

**RULES
OF
GEORGIA DEPARTMENT OF AGRICULTURE

CHAPTER 40-7-18
ADDITIONAL REGULATIONS APPLICABLE TO
PROCESSING PLANTS**

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40-7-18-.01 Scope of Regulations. The following regulations shall apply to all plants where food is processed, which are not covered elsewhere in these regulations.

Authority O.C.G.A. Sec. 26-2-27.1. **History.** Original Rule entitled “Scope of Regulations” adopted. F. Apr. 14, 2010; eff. May 4, 2010.

40-7-18-.02 Definitions. The following definitions shall apply in the interpretation and enforcement of this Chapter.

(1) **“Act”** means The Georgia Food Act.

(2) **“Adulterated”** as defined in Georgia Food Act Section 26-2-26.

(3) **“Balut”** means an embryo inside a fertile EGG that has been incubated for a period sufficient for the embryo to reach a specific stage of development after which it is removed from incubation before hatching.

(4) **“Code of Federal Regulations”** means the compilation of the general and permanent rules published in the Federal Register by the executive departments and agencies of the federal government.

(5) **“Commissioner”** means Commissioner of Agriculture of the State of Georgia.

(6) **“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 or FOOD PROCESSING PLANT, and does not offer the food for resale.

(7) **“Critical Control Point”** means a point or procedure in a specific food system where loss of control may result in an unacceptable health RISK.

(8) **“Critical limit”** means 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.

(9) **“Department”** means the Georgia Department of Agriculture.

(10) **“Department Representative ”** means any officer, inspector, agent or employee of the Georgia Department of Agriculture who is authorized by the COMMISSIONER with the duty of enforcing these regulations.

(11) **“Egg”** means the shell EGG of avian species such as chicken, duck, goose, guinea, quail, ratites or turkey. EGG does not include:

(a) BALUT

(b) the EGG of reptile species such as alligator; or

(c) an EGG PRODUCT

(12) **“Egg Product”** means all, or a portion of, the contents found inside EGGS separated from the shell and pasteurized in a FOOD PROCESSING PLANT, with or without added ingredients, intended for human consumption, such as dried, frozen or liquid eggs. EGG PRODUCT does not include FOOD which contains EGGS only in a relatively small proportion such as cake mixes.

(13) **“Employee”** means the License Holder, PERSON in charge, FOOD EMPLOYEE, 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 PROCESSING PLANT.

(14) **“Exemption”** means a written document issued by the REGULATORY AUTHORITY that authorizes a modification or waiver of one or more requirements of this Code if, in the opinion of the REGULATORY AUTHORITY, a health HAZARD or nuisance will not result from the modification or waiver.

(15) **“Food”** means 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, or chewing gum.

(16) **“Food employee”** means an individual working with unpackaged food, food equipment or utensils, or food-contact surfaces.

(17) **“Food Processing Plant”** means a commercial operation that manufactures food for human consumption and does not provide food directly to a consumer from that location. Such term shall not include a commercial operation that produces raw agricultural commodities and whose end product remains a RAW AGRICULTURAL PRODUCT.

(18) **“HACCP Plan”** means a written document that delineates the formal procedures for following the Hazard Analysis and CRITICAL CONTROL POINT (HACCP) principals developed by the National Advisory Committee on Microbiological Criteria for foods.

(19) **“Hazard”** means a biological, chemical, or physical property that is likely to cause an unacceptable CONSUMER health RISK.

(20) **“Hermetically Sealed Container”** means a container which is designed and intended to secure against entry of microorganisms and, in the case of low acid canned FOODS, to maintain the commercial sterility of its contents after processing.

(21) **“High Risk Facility”** means a facility which produces a high risk product or a lower-risk product distributed to highly susceptible populations or in such volume that a violative product poses a significant threat to public health.

(22) **“High Risk Product”** means a product, which has been classified by the classification committee appointed by the Commissioner, to carry a high potential for contamination or foodborne illness.

