

40-7-18-.13 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 July 1. 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
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.

(7) Resumption of Operations.

(a) If operations are discontinued as specified under 40-7-18-.13(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.