not exposed to moisture on the floor.
- (b) Containers may be stored on dollies, racks or pallets if such equipment is easy to move.
2. Food and containers of food must not be stored under any exposed or unprotected sewer lines or waterlines, unless the lines are automatic sprinklers required by law.
3. Food may not be stored in rooms with toilets, vestibules or lockers, or in rooms containing garbage or mechanical facilities.
4. Packaged food may not be stored in a wet environment. However, packaged food placed in containers made of impervious glass or metal may be stored in drained ice. Wrapped sandwiches may not be stored in direct contact with ice.
5. Food which:
 - (a) Is spoiled;
 - (b) Is in a container that has sustained damage which may affect it; or
 - (c) Has been returned to or is being detained by the food establishment because of public health considerations,→must be segregated and held in designated areas pending proper disposition unless it is disposed of under the supervision of the health authority. For the purposes of this subsection, a hermetically sealed container that has sustained damage to the seams on the top, bottom or side of the container or that has sustained sharp or creasing dents to areas other than the seams shall be deemed a container that has sustained damage that may affect the food contained inside the container.
6. Food from bulk containers returned to a retail store by a customer may not be offered for resale.
7. Containers of bulk pet food and bulk nonfood items must be separated from food items by a barrier or open space of not less than 12 inches (30 centimeters). [Bd. of Health, Food Establishments Reg. Art. 3 § 3.3 subsec. 3.3.4, eff. 9-17-82]—(NAC A 10-14-88; 5-23-96)

NAC 446.115 Refrigerated storage. (NRS 439.150, 439.200, 446.940)

1. There must be adequate facilities for refrigeration at a food establishment, which are conveniently located, to ensure that potentially hazardous food can be stored at the required temperature.
2. Each refrigerated facility used to store potentially hazardous food must have at least one integral or permanently affixed indicating thermometer which is numerically scaled or a recording thermometer, accurate to plus or minus 2°F (1°C), located in the warmest part of the facility where it can be easily read.
3. Potentially hazardous food which requires refrigeration after its preparation must be rapidly cooled to an internal temperature of 40°F (4.44°C) or below and then stored at or below that temperature.
4. Large quantities of potentially hazardous food must be rapidly cooled utilizing such methods as shallow pans, dividing the food into smaller or thinner portions, agitation, quick chilling, adding ice as an ingredient or the circulation of water external to the container of food so that the period of cooling from 140°F (60°C) to 70°F (21°C) does not exceed 2 hours and from 70°F (21°C) to 40°F (4.44°C) does not exceed 4 hours.
5. Frozen food must be kept frozen and stored at a temperature of 0°F (-18°C) or below.

6. Ice may not be used as a food product after it has been used to cool the exterior of cooling coils, tubes of equipment or food, including packaged foods.
7. In food establishments where meats that are not inspected, such as wild game, are processed to the order of customers, a minimum space of 5 feet (1.52 meters) or a physical barrier must be maintained in all refrigerated storage areas between meats which have been inspected and the meats that are not inspected. Any meat that is not inspected must be marked "Not for Sale" on a tag that is attached to the meat. The tag must also indicate the owner's name in clear and legible writing. [Bd. of Health, Food Establishments Reg. Art. 3 § 3.4 subsecs. 3.4.1-3.4.6, eff. 9-17-82]—(NAC A 10-14-88; 9-16-92; 5-23-96)

NAC 446.120 Maintenance and storage of hot food. (NRS 439.150, 439.200, 446.940)

1. There must be adequate facilities at a food establishment to maintain hot food. These facilities must be conveniently located to ensure the maintenance of food at the required temperature.
2. Each piece of equipment used for the maintenance of potentially hazardous hot food must have at least one integral or permanently affixed indicating thermometer which is numerically scaled or a recording thermometer, accurate to plus or minus 2°F (1°C), located in the coolest part of the piece of equipment where it can be easily read.
3. If it is impractical to install thermometers on equipment such as bainmaries, steam tables, steam kettles, heat lamps, cat-rod units or insulated carriers for transporting foods, an accurately calibrated probe thermometer must be available and used to check the internal temperature of the food.
4. The internal temperature of potentially hazardous foods which require hot storage must be 140°F (60°C) or above except during periods of preparation. [Bd. of Health, Food Establishments Reg. Art. 3 § 3.5 subsecs. 3.5.1-3.5.4, eff. 9-17-82]—(NAC A 5-23-96)