(23) "**Highly Susceptible Population**" means PERSONS who are more likely than other people in the general population to experience foodborne disease because they are:

(a) Immunocompromised; preschool age children, or older adults; and

(b) Obtaining FOOD at a facility that provides services such as custodial care, health care, or assisted living, such as a child or adult day care center, kidney dialysis center, hospital or nursing home, or nutritional or socialization services such as a senior center.

(24) "**Imminent Health Hazard**" means a significant threat or danger to health that is considered to exist when there is evidence sufficient to show that a product, practice, circumstance, or event creates a situation that requires immediate correction or cessation of operation to prevent injury based on:

(a) The number of potential injuries, and

(b) The nature, severity, and duration of the anticipated injury.

(25) "**License**" means the document issued by the Department, which authorizes a person to operate a FOOD PROCESSING PLANT.

(26) "**Low Risk Facility**" means a firm which produces or stores a low-risk product and whose target population or distribution does not increase the potential public health threat of a violative product.

(27) "**Low Risk Product**" means a product that has been classified by the classification committee appointed by the Commissioner, which carries a low potential for contamination or foodborne illness.

(28) "**Mode rate Risk Facility**" means a firm which produces a moderate risk product or which produces a lower-risk product distributed to highly susceptible populations or in such volume that a violative product poses a moderate threat to public health.

(29) "**Mode rate Risk Product**" means a product that has been classified by the classification committee appointed by the Commissioner, which carries a moderate potential for contamination or foodborne illness.

(30) "**Person**" means an association, a corporation, individual, partnership, other legal entity, government, or governmental subdivision or agency.

(31) "**Person In Charge**" means the individual present at a FOOD PROCESSING PLANT who is responsible for the operation at the time of inspection.

(32) "**pH**" means 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.

(33) "**Poisonous or Deleterious Substances** " means substances that are not intended for ingestion.

(34) "**Potentially Hazardous Food**" (Time /Temperature Control for Safety Food). (a) "Potentially hazardous food (time/temperature control for safety food)" means a FOOD that requires time/temperature control for safety (TCS) to limit pathogenic microorganism growth or toxin formation.

(b) "Potentially hazardous food (time/temperature control for safety food)" includes:

1. An animal FOOD that is raw or heat-treated; a plant FOOD that is heat-treated or consists of raw seed sprouts, cut melons, cut tomatoes or mixtures of cut tomatoes that are not modified in a way so that they are unable to support pathogenic microorganism growth or toxin formation, or garlic-in-oil mixtures that are not modified in a way so that they are unable to support pathogenic microorganism growth or toxin formation; and

2. Except as specified in Subparagraph (3)(d) of this definition, a FOOD that because of the interaction of its A_w and pH values is designated as Product Assessment Required (PA) in Table A or B of this definition:

Table A.
INTERACTION OF PH AND A_w FOR CONTROL OF SPORES IN FOOD HEAT-TREATED
TO DESTROY VEGETATIVE CELLS AND SUBSEQUENTLY PACKAGED

A_w values	pH values		
	4.6 or less	> 4.6 - 5.6	> 5.6
≤ 0.92	non-PHF*/non-TCS FOOD**	non-PHF/non-TCS FOOD	non-PHF/non-TCS FOOD
> 0.92 - .95	non-PHF/non-TCS FOOD	non-PHF/non-TCS FOOD	PA***
> 0.95	non-PHF/non-TCS FOOD	PA	PA

* PHF means POTENTIALLY HAZARDOUS FOOD
 ** TCS FOOD means TIME/TEMPERATURE CONTROL FOR SAFETY FOOD
 *** PA means Product Assessment required

Table B.
INTERACTION OF PH AND A_w FOR CONTROL OF VEGETATIVE CELLS AND SPORES
IN FOOD NOT HEAT-TREATED OR HEAT-TREATED BUT NOT PACKAGED

