**44:02:07:01.  Definitions.** Words defined in SDCL 34-18-1 have the same meaning when used in this chapter. In addition, the terms used in this chapter mean:

 (1)  "Adulterated," one or more of the following conditions of food:

 (a)  Bears or contains a poisonous or deleterious substance in a quantity which may render it injurious to health;

 (b)  Bears or contains a poisonous or deleterious substance for which no safe tolerance has been established by law or is in excess of such a tolerance if one has been established;

 (c)  Consists in whole or in part of any filthy, putrid, or decomposed substance or otherwise is unfit for human consumption;

 (d)  Has been processed, prepared, packed, or held under unsanitary conditions, by which it may have become contaminated with filth or rendered injurious to health;

 (e)  Is in whole or in part the product of a diseased animal or an animal which has died otherwise than by slaughter; or

 (f)  Is contained in a container which is composed in whole or in part of any poisonous or deleterious substance which may render the contents injurious to health:

 (2)  "Approved," acceptable to the regulatory authority based on a determination of conformity with safe food manufacturing and processing methods;

 (3)  "aw," water activity which is a measure of the free moisture in a food and is the quotient of the water vapor pressure of the substance divided by the vapor pressure of pure water at the same temperature;

 (4)  "Certification number," a unique combination of letters and numbers assigned by a shellfish control authority to a molluscan shellfish dealer according to the provisions of the National Shellfish Sanitation Program;

 (5)  "Clean-in-place," or "CIP," a method of cleaning equipment at its location by means of the circulation or flowing by mechanical means through a piping system of a detergent solution, water rinse, and sanitizing solution onto or over equipment surfaces that require cleaning, such as the method used, in part, to clean and sanitize a frozen dessert machine, but not the cleaning of equipment such as band saws, slicers, or mixers that are subjected to in-place manual cleaning without the use of a CIP system;

 (6)  "C.F.R.," or "Code of Federal Regulations," the compilation of general and permanent rules published in the Federal Register by the executive departments and agencies of the federal government;

 (7)  "Comminuted," reduced in size by methods that include chopping, flaking, grinding, or mincing; fish or meat products that are reduced in size and restructured or reformulated, such as gefilte fish, formed roast beef, gyros, ground beef, and sausage; and a mixture of two or more types of meat that have been reduced in size and combined, such as sausages made from two or more meats;

 (8)  "Commissary," a catering establishment, restaurant, or other place in which food, containers, or supplies are kept, handled, prepared, packaged, or stored, including a service center or base of operations from which mobile food units are directly supplied or serviced;

 (9)  "Consumer," 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;

 (10)  "Corrosion-resistant material," means a material that maintains an easily cleanable surface under prolonged influence of the food to be contacted, the normal use of cleaning compounds and sanitizing solutions, and other conditions of the use environment;

 (11)  "Critical control point," a point or procedure in a specific food system where loss of control may result in an unacceptable health risk;

 (12)  "Critical item," a provision of this code that, if violated, is more likely than other violations to contribute to food contamination, illness, or environmental degradation;

 (13)  "Critical limit," the maximum or minimum value to which a physical, biological, or chemical parameter must be controlled at a critical control point to minimize the risk that the identified food safety hazard may occur;

 (14)  "Dry storage area," a room or area designated for the storage of packaged or containerized bulk food that is not potentially hazardous and dry goods such as single-service items;

 (15)  "Easily cleanable," a characteristic of a surface that:

 (a)  Allows effective removal of soil by normal cleaning methods;

 (b)  Is dependent on the material, design, construction, and installation of the surface; and

 (c)  Varies with the likelihood of the surface's role in introducing pathogenic or toxigenic agents or other contaminants into food based on the surface's approved placement, purpose, and use;

 (16)  "Easily movable," any item described as follows:

 (a)  Weighs 23 kilograms (50 pounds) or less; is mounted on casters, gliders, or rollers; or is provided with a mechanical means requiring no more than 23 kilograms (50 pounds) of force to safely tilt a unit of equipment for cleaning; and

 (b)  Has no utility connection, a utility connection that disconnects quickly, or a flexible utility connection line of sufficient length to allow the equipment to be moved for cleaning of the equipment and adjacent area;

 (17)  "Employee," the license holder, person in charge, person having supervisory or management duties, person on the payroll, family member, volunteer, person performing work under contractual agreement, or other person working in a food establishment;

 (18)  "EPA," Environmental Protection Agency;