NAC 446.122 Reusable containers for beverages. (NRS 439.150, 439.200, 446.940)

1. A food establishment may refill a reusable beverage container which is owned by a customer with a product that is not potentially hazardous if the refill is for that customer.
2. The design of such containers, when considered in conjunction with the design of the rinsing component of the equipment used to refill the container, must permit the effective cleaning of the container.
3. A facility for cleaning such containers which uses fresh, hot water under pressure that has not been recirculated, must be provided as a part of the dispensing operation.
4. A system for refilling such containers, when used by a customer, must include a transfer process which is free from contamination and which the customer cannot bypass.
5. The Board may exempt from the requirements of this section water vending operations. (Added to NAC by Bd. of Health, eff. 10-14-88; A 5-23-96)

NAC 446.125 Preparation of food: General requirements. (NRS 439.150, 439.200, 446.940)

1. Food must be prepared at a food establishment with the least possible manual contact, using gloves designed for a single use or suitable utensils on surfaces that have been cleaned, rinsed and sanitized to prevent contamination before being used.
2. Surfaces which may come into contact with food and utensils in a food establishment must be cleaned and sanitized whenever there is a change in processing between species such as raw beef, raw pork, raw poultry or raw seafood, or a change in processing from raw foods to foods that are ready to eat. Salads and other foods that are ready to eat must be

prepared in separate rooms or in areas that are separated from areas used for processing potentially hazardous raw food products by a barrier, an open space of at least 12 inches (30 centimeters) or in another manner approved by the health authority.

3. Potentially hazardous foods that are in a form to be consumed without further cooking, such as salads, sandwiches and filled pastry products, must be prepared from chilled ingredients.
4. Meats that are not inspected, such as wild game, must be processed in such a manner as to ensure that cross-contamination of food or surfaces which may come into contact with food does not occur. The processing of meats that are not inspected must be conducted in areas or at times that have been approved by the health authority. [Bd. of Health, Food Establishments Reg. Art. 3 § 3.6 subsec. 3.6.1, eff. 9-17-82]—(NAC A 10-14-88; 9-16-92; 5-23-96)

NAC 446.130 Preparation of food: Raw fruits and vegetables. (NRS 439.150, 439.200, 446.940) Raw fruits and vegetables must be thoroughly washed:

1. With potable water before being cooked, prepared, processed, served or dispensed.
2. In a sink which:
 - (a) Has a drain that is indirectly connected to a floor sink in compliance with the *Uniform Plumbing Code*;
 - (b) Runs hot and cold water that is tempered by a mixing valve or combination faucet; and
 - (c) Is located in an area that has been approved by the health authority. [Bd. of Health, Food Establishments Reg. Art. 3 § 3.6 subsec. 3.6.2, eff. 9-17-82]—(NAC A 10-14-88; 5-23-96)

NAC 446.145 Preparation of food: Potentially hazardous foods. (NRS 439.150, 439.200, 446.940)

1. Potentially hazardous foods which have been frozen must be thawed:
 - (a) In refrigerated units at an ambient temperature not exceeding 40°F (4.44°C);
 - (b) Under potable running water at a temperature of 70°F (21°C) or below, with a sufficient water velocity to agitate and float off loose particles of food;
 - (c) In a microwave oven, if the food will be immediately transferred to conventional cooking facilities as part of a continuous cooking process or when the entire cooking process takes place without interruptions in the microwave oven; or
 - (d) As part of the conventional cooking process.
2. Potentially hazardous foods which require cooking must be cooked to heat all parts of the food to a temperature of at least 145°F (63°C) for at least 15 seconds, with the following exceptions:
 - (a) Poultry, stuffing for poultry, stuffed meats and stuffings containing meats must be cooked to heat all parts of the food to at least 165°F (74°C) for at least 15 seconds with no interruption in the cooking.
 - (b) Pork, any food containing pork, game animals, injected meats, comminuted fish and meats, including hamburger, must be cooked to heat all parts of the food to at least 155°F (68°C) for at least 15 seconds or, if cooked in a microwave oven, to at least 170°F (77°C).
 - (c) Roast beef must be cooked to an internal temperature of at least 130°F (55°C) or, if cooked in a microwave oven, to at least 145°F (63°C). Beef steak must be cooked to an

internal temperature of at least 130°F (55°C), unless otherwise ordered by the immediate customer.