A_w values	pH values			
	< 4.2	4.2 - 4.6	> 4.6 - 5.0	> 5.0
< 0.88	non-PHF*/non-TCS food**	non-PHF/non-TCS food	non-PHF/non-TCS food	non-PHF/non-TCS food
0.88 – 0.90	non-PHF/non-TCS food	non-PHF/non-TCS food	non-PHF/non-TCS food	PA***
> 0.90 – 0.92	non-PHF/non-TCS food	non-PHF/non-TCS food	PA	PA
> 0.92	non-PHF/non-TCS food	PA	PA	PA

* PHF means POTENTIALLY HAZARDOUS FOOD
 ** TCS FOOD means TIME/TEMPERATURE CONTROL FOR SAFETY FOOD
 *** PA means Product Assessment required

(c) "Potentially hazardous food (time/temperature control for safety food)" does not include:

1. An air-cooled hard-boiled EGG with shell intact, or an EGG with shell intact that is not hard-boiled, but has been pasteurized to destroy all viable salmonellae;

2. A FOOD in an unopened HERMETICALLY SEALED CONTAINER that is commercially processed to achieve and maintain commercial sterility under conditions of non-refrigerated storage and distribution;

3. A FOOD that because of its pH or Aw value, or interaction of Aw and pH values, is designated as a non-PHF/non-TCS FOOD in Table A or B of this definition;

4. A FOOD that is designated as Product Assessment Required (PA) in Table A or B of this definition and has undergone a Product Assessment showing that the growth or toxin formation of pathogenic microorganisms that are reasonably likely to occur in that FOOD is precluded due to:

(i) Intrinsic factors including added or natural characteristics of the FOOD such as preservatives, antimicrobials, humectants, acidulants, or nutrients;

(ii) Extrinsic factors including environmental or operational factors that affect the FOOD such as packaging, modified atmosphere such as REDUCED OXYGEN PACKAGING, shelf life and use, or temperature range of storage and use;

(iii) A combination of intrinsic and extrinsic factors; or

5. A FOOD that does not support the growth or toxin formation of pathogenic microorganisms in accordance with one of the Subparagraphs (3)(a) - (3)(d) of this definition even though the FOOD may contain a pathogenic microorganism or chemical or physical contaminant at a level sufficient to cause illness or injury.

(35) "**Processing**" or "**Process**" means any or all of the physical and/or chemical alterations applied to a food; as it is taken from its original state; or any food which has been partially or fully processed previously; and either prepared further by cooking or made into another form before being marketed.

(36) "**Ratite**" means a flightless bird such as an emu, ostrich, or rhea.

(37) "**Raw Agricultural Product**" means any agricultural commodity in its raw or natural state that has undergone little or no processing. This product would require further processing before consumption.

(38) "**Ready-to-Eat Food**" means food that is in a form that is edible without washing, cooking, or additional preparation by the food establishment or consumer and that is reasonably expected to be consumed in that form.

(39) "**Regulatory Authority**" means an agency that is charged with the duty of enforcing specific regulations. The REGULATORY AUTHORITY in this Chapter refers to the Georgia Department of Agriculture and the duly authorized agents.

(40) "**Risk**" means the likelihood that an adverse health effect will occur within a population as a result of a HAZARD in a FOOD.

(41) "**U.S. Federal Food, Drug, and Cosmetic Act**" (abbreviated as FFDCA, FDCA, or FD&C) gives authority to the U.S. Food and Drug Administration (FDA) to oversee the safety of food, drugs, and cosmetics.

(42) "**Water Activity**" means a measure of the free moisture in a food, is the quotient of the water vapor pressure of the substance divided by the vapor pressure of pure water at the same temperature, and is indicated by the symbol "aw".

40-7-18-.03 Right of Entry.

(1) The Commissioner or his duly authorized agent shall have free access during all hours of operation and at all other reasonable hours to any factory, warehouse, or establishment in which food is manufactured, processed, packed, or held for introduction into commerce and any vehicle being used to transport or hold such foods to commerce for the following purposes:

(a) Of inspecting such factory, warehouse, establishment, or vehicle, any records of pathogen destruction, and any records of testing of samples or specimens of foods, ingredients, or environmental for the presence of poisonous or deleterious substances or other contaminants and the results thereof as may be required to determine if any of the provisions of this article are being violated; and

(b) Of securing samples or specimens of any food or environmental samples, after paying or offering to pay for such samples.