 (19)  "Equipment," items, other than utensils, used in the operation of a food establishment, including stoves, ranges, hoods, ovens, proof boxes, freezers, slicers, meatblocks, tables, counters, refrigerators, sinks, dishwashing machines, steamtables, and mixers;

 (20)  "Exotic species," an animal that comes from or that is commonly found in another part of the world or in a foreign country;

 (21)  "Fish," fresh or saltwater finfish, molluscan shellfish, crustaceans, and other forms of aquatic animal life other than birds or mammals, including any edible human food product derived in whole or in part from fish, including fish that has been processed in any manner;

 (22)  "Food," a raw, cooked, or processed edible substance, ice, beverage, or ingredient used or intended for use or for sale in whole or in part for human consumption;

 (23)  "Food borne disease outbreak," illness experienced by two or more persons after ingestion of a common food which an epidemiological analysis implicates as the source of the illness; a single case of illness from botulism or chemical poisoning;

 (24)  "Food-contact surface," those surfaces of equipment or utensils with which food normally comes in contact and those surfaces from which liquids or other substances may drain, drip, or splash into or onto food or surfaces normally in contact with food;

 (25)  "Food employee," an individual working with unpackaged food, food equipment or utensils, or food-contact surfaces;

 (26)  "Food establishment," a food service establishment, mobile food service establishment, or temporary food service establishment;

 (27)  "Game animal," an animal, the products of which are food, that is not classified as cattle, sheep, swine, goat, poultry, fish, or bison;

 (28)  "General-use pesticide," a pesticide that is not classified by EPA for restricted use as specified in 40 C.F.R. 152.175, July 1, 1996;

 (29)  "HACCP plan," a written document that delineates the formal procedures for following the Hazard Analysis Critical Control Point principles developed by The National Advisory Committee on Microbiological Criteria for Foods in annex 5 of the Food Code, U.S. Public Health Service, 1995, pages 1 to 32, inclusive, printed September 1995;

 (30)  "Hazard," a biological, chemical, or physical property that may cause an unacceptable consumer health risk;

 (31)  "Hermetically sealed container," a container that is designed and made to be secure against the entry of microorganisms and, in the case of low acid canned foods, to maintain the sterility of its contents after processing;

 (32)  "Highly susceptible population," a group of persons who are more likely than other populations to experience foodborne disease because they have weak immune systems or are older adults and in a facility that provides health care or assisted living services, such as a hospital or nursing home; children of preschool age in a facility that provides custodial care, such as a day care center;

 (33)  "Injected," manipulation of a meat that allows infectious or toxigenic microorganisms to be introduced from its surface to its interior through tenderizing with deep penetration or injecting the meat, such as with juices, which is referred to as "injecting," "pinning," or "stitch pumping";

 (34)  "Kitchenware," all multiuse utensils other than tableware used in the storage, preparation, conveying, or serving of food;

 (35)  "Law," applicable local, state, and federal statutes, regulations, and ordinances;

 (36)  "License," a document issued by the South Dakota Department of Health that authorizes a person or persons to operate a food service establishment, mobile food service establishment, or temporary food service establishment;

 (37)  "Linens," fabric items such as cloth hampers, cloth napkins, table cloths, wiping cloths, and work garments, including cloth gloves;

 (38)  "Meat," the flesh of animals used as food, including the dressed flesh of cattle, swine, sheep, goats, bison, and other edible animals, except fish and poultry, that is offered for human consumption;

 (39)  "mg/L," milligrams per liter, which is the metric equivalent of parts per million (ppm);

 (40)  "Molluscan shellfish," any edible species of fresh or frozen oysters, clams, mussels, and scallops, or their edible portions, except the shucked adductor muscle of the scallop used alone;

 (41)  "Packaged," bottled, canned, cartoned, securely bagged, or securely wrapped, but not the wrapper, carry-out box, or other nondurable container used to contain food with the purpose of facilitating food protection during service and receipt of the food by the consumer;

 (42)  "Person," an association, corporation, individual, partnership, other legal entity, government, or governmental subdivision or agency;

 (43)  "Person in charge," the individual present in a food establishment who is responsible for its food service operations;

 (44)  "Personal care items," items or substances that may be poisonous, toxic, or a source of contamination that are used to maintain or enhance a person's health, hygiene, or appearance, including medicines, first aid supplies, cosmetics, and toiletries such as toothpaste and mouthwash;

 (45)  "pH," the symbol for the negative logarithm of the hydrogen ion concentration, which is a measure of the degree of acidity or alkalinity of a solution, with values between 0 and 7 indicating acidity, values between 7 and 14 indicating alkalinity, and the value of 7 considered neutral;

