



GEORGIA DEPARTMENT OF AGRICULTURE

Gary W. Black, Commissioner

www.agr.georgia.gov

DATE: August 14, 2018

ACTION: Notice of Intent to Revise Chapter 40-7-18 entitled “Additional Regulations Applicable to Processing Plants”

TO ALL INTERESTED PERSONS AND PARTIES:

Pursuant to the Official Code of Georgia Annotated, O.C.G.A. § 26-2-34 and 50-13-4, notice is hereby given that the Georgia Department of Agriculture will be accepting written comments regarding the adoption of amendments to Food Division Regulations Chapter 40-7-18 entitled “Additional Regulations Applicable to Processing Plants.” The Department will be accepting written comments from August 14, 2018, to the close of business (4:30 p.m. EST) on September 13, 2018.

SYNOPSIS, MAIN FEATURES AND DIFFERENCES:

The Department is proposing to amend Food Divisions Regulations Chapter 40-7-18 entitled “Additional Regulations Applicable Processing Plants.” The proposed amendments and rationale are summarized in the table below:

Current:	Change:	Rationale:
Title: 40-7-18 Additional Regulations Applicable to Processing Plants	New Title: 40-7-18 Manufactured Food Regulations.	The previous 40-7-18 was written to supplement the provisions of 40-7-1. After splitting our Retail and Manufactured Food inspection programs, 40-7-18 serves as the exclusive regulations governing processing plants. The title change reflects this regulatory posture.
40-7-18-.02	Addition definition for “Acid” and “Acidified Foods.”	Added the definition from the Code of Federal Regulations (CFR).
40-7-18-.02	Added definition for “Adequate.”	Added the definition from the CFR.
40-7-18-.02	Revised definition for “Critical Control Point.”	Harmonized the definition with the CFR.
40-7-18-.02	Revised the definition for “Critical Limit.”	Harmonized the definition with the CFR.
40-7-18-.02	Added the definition for “Finished Product.”	To provide clarification for the finished product testing that is required by these regulations.
40-7-18-.02	Added the definition for “Fish.”	Added the definition from the CFR.

Current:	Change:	Rationale:
40-7-18-.02	Revised the definition for “Food Processing Plant.”	To include processing plants that conduct sales to the end consumer from the same premise, and to provide delineation on regulatory authority between the Manufactured Food and Retail Food inspection programs.
40-7-18-.02	Added the definition for “Manufacturing/Processing.”	To define and provide examples of these types of operations.
40-7-18-.02	Added the definition for “Molluscan Shellfish.”	Added the definition from the CFR.
40-7-18-.02	Added the definition for “Packing.”	Added the definition from the CFR.
40-7-18-.02	Deleted the definition for “Potentially Hazardous Food.”	New definition for Time/Temperature Control for Safety Food was added.
40-7-18-.02	Revised the definition for “Raw Agricultural Product.”	Included “Raw Agricultural Commodity” to the definition as a synonymous term.
40-7-18-.02	Added the definition for Retail Food Establishment.”	To provide delineation on regulatory authority between the Manufactured Food and Retail Food inspection programs.
40-7-18-.02	Added a definition for “Risk Classification.”	Describes the rationale used for determining the risk level of a food processing plant.
40-7-18-.02	Added the definition for “Time/Temperature Control for Safety Food.”	FDA revised their definition of Potentially Hazardous Food in the 2013 Model Food Code.
40-7-18-.02	Renumbered section 40-7-18-.02.	This section was renumbered to accommodate alphabetical inclusion of new terms.
40-7-18-.06	Struck “bimonthly” and replaced it with “semimonthly.”	Semimonthly is a better term for the intent of the rule – testing twice per month.
40-7-18-.06	Revised paragraph (f) striking language since the committee had been convened and the list of classifications established. Added language to differentiate between GA testing requirements and FDA testing requirements.	FDA’s testing requirements may not equal the frequency of testing required by 40-7-18-.06. This revised rule encourages food processing plants to consult the Department to make sure their testing regimen meets the requirements of 40-7-18-.06.