(2) It shall be the duty of the Commissioner to make or cause to be made examinations of samples secured under 40-7-18-.07 to determine whether or not this article is being violated.

Authority O.C.G.A. Sec. 26-2-27.1. **History.** Original Rule entitled "Right of Entry" adopted. F. Apr. 14, 2010; eff. May 4, 2010.

40-7-18-.04 Preventing Food and Ingredient Contamination. Food shall be protected from cross contamination by:

(a) Separating raw agricultural products requiring pathogen destruction during storage, preparation, and holding from ready-to-eat foods not requiring further processing, except when combined as ingredients.

(b) As specified under 40-7-1-.12.

Authority O.C.G.A. Sec. 26-2-27.1. **History.** Original Rule entitled "Preventing Food and Ingredient Contamination" adopted. F. Apr. 14, 2010; eff. May 4, 2010.

40-7-18-.05 Laboratory Requirements. Any food processing plant subject to any testing requirements pursuant to this chapter shall cause such required tests to be performed consistent and in accordance with testing standards and procedures outlined in the federal Food and Drug Administration's Bacterial Analytical Manual and standards developed by the Association of Analytical Communities (AOAC) International, International Organization for Standardization, or another internationally recognized certification body.

Authority O.C.G.A. Sec. 26-2-27.1. **History.** Original Rule entitled "Laboratory Requirements" adopted. F. Apr. 14, 2010; eff. May 4, 2010.

40-7-18-.06 Testing.

(1) The Commissioner shall require testing of finished products leaving the food processing facility, including ingredients going to other facilities for use in other products, for the presence of poisonous or deleterious substances or other contaminants rendering such foods or ingredients injurious to health; testing shall be conducted according to the risk category of the food processing plant.

(a) The food processing facility risk category shall be determined according to the highest risk product the facility produces. The three designated risk categories and minimum testing requirements are:

1. Low risk facilities – quarterly testing.
2. Moderate risk facilities – monthly testing.
3. High risk facilities – bimonthly testing.

(b) Reasonable representative samples according to the scale of the operation/processing shall be tested at regular intervals.

(c) Each firm shall determine, according to the product they are producing, which test shall be sufficient to detect the presence of poisonous or deleterious substances or other contaminants that would cause a food or ingredient to be injurious to health.

(d) Testing shall be conducted by a laboratory as prescribed in 40-7-18-.05.

(e) All positive results shall be reported to the Department in accordance with 40-7-18- .07(1).

(f) The Commissioner shall establish a committee to determine the foods associated with each risk category. The Commissioner shall render a list of facility classifications and foods classifications. This list should be based on sound science including; known food safety hazards, recent food recalls, previous positive product samples, potential for contamination or foodborne illness and guidance from federal food safety agencies, academia, and industry.

(2) In addition to any regular tests required, the Commissioner may order any food processing plant to have samples or specimens of its foods and ingredients tested for the presence of any poisonous or deleterious substances or other contaminants whenever in his or her determination there are reasonable grounds to suspect that such food or ingredients may be injurious to health.

(3) The food processing plant shall be responsible for the cost of any testing required pursuant to these regulations and may conduct such testing either internally or via a third party as prescribed in 40-7-18-.05.

Authority O.C.G.A. Sec. 26-2-27.1. **History.** Original Rule entitled "Testing" adopted. F. Apr. 14, 2010; eff. May 4, 2010.

40-7-18-.07 Reporting.

(1) Whenever any person or firm operating a food processing plant in this state obtains information from testing of samples or specimens of finished foods or finished food ingredients which, based on a confirmed positive test result, indicates the presence of a substance that would cause a manufactured food bearing or containing the same to be adulterated with the presence of poisonous or deleterious substances or other contaminants, such person or firm shall report such test result(s) to the Department within 24 hours after obtaining such result.