(d) Fishery products which are not cooked throughout to 145°F (63°C) or above must, before their service or sale in a form which is ready to eat, be blast frozen to -31°F (-35°C) or below for 15 hours or regularly frozen to -4°F (-20°C) or below for 168 hours (7 days). Records which establish compliance with this paragraph must be retained by the operator for 90 days after the service or sale of the fishery products, unless the products were frozen by the supplier and a written statement is provided by the supplier stipulating that the products supplied were frozen to the temperature and for the time specified in this paragraph, in which case the supplier's written statement must be retained by the operator for 90 days.

3. Potentially hazardous foods which have been prepared to be ready to eat and then refrigerated for more than 24 hours must be marked with the date of preparation. These foods must not be used for human consumption if not sold, served or frozen within 10 calendar days after preparation.

4. Potentially hazardous foods which have been prepared by another food establishment or food processing plant to be ready to eat and packaged in a container for refrigeration must be marked by the manufacturer to indicate the date by which the food must be sold, served or frozen. These foods must be discarded if not sold, served or frozen:

(a) Within 10 calendar days after the original container is opened; or

(b) On or before the date by which the food must be sold or used, as indicated on the container,

→whichever occurs first.

5. Potentially hazardous foods that have been cooked and refrigerated must be reheated rapidly so that the food reaches a temperature of 165°F (74°C) or above throughout the entire product for at least 15 seconds before being served or placed in a facility for maintaining hot food. Steam tables, bainmaries, warmers, crockpots and similar facilities for holding hot foods may not be used for the rapid reheating of potentially hazardous foods.

6. Metal indicating thermometers which are numerically scaled and accurate to plus or minus 2°F (1°C) must be used to ensure the attainment and maintenance of proper internal temperatures for cooking, holding or refrigerating all potentially hazardous foods. At least one such thermometer must be available for use by employees at all times. The thermometers must be washed, rinsed and sanitized before insertion into a food. [Bd. of Health, Food Establishments Reg. Art. 3 § 3.6 subsecs. 3.6.3, 3.6.6, 3.6.8 & 3.6.9, eff. 9-17-82]—(NAC A 10-14-88; 9-16-92; 5-23-96)

NAC 446.147 Use of packaging with a modified atmosphere; contents of plan for analyzing the hazards of critical control points. (NRS 439.150, 439.200, 446.940)

1. A food establishment that packages food using packaging with a modified atmosphere must have a plan for analyzing the hazards of critical control points that:

(a) Contains the information specified in [NAC 446.821](#);

(b) Identifies the food that is packaged in packaging with a modified atmosphere;

(c) Limits the food packaged in packaging with a modified atmosphere to food that does not support the growth of *Clostridium botulinum* because the food:

(1) Has a value of water activity of 0.91 or less;

(2) Has a pH of 4.6 or less;

(3) Is a product made from meat that was:

- (I) Processed in a processing plant that is regulated by the United States Department of Agriculture;
 - (II) Cured with a combination of nitrites, nitrates and salt which had a concentration of sodium nitrite that is 120 mg/l or higher and a combination of brine that was at least 3.5 percent sodium chloride; and
 - (III) Received by the food establishment in an intact package; or
- (4) Is a food with a high level of competing organisms, such as raw meat or raw poultry;
- (d) Specifies methods for maintaining food that is packaged in packaging with a modified atmosphere at 40°F (4.44°C) or below;
- (e) Requires packaging with a modified atmosphere to display prominently and conspicuously on the principal display panel, in bold type with a contrasting background, instructions to:
- (1) Maintain the food packaged therein at 40°F (4.44°C) or below; and
 - (2) Discard the food packaged therein if, within 14 days after its packaging, it is not frozen or served for consumption on or off the premises of the recipient;
- (f) Prohibits food that is packaged in packaging with a modified atmosphere to be held for more than 14 calendar days after the date of packaging or beyond the manufacturer's date by which the food must be used or sold, whichever comes first, unless the product is frozen for storage within that period;
- (g) Includes operational procedures that:
- (1) Prohibit bare hands from coming into contact with food that is packaged in packaging with a modified atmosphere;
 - (2) Identify designated areas for raw foods and foods that are ready to eat and minimize the possibility of cross-contamination between those foods;
 - (3) Restrict access to processing equipment to trained personnel who are familiar with the potential hazards of the operation; and
 - (4) Delineate cleaning and sanitization procedures for surfaces which may come into contact with food; and
- (h) Include a training program that ensures that the person responsible for packaging food in packaging with a modified atmosphere understands the:
- (1) Procedures required for the safe operation of the packaging; and
 - (2) Equipment and facilities used in the packaging process.
2. A food establishment may not package fish in packaging with a modified atmosphere unless the fish is frozen before packaging and will remain frozen during and after packaging. (Added to NAC by Bd. of Health, eff. 5-23-96)