Current:	Change:	Rationale:
40-7-18-.09	Added new paragraph (3).	This allows food safety plans, when required by the FDA Preventive Controls (PC) rule, to be submitted to the Department for consideration as the ‘Written Food Safety Plan’ described in GA law and Department rules 40-7-18.
40-7-18-.10(1)	Revised the exemptions detailed in 40-7-18-.10(1).	This is fundamental to the spirit of the law and clarifies that exemptions to the mandatory testing are for specific products and processes, rather than a blanket exemption to any given food processing plant that produces an exempt product.
40-7-18-.10(2)	Added new paragraph (2).	Further clarifies that food processing plants that produce both covered and exempt products must still perform the mandatory testing on those covered products.
40-7-18-.10(2)	Renumbered 40-7-18-.10(3) after insertion of new paragraph (2) and adds new language to this paragraph.	Clarifies that exemptions referenced within section 40-7-18-.10 are to the mandatory testing requirements and are not exemptions to any other requirements found within the chapter.
40-7-18-.12(2)	Added “Subpart O § 1.900-1.934” to the adoption by reference of 21 CFR Part 1.	The Official Code of Georgia Annotated § 26-2-441(a) designates the Department as the state agency responsible for cooperating with the FDA in implementation of the Food Safety Modernization Act (FSMA). Adoption of Subpart O allows the Department to enforce the FSMA Sanitary Transportation rule.
40-7-18-.12(2)	Struck Title 21 CFR 110 from the list of CFR’s adopted by reference, and added 21 CFR 117 to the list.	FDA created 21 CFR 117 to replace 21 CFR 110 as the Current Good Manufacturing Processes. FDA is repealing 21 CFR 110, and the Department is promulgating this change to match the federal code.
40-7-18-.12	Added new paragraph (3).	Adopts by reference Department rules 40-7-1 Retail Food Sales to govern sales to the end consumer performed on the same premise as a food processing plant.

Current:	Change:	Rationale:
40-7-18-.14(2)(a)	Removed the paragraph (2)(a) and the tables of Firm Type Codes and licensing tiers.	Description of the license tiers is moved to new paragraph (3). Removing the table of Firm Type Codes affords the Department the ability to be more responsive to industry needs, as we can create new firm type codes and adjust licensing tiers without having to wait for a promulgated change to the table in 40-7-18-.14(2)(a) to take effect. This information will instead be made accessible via the Department website.
40-7-18-.14(3)	Struck 40-7-18-.14(3) from the chapter. Replaced with new paragraph (3).	Removes the requirement for a blended operation (Retail and Manufactured Food on the same premise) to hold 2 licenses from the Department. These types of firms will receive 1 license and will be assigned to either the Retail Food or Manufactured Food program, based on predominance of sales either to consumers (Retail) or wholesale distribution (Manufactured Food). New paragraph (3) contains a description of the license tiers and the rationale used to assign food processing plants to a given license tier.
40-7-18-.14(3)	Added new paragraph (c).	Requires the Department to post and maintain a current list of Firm Type Codes and their associated license tiers on the Department's website.
40-7-18-.14(8)(b)	Struck "Withhold From Sale (Embargo-Detained) –" from paragraph (b). Added "Embargoed Food" to the beginning of paragraph (b).	The Official Code of Georgia Annotated grants the Department power to embargo food in § 26-2-38. This change is being made to reflect the language ("embargo") as it appears in this statute.

These changes are being made to ensure the Department's manufactured food regulations match, insofar as practicable, with those promulgated under the federal act. Definitions and clarifications are being added to aid food processing plants in their conformance with the regulatory provisions of 40-7-18.

COMMENT PERIOD AND ADDITIONAL INFORMATION:

The Department will be accepting written comments from August 14, 2018, to close of business (4:30 p.m. EST) on September 13, 2018. Comments will be considered on September 14, 2018.

Please submit written comments to:

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Food Safety Division
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19 Martin Luther King, Jr. Drive
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Telephone Number: (404) 656-3627

Interested persons may call or submit a written request to obtain a copy of the proposed rule. A copy of the synopsis and the proposed rule may be downloaded from the Georgia Department of Agriculture website at www.agr.georgia.gov.

This notice is given in compliance with the Georgia Administrative Procedure Act, O.C.G.A. § 50-13-4.