(a) The person or firm that operates a food processing plant shall be required to report the presence of poisonous or deleterious substances or other contaminants even if the product was not distributed and the problem was corrected.

(b) A presumptive positive test result or test result requiring further typing or numeration shall be carried out through additional testing, utilizing the same sample that yielded the presumptive, to obtain a final result.

(2) Firms reporting positive products shall be placed on an accelerated sampling program as determined by the Department.

Authority O.C.G.A. Sec. 26-2-27.1. **History.** Original Rule entitled "Reporting" adopted. F. Apr. 14, 2010; eff. May 4, 2010.

40-7-18-.08 Records. Records of the results of any tests required pursuant to this Code section shall be kept by a food processing plant and made available to the Department for inspection for a period of not less than two years from the date the results were reported by the laboratory.

Authority O.C.G.A. Sec. 26-2-27.1. **History.** Original Rule entitled "Records" adopted. F. Apr. 14, 2010; eff. May 4, 2010.

40-7-18-.09 Written Food Safety Plan.

(1) Each written Food Safety Plan shall be submitted to the Department for review. If an operator of a food processing plant, in its discretion, submits to the department a written food safety plan for such plant and such plan conforms to rules and regulations then such food processing plant shall comply with the requirements of such written food safety plan including, but not limited to, any test regimen provided by such plan, in lieu of complying with a test regimen as specified under 40-7-18-.06.

(2) Minimum standards and requirements for a written food safety plan, such as a hazard analysis critical control point plan, that may be submitted by an operator of a food processing plant to document and describe the procedures used at such plant to prevent the presence of hazards such as poisonous or deleterious substances or other contaminants that would render finished foods or finished ingredients as manufactured at such plant injurious to health, shall include:

(a) A hazard categorization of the types of products that are to be produced.

(b) A flow diagram by specific food or category type identifying critical control points and providing information on the following:

1. Ingredients, materials, and equipment used in the preparation of that food, and
2. Formulations or recipes that delineate methods and procedural control measures that address the food safety measures;

(c) Required sampling and testing of finished products leaving the food processing facility including ingredients going to other facilities for use in other products, for the presence of poisonous or deleterious substances or other contaminants rendering such foods or ingredients injurious to health.

1. Type of testing prescribed for each product.
2. Frequency of testing.

(d) Food employee and supervisory training that addresses food safety measures;

(e) A statement of standard operating procedures for the plan under consideration including clearly identifying:

1. Each critical control point;
2. The critical limits for each critical control point;
3. The method and frequency for monitoring and controlling each critical control point by the food employee designated by the person in charge;
4. The method and frequency for the person in charge to routinely verify that the food employee is following standard operating procedures and monitoring critical control points;
5. Action to be taken by the person in charge if the critical limits for each critical control point are not met;
6. Records to be maintained by the person in charge to demonstrate that the plan is properly followed and effective;
7. Verify proper cleaning and sanitation.
8. Validation of each critical control point.

(f) Additional scientific data or other information, as required by the Department, supporting the determination that food safety is not compromised by the proposal.

Authority O.C.G.A. Sec. 26-2-27.1. **History.** Original Rule entitled "Written Food Safety Plan" adopted. F. Apr. 14, 2010; eff. May 4, 2010.

40-7-18-.10 Exemption.

(1) Section 40-7-18-.06 of this chapter shall not apply to any food processing plant:

- (a) Operating under a federal grant of inspection from the United States Department of Agriculture Food Safety and Inspection Service and not producing products under U.S. Food and Drug Administration jurisdiction.
- (b) Producing fluid milk products that are governed under the Pasteurized Milk Ordinance (PMO).
- (c) Producing bottled water products regulated under Georgia Department of Agriculture Food Division Regulations Chapter 40-7-6 Additional Regulations Applicable to Commercially Bottled Water and Water Vending Machines.
- (d) Producing shellfish products governed by the National Shellfish Sanitation Program (NSSP) Model Ordinance.
- (e) Producing raw agricultural products requiring further processing as specified under 40-7-18-.02(37).
- (f) Classified as a small business producing low volume food products as defined by U.S. Food and Drug Administration. Businesses qualifying under this exemption must submit supporting documentation to the Department.