NAC 446.150 Service of food: Protection of food. (NRS 439.150, 439.200, 446.940)

1. Food in a salad bar, serving line or other kind of display must be protected against contamination by customers or the environment through the operator's use of protective devices, such as glass shields, easily cleanable counters, packaging, display cases or other effective means.
2. Bulk food in retail stores must be dispensed only from containers that are protected by individual covers which fit closely and close automatically. Access by customers to bulk food must be controlled to avoid the introduction of contaminants. Means considered suitable include:
 - (a) Providing a product module depth of not more than 18 inches (45 centimeters);

- (b) Locating product modules with access from the top so that there is at least 30 inches (75 centimeters) between the access point and the floor; or
 - (c) If the product module access point is less than 30 inches (75 centimeters) off the floor, providing access from the side or at an angle if, when the product module is open, the cover extends across the surface of the product and provides overhead protection.
3. Food that may have been contaminated by an employee who has been restricted from performing certain tasks in a food establishment or excluded from the food establishment must be discarded. [Bd. of Health, Food Establishments Reg. Art. 3 § 3.7 subsec. 3.7.10, eff. 9-17-82]—(NAC A 10-14-88; 5-23-96)

NAC 446.155 Service of food: Potentially hazardous and frozen foods; raw or undercooked food of animal origin. (NRS 439.150, 439.200, 446.940)

1. Except as otherwise provided in NAC 446.157, potentially hazardous food must be kept at an internal temperature of 40°F (4.44°C) or below or at 140°F (60°C) or above while being displayed or served, except that rare roast beef may be held for service at a temperature of at least 130°F (55°C).
2. Adequate facilities for maintaining or displaying potentially hazardous hot or cold food must be available to maintain the required temperature of the potentially hazardous food.
3. Foods intended for sale in a frozen state must be displayed at an ambient temperature of 0°F (-18°C) or below, except for defrost cycles and brief periods of loading or unloading. Frozen foods must be displayed below or behind product food lines according to the specifications of the cabinet manufacturer.
4. Except as otherwise provided in this subsection, exposed raw food of animal origin may not be offered in a manner in which a customer is allowed to serve himself. Raw food of animal origin may be offered for immediate consumption as a raw food at a buffet or salad bar if the raw food is first prepared for consumption by an employee of the food establishment. Raw food of animal origin may be offered for immediate consumption as a cooked food if a customer selects the raw food and other ingredients and an employee of the food establishment cooks and prepares all the ingredients.
5. If raw or undercooked food of animal origin is offered ready to eat at a food establishment or in a vending machine, or as an ingredient in another food that is ready to eat, the holder of the permit to operate the food establishment must give written notice to customers of the significantly increased risk associated with eating such foods in a raw or undercooked form on a brochure, delicatessen case, menu or placard or in another location that is readily visible to customers. [Bd. of Health, Food Establishments Reg. Art. 3 § 3.7 subsecs. 3.7.1 & 3.7.11, eff. 9-17-82]—(NAC A 10-14-88; 5-23-96)

NAC 446.157 Service, storage and display of food: Potentially hazardous food kept at an internal temperature above 40°F (4.44°C) or below 140°F (60°C). (NRS 439.150, 439.200, 446.940)