 (46)  "Physical facilities," the structure and interior surfaces of a food establishment, including accessories such as soap and towel dispensers and attachments such as light fixtures and heating or air conditioning system vents;

 (47)  "Physician," a person licensed under SDCL chapter 36-4 to practice medicine in this state;

 (48)  "Poultry," any domesticated birds, such as chickens, turkeys, ducks, geese, or guineas, whether live or dead;

 (49)  "Premises," the physical facility, its contents, and the contiguous land or property under the control of the license holder; whether it is a stand-alone facility or whether it is only one component of a larger organization, such as a health care facility, hotel, motel, school, recreational camp, or prison;

 (50)  "Reconstituted," dehydrated food products combined with water or other liquids;

 (51)  "Reduced-oxygen packaging," the reduction of the amount of oxygen in a package by mechanically evacuating the oxygen; displacing the oxygen with another gas or combination of gases; or otherwise controlling the oxygen content in a package to a level below that normally found in the surrounding atmosphere, which is 21 percent oxygen, including altered atmosphere, modified atmosphere, controlled atmosphere, low oxygen, and vacuum packaging, including sous vide;

 (52)  "Refuse," solid waste not carried by water through the sewage system, including discarded organic matter, garbage, trash, and other waste materials resulting from the operation of a food establishment;

 (53)  "Regulatory authority," the local, state, or federal enforcement body or authorized representative that has jurisdiction over the food establishment;

 (54)  "Restricted-use pesticide," a pesticide product that contains the active ingredients specified in 40 C.F.R. 152.175, July 1, 1996, and that is limited to use by a certified applicator per article 12:56;

 (55)  "Safe material," an article manufactured from or composed of materials that may not reasonably be expected to result, directly or indirectly, in their becoming a component or otherwise affecting the characteristics of any food;

 (56)  "Sanitization," the application of cumulative heat or chemicals on cleaned food contact surfaces that, when evaluated for efficacy, yield a reduction of 5 logarithms, which is equal to 99.999 percent reduction, of representative foodborne disease microorganisms;

 (57)  "Sealed," free of cracks or other openings that allow the entry or passage of moisture;

 (58)  "Sewage," liquid waste containing animal or vegetable matter in suspension or solution; liquids containing chemicals in solution;

 (59)  "Shellstock," raw, in-shell molluscan shellfish;

 (60)  "Shucked shellfish," molluscan shellfish that have one or both shells removed;

 (61)  "Single-service articles," tableware, carry-out utensils, and other items, such as bags, containers, placemats, stirrers, straws, toothpicks, and wrappers, that are designed and constructed for one time, one person use;

 (62)  "Single-use articles," utensils and bulk food containers designed and constructed to be used once and discarded, including waxed paper, butcher paper, plastic wrap, formed aluminum food containers, jars, plastic tubs or buckets, bread wrappers, pickle barrels, ketchup bottles, and number 10 cans which do not meet the materials, durability, strength, and cleanability specifications for multiuse utensils in § 44:02:07:43;

 (63)  "Smooth," food contact surfaces or nonfood contact surfaces that are easily cleanable and free of breaks, open seams, cracks, chips, pits, and similar imperfections, including floors, walls, or ceilings that have an even or level surface with no roughness or projections that make it difficult to clean;

 (64)  "Support animal," a trained animal, such as a Seeing Eye dog, that accompanies a person with a disability to assist in managing the disability and enables the person to perform functions that the person would otherwise be unable to perform;

 (65)  "Tableware," eating, drinking, and serving utensils for table use, such as flatware, including forks, knives, and spoons; hollowware, including bowls, cups, serving dishes, tumblers; and plates;

 (66)  "Temperature measuring device," a thermometer, thermocouple, thermistor, or other device that indicates the temperature of food, air, or water;

 (67)  "Utensil," a food-contact implement or container used in the storage, preparation, transportation, dispensing, sale, or service of food, such as kitchenware or tableware that is multiuse, single-service, or single-use; gloves used in contact with food; and food temperature measuring devices;

 (68)  "Warewashing," the cleaning and sanitizing of food-contact surfaces of equipment and utensils;

 (69)  "Water supply," a safe, accessible, and adequate source of water that meets requirements in article 74:04, Water Hygiene.

 **Source:** 23 SDR 195, effective May 26, 1997.

 **General Authority:** SDCL 34-1-17, 34-18-22.

 **Law Implemented:** SDCL 34-18-22, 34-18-25.