(2) The exemptions granted by the Commissioner based on criteria apply only to this Chapter. However, if an exemption is granted it can be revoked.

Authority O.C.G.A. Sec. 26-2-27.1. **History.** Original Rule entitled "Exemption" adopted. F. Apr. 14, 2010; eff. May 4, 2010.

40-7-18-.11 Trade Secrets – Confidentiality. The Department shall treat as confidential information that qualifies as a trade secret that is contained on inspection report forms and in the plans or specifications submitted as required to comply with this chapter.

Authority O.C.G.A. Sec. 26-2-27.1. **History.** Original Rule entitled "Trade Secrets - Confidentiality" adopted. F. Apr. 14, 2010; eff. May 4, 2010.

40-7-18-.12 Adoption of Reference.

Hereinafter, the following is adopted by reference and therefore all applicable provisions become part of this chapter:

- (1) Federal Food, Drug and Cosmetic Act, as amended and regulations issued thereunder.
- (2) The Code of Federal Regulations, Title 21 Parts 1 (ONLY § 1.20-1.24), 7 (ONLY § 7.1-7.13 and § 7.40-7.59), 70 (ONLY § 70.20-70.25), 73 (ONLY § 73.1- § 73.615), 74 (ONLY § 74.101-706), 81, 82 (ONLY § 82.3- § 82.706), 100 (ONLY § 100.155 and § 101.100), 101 (EXCEPT § 101.69 and § 101.108), 102 (EXCEPT § 102.19), 104, 105, 106 (EXCEPT § 106.120), 107 (EXCEPT § 107.200- § 107.280), 108 (ONLY § 108.25- § 108.35), 109, 110, 113, 114, 115, 118, 120, 123, 129, 130 (EXCEPT § 130.5-6 and § 130.17), 131, 133, 135, 136, 137, 139, 145, 146, 150, 152, 155, 156, 158, 160, 161, 163, 164, 165, 166, 168, 169, 170 (EXCEPT § 170.6, § 170.15, and § 170.17), 172, 173, 174, 175, 176, 177, 178, 180, 181,182, 184, 186, and 189.

Authority O.C.G.A. Sec. 26-2-27.1. **History.** Original Rule entitled "Adoption of Reference" adopted. F. Apr. 14, 2010; eff. May 4, 2010. **Amended:** F. July 7, 2011; eff. Jul. 27, 2011.

40-7-18-.13 Civil Penalties.

- (1) A food processing plant that fails to comply with the testing regiment as specified under 40-7-18-.06 or Written Food Safety Plan as specified under paragraph (1) and (2) of this section;
 - (a) Shall be imposed a fine not to exceed \$5,000.00 for each violation.
 - (b) An imposition of a \$7,500.00 civil penalty for any food processing plant that knowingly fails to comply.
 - (c) In addition to such civil penalties, within 30 days of the determination by the Commissioner that such violation

has occurred, such food processing plant shall submit to the Commissioner a Written Plan as specified under paragraph (2) of this section.

(2) Any person who knowingly fails to make the report required by section 40-7-18-.07 of this Chapter shall be guilty of a misdemeanor. The punishment shall be supplemental to any other applicable provisions of law.

(3) Any person who knowingly violates record keeping as required by section 40-7-18-.08 shall be guilty of a misdemeanor. The punishment shall be supplemental to any other applicable provisions of law.

(4) Any person who knowingly introduces into commerce finished foods or finished food ingredients as manufactured at a food processing plant knowing that it contains a substance that would cause a manufactured food bearing or containing the same to be adulterated with the presence of poisonous or deleterious substances or other contaminants shall be guilty of a felony, and , upon conviction, shall be punished by imprisonment for not less than one nor more than 20 years, a fine not to exceed \$20,000.00, or both. The punishment shall be supplemental to any other applicable provisions of law.