1. Potentially hazardous food may be kept at an internal temperature above 40°F (4.44°C) or below 140°F (60°C) if held for no longer than the time limitations set forth in this subsection. While being stored before cooking or while being served or displayed for immediate service, potentially hazardous food may be kept at an internal temperature above 40°F (4.44°C) or below 140°F (60°C) if:
 - (a) The food is cooked or served within 4 hours after the time its temperature exceeds 40°F (4.44°C) or goes below 140°F (60°C);

- (b) The food is marked or otherwise identified with the hour of the day by which it must be cooked, served or discarded; and
 - (c) The holder of the permit for the operation of the food establishment creates and maintains, on the premises and available for review by the health authority, written procedures ensuring compliance with paragraphs (a) and (b).
2. Potentially hazardous food that has been refrigerated since receipt by the food establishment may be kept at an internal temperature above 40°F (4.44°C) or below 45°F (7.2°C) while being stored before cooking or while being displayed for immediate service if:
- (a) The food is cooked or served within 72 hours after the time its temperature exceeds 40°F (4.44°C) or goes below 45°F (7.2°C);
 - (b) The food is marked or otherwise identified with the hour of the day by which it must be cooked, served or discarded;
 - (c) The food is constantly refrigerated; and
 - (d) The holder of the permit for the operation of the food establishment creates and maintains, on the premises and available for review by the health authority, written procedures ensuring compliance with paragraphs (a), (b) and (c).
3. Any potentially hazardous food kept pursuant to subsection 1 or 2:
- (a) In a container or package which does not have the hour by which it must be cooked, served or discarded marked on it; or
 - (b) For longer than the time specified in those subsections,
- must be discarded. (Added to NAC by Bd. of Health, eff. 5-23-96)

NAC 446.160 Service of food: Dairy products and nondairy creamers. (NRS 439.150, 439.200, 446.940)

1. Milk and products made from milk for drinking must be served in an unopened package which was commercially filled and does not exceed 1 pint (473 milliliters) in capacity, or must be drawn from a container which was commercially filled and stored in a dispenser which is mechanically refrigerated. If a dispenser for milk and products made from milk is not available and portions of less than 1/2 pint (236 milliliters) are required for mixed drinks, cereal or desserts, milk and products made from milk may be poured from a container which was commercially filled and not larger than 1/2 gallon (1,893 milliliters) in capacity.
2. Cream, half-and-half and nondairy creamers must be served in a container intended for a single use, a protected pitcher that pours, or drawn from a refrigerated dispenser designed for such service. [Bd. of Health, Food Establishments Reg. Art. 3 § 3.7 subsecs. 3.7.2-3.7.4, eff. 9-17-82]—(NAC A 5-23-96)

NAC 446.165 Service and storage of fruit and vegetables. (NRS 439.150, 439.200, 446.940)

1. Fruit or vegetables displayed or offered for sale must be at least 18 inches (45 centimeters) above the floor.
2. If a melon is cut, sliced or otherwise breached, it must be protected properly and:
 - (a) Stored at a temperature of 40°F (4.44°C) or below; or
 - (b) Disposed of properly within 4 hours after the time it was cut, sliced or otherwise breached.
3. Fruit or vegetables must not be stored under anaerobic conditions where the temperature may exceed 40°F (4.44°C). [Bd. of Health, Food Establishments Reg. Art. 3 § 3.7 subsec. 3.7.13, eff. 9-17-82]—(NAC A 9-16-92; 5-23-96)

NAC 446.170 Service of food: Condiments. (NRS 439.150, 439.200, 446.940)

1. Condiments, seasonings and dressings for customers who serve themselves must be provided in single packages, from approved dispensers, or from containers which are protected from contamination by customers.
2. Condiments provided at a table or counter must be individually portioned, except that catsup and other sauces, if in dispenser type containers, may be served in the original containers or in other approved dispensers that pour.
3. Sugar must be provided in single packages or in covered dispensers that pour. [Bd. of Health, Food Establishments Reg. Art. 3 § 3.7 subsecs. 3.7.5 & 3.7.6, eff. 9-17-82]—(NAC A 10-14-88)

NAC 446.175 Preparation and service of ice. (NRS 439.150, 439.200, 446.940)

1. Ice for customers must be dispensed only by employees using scoops, tongs or other utensils that have been approved by the health authority or by automatic equipment. Ice offered for sale must be packaged and labeled properly.
2. Utensils used for dispensing ice must be stored on a clean surface and in a manner that has been approved by the health authority or in the ice with the handles of the utensils extended out of the ice. Receptacles used to transfer ice must be stored so that they are protected from contamination when not in use.
3. Bins used for the storage of ice must be drained through an air gap.
4. Ice that has been packaged for sale at the establishment must be prepared in accordance with the provisions of NAC 446.050 to 446.210, inclusive.
5. Only those items necessary for dispensing, packaging or transporting ice may be stored on top of an ice machine. [Bd. of Health, Food Establishments Reg. Art. 3 § 3.7 subsec. 3.7.7, eff. 9-17-82]—(NAC A 9-16-92; 5-23-96)

NAC 446.180 Service of food: Dispensing utensils. (NRS 439.150, 439.200, 446.940)

1. Suitable dispensing utensils, adequate in number, must be used by employees when serving food or provided to customers who serve themselves.
2. When not being used to serve food, dispensing utensils must be:
 - (a) Stored in the food with the handle of the utensil extended out of the food;
 - (b) Clean and dry when stored;
 - (c) Stored in running water; or
 - (d) Stored in a dipper well of running water.
3. If bulk food sold at retail is dispensed by customers who serve themselves, manual contact of foods by the customer during dispensing must be avoided. Some methods considered suitable include:
 - (a) The use of mechanical dispensing devices, including gravity dispensers, pumps, extruders and augers.
 - (b) The use of wrapping or sacking.
 - (c) The use of a tether for the utensil. Such a tether must be:
 - (1) Constructed of easily cleanable material;
 - (2) Of such a length that the utensil cannot contact the floor;
 - (3) Designed to prevent interference with covers which fit closely; and
 - (4) Easily removable for cleaning.
 - (d) Storage of the utensil in a sleeve or protective housing attached or adjacent to the display unit when not in use, or by utilizing a utensil designed so that the handle cannot contact the product if left in the product module.

4. If ladles and spatulas are used in other than dry foods, they must be stored in the food with handles extending to the outside and the handles must not prevent the lid from closing. [Bd. of Health, Food Establishments Reg. Art. 3 § 3.7 subsec. 3.7.8, eff. 9-17-82]—(NAC A 10-14-88; 5-23-96)

NAC 446.185 Service of food: Tableware and plates. (NRS 439.150, 439.200, 446.940)

1. Except as otherwise provided in subsection 4, soiled tableware, including tableware intended for a single use, which has been used by customers who are serving themselves and returning to the serving areas for additional food, may not be used again.
2. A sign must be posted to notify customers to use a clean plate each time they serve themselves. The sign must also state that no smoking or eating is allowed while serving food and that customers must use only the utensils provided for handling food.
3. Tableware may be preset if:
 - (a) It is wrapped to protect it from contamination or is preset no sooner than one meal period before it is used; and
 - (b) Extra settings of preset tableware are removed from the table when the customers are seated.
4. Cups and glasses are exempt from the requirements of this section. [Bd. of Health, Food Establishments Reg. Art. 3 § 3.7 subsec. 3.7.12, eff. 9-17-82]—(NAC A 10-14-88; 5-23-96)

NAC 446.190 Service of food: Leftover food. (NRS 439.150, 439.200, 446.940)

Portions of a customer's leftover food may not be served again, except that packaged food, other than potentially hazardous food, that is still packaged and is in sound condition may be served again. Fruit with the exterior surface intact may be served again. [Bd. of Health, Food Establishments Reg. Art. 3 § 3.7 subsec. 3.7.9, eff. 9-17-82]—(NAC A 5-23-96)

NAC 446.195 Transportation of food. (NRS 439.150, 439.200, 446.940)

1. During transportation, food and utensils used with food must be kept in covered containers or completely wrapped or packaged. The provisions of this subsection do not apply to hanging parts of carcasses, quarters, sides of meat, or raw fruits and vegetables.
2. Foods in original single packages do not need to be wrapped again or covered if the original package has not been torn or broken.
3. During transportation, including transportation to another location for service or catering operations, food must meet the requirements of this chapter relating to its protection, temperature and storage. [Bd. of Health, Food Establishments Reg. Art. 3 § 3.8 subsec. 3.8.1, eff. 9-17-82]—(NAC A 10-14-88)