(5) Each day a violation continues after the violation has been documented by the Department shall be considered a separate violation.

(6) Such penalties shall be subject to review in the manner prescribed by the Department’s Administrative Rules of Practice and Procedure Rules 40-1-2.

Authority O.C.G.A. 26-2-27.1(c)(ii). **History.** Original Rule entitled "Civil Penalties" adopted. F. July 7, 2011; eff. July 27, 2011.

40-7-18-.14 License to Operate.

(1) Prerequisite for Operation. A person may not operate a food processing plant without a valid license to operate issued by the Department.

(2) Form of Submission. A person desiring to operate a food processing plant shall submit to the Department a written application for a license on a form provided by the Department.

(a) The Commissioner shall charge the following fees for the licenses issued pursuant to 26-2-25. (a). The fee structure shall be based on the level of risk, procedural effort and inspection time needed for each food processing plant. Tier 1 \$100.00, Tier 2 \$150.00, Tier 3 \$200.00, Tier 4 \$250.00 and Tier 5 \$300.00. The license shall be renewed annually on July1. License fees shall be increased by 50 percent for the renewal of a license not renewed by September 1.

Firm Code	Firm Type	Tier
272	Bulk Honey Producer	1

Firm Code	Firm Type	Tier
220	Flour Mill / Cornmeal Mill	2
260	Syrup Processing	2
270	Honey Processing	2
330	Frozen Fruit / Vegetable Processing	2
350	Pecan Processing (RAW)	2
360	Peanut Processing (RAW)	2
397	Spices	2
404	Microprocessor	2
550	Coffee / Tea Processing	2
902	Ice Manufacturing	2

Firm Code	Firm Type	Tier
114	Retail / Wholesale Seafood	3
130	Bottling Plants (Non-Alcohol)	3
151	Bottling Water (Plant)	3
208	Retail / Wholesale Bakery	3
210	Wholesale Bakery	3
218	Rice / Noodle Manufacturing Processing	3
219	Tortillas Manufacturing / Processing	3
221	Flour Mill / Cornmeal Mill - Large	3
240	Candy Processing	3
251	Sugar Processing	3
261	Syrup Processing - Large	3
320	Seafood / Fishery Processing	3
331	Frozen Fruit / Vegetable Processing - Large	3
344	Acid Foods Processing	3
347	Jams, Jellies, Preserves, Spreads Processing	3
351	Pecan Processing (RAW) - Large	3
352	Pecan Processing (READY-TO-EAT)	3
361	Peanut Processing (RAW) - Large	3
362	Peanut Processing (READY-TO-EAT)	3
380	Vegetable Oil / Shortening / Oleo Margarine Processing	3
398	Spices - Large	3
399	Condiments Processing	3
551	Coffee / Tea Processing - Large	3
600	Alcoholic Beverage Processing	3
640	Egg Producer	3
650	Egg Processing	3
903	Ice Manufacturing – Large	3
905	Sandwich Manufacturing / Processing	3

Firm Code	Firm Type	Tier
115	Retail / Wholesale Seafood - Large	4
116	Retail / Wholesale Seafood with Deli	4
131	Bottling Plants (Non-Alcohol) - Large	4
152	Bottling Water (Plant) - Large	4
209	Retail / Wholesale Bakery - Large	4
211	Wholesale Bakery - Large	4
213	Wholesale / Retail Bakery with Deli	4
241	Candy Processing - Large	4
321	Seafood / Fishery Processing - Large	4
332	Fresh Fruit / Vegetable Processing	4
340	Canned Fruit / Vegetable Processing	4
342	Acidified / Acid Foods Processing	4
345	Acidified Foods Processing	4
353	Pecan Processing (READY-TO-EAT) - Large	4
363	Peanut Processing (READY-TO-EAT) - Large	4
370	Peanut Butter Processing	4

Firm Code	Firm Type	Tier
381	Vegetable Oil / Shortening / Oleo Margarine Processing - Large	4
382	Juice Processors	4
385	Baby Food Processors	4
400	Multi-Product & Miscellaneous Food Processing	4
410	Imitation Dairy Product Processing	4
601	Alcoholic Beverage Processing - Large	4
906	Sandwich Manufacturing / Processing - Large	4
908	Snack Food Manufacturing / Processing	4

Firm Code	Firm Type	Tier
333	Fresh Fruit / Vegetable Processing - Large	5
336	Fresh Sprouts Processing	5
341	Canned Fruit / Vegetable Processing - Large	5
343	Acidified / Acid Foods Processing - Large	5
346	Low Acid Foods Processing	5
371	Peanut Butter Processing- Large	5
383	Juice Processors - Large	5
401	Multi-Product & Miscellaneous Food Processing - Large	5

(3) Regulations governing blended operations.

(a) Establishments that have both retail sales and processing plant operations on the same premises will not receive the Food Sales Establishment License, but will be issued the Manufactured Food Establishment License.

(b) Retail operations at these facilities will still be subject to the Department’s General Rules Chapter 40-7-1 governing retail operations.

(c) The wholesale manufacturing operation will be subject to the Department’s Additional Regulations Applicable to Processing Plants Chapter 40-7-18 governing manufactured food facilities.

(4) Qualifications and Responsibilities of Applicants. To qualify for licensing, an applicant shall:

(a) Be an owner of the establishment or an officer of the legal ownership;

(b) Comply with the requirements of these regulations;

(c) Agree to, that after the Department Representative presents official credentials and provides notice of the purpose of, and an intent to conduct, an inspection, the person in charge shall allow the Department Representative to determine if the food processing plant is in compliance with these Regulations by allowing access to the establishment, allowing inspection, and providing information and records specified in these Regulations and to which the Department is entitled according to law, during the food processing plant's hours of operation and other reasonable times.

(d) Agree to comply with directives of the Department including time frames for corrective actions specified in inspection reports, notices, orders, warnings, and other directives issued by the Department in regard to the license holder's food processing plant. Further, a license holder shall at the time of inspection, correct a critical violation of these regulations and/or implement corrective actions for a HACCP plan provision that is not in compliance with its critical limit.

(e) Agree to be subject to the administrative, civil, injunctive, and criminal remedies authorized under law for

failure to comply with these regulations or a directive of the Department, including time frames for corrective actions specified in inspection reports, notices, orders, warnings, and other directives.

(5) License Not Transferable. A license may not be transferred from one person to another person, from one processing plant to another, or from one type of operation to another.

(6) Refusal to Sign Acknowledgment. The regulatory authority shall:

(a) Inform a person who declines to sign an acknowledgment of receipt of inspectional findings that:

1. An acknowledgment of receipt is not necessarily an agreement with findings,
2. Refusal to sign an acknowledgment of receipt will not affect the license holder's obligation to correct the violations noted in the inspection report within the time frames specified, and
3. A refusal to sign an acknowledgment of receipt is noted in the inspection report and conveyed to the Department historical record for the food processing plant; and

(b) Make a final request that the person in charge sign an acknowledgment of receipt of inspectional findings.

(7) Ceasing Operations and Reporting - Imminent Health Hazard.

(a) Except as specified in paragraph (b) of this section, a license holder shall immediately discontinue operations and notify the Department if an imminent health hazard may exist because of an emergency such as a fire, flood, extended interruption of electrical or water service, sewage backup, misuse of poisonous or toxic materials, onset of an apparent foodborne illness outbreak, gross insanitary occurrence or condition, or other circumstance that may endanger public health;

(b) A license holder need not discontinue operations in an area of an food processing plant that is unaffected by the imminent health hazard.

(8) Resumption of Operations.

(a) If operations are discontinued as specified under 40-7-18-.14(7) or otherwise according to law, the permit holder shall obtain approval from the Department before resuming operations

(b) Withhold From Sale (Embargo: Detained) -The removal or disposal of embargoed or detained food is prohibited without official release from the Department.

History: Original Rule entitled "License to Operate" adopted. F. Aug. 14, 2012; eff. Sep. 3, 2012.