



DATE: July 8, 2019

Action: Notice of Intent to Amend Subject 40-7-1 entitled *Retail Food Sales*

**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 amendment of Subject 40-7-1 entitled *Retail Food Sales*. The Department will be accepting written comments from July 8, 2019, to close of business (4:30 p.m. EST) on August 9, 2019.

**Synopsis, Main Features, and Differences:**

The Department is proposing to revise Food Division Regulations Subject 40-7-1 entitled *Retail Food Sales* in an effort to keep the subject consistent with the Federal Food and Drug Administration’s 2017 Model Food Code. Equivalency with the Model Food Code is a requirement of the Voluntary National Retail Food Regulatory Program Standards’ Standard 1 – Regulatory Foundation. The Department is enrolled in the Retail Standards, and the Department is adopting these changes to help ensure continued conformance with Standard 1. All changes are outlined below:

Current Rule	Change	Rationale
40-7-1-.02(1)(b)38, “Expiration Date” Definition	<ul style="list-style-type: none"> <li>• Struck <i>Prepackaged sandwiches</i> 40-7-1-.02(1)(b)38(iv) from this definition to coincide with the removal of prepackaged sandwiches from the expiration date rules in 40-7-1-.13(3)(e)4.</li> <li>• Re-designated subparagraphs (b)38(v) and (vi) as new subparagraphs (b)38(iv) and (v).</li> </ul>	Prepackaged sandwiches were struck from 40-7-1-.13(3)(e). Additional information appears below.

<p>40-7-1-.02 Purpose &amp; Definitions</p>	<ul style="list-style-type: none"> <li>• Adding new term and definition for <i>Intact Meat</i>, inserted as new 40-7-1-.02(1)(b)58.</li> <li>• Re-designate subparagraphs (b)58 - (b)119 as new subparagraphs (b)59 - (b)120.</li> </ul>	<p>Definition was added in the 2017 Model Food Code.</p>
<p>40-7-1-.02(1)(b)116, “Vending Machine” definition.</p>	<ul style="list-style-type: none"> <li>• Revised the definition to include ‘electronic transaction’ as a form of payment.</li> <li>• Re-designated subparagraph (b)116 to new subparagraph (b)117 following the insertion of “Intact Meat” as new 40-7-1-.02(1)(b)58.</li> </ul>	<p>Definition was amended in the 2017 Model Food Code.</p>
<p>40-7-1-.03(5) Person In Charge</p>	<ul style="list-style-type: none"> <li>• Amended to add new paragraph (i) to address additional duty requirement for the Person in Charge to ensure employees are routinely monitoring food temperatures during hot and cold holding.</li> <li>• Re-designate paragraphs (i) - (o) as new paragraphs (j) - (p)</li> </ul>	<p>Additional duty requirements to ensure employees are maintaining and monitoring hot and cold holding temperatures was added in the 2017 Model Food Code.</p>
<p>40-7-1-.04(1)(a)2(v)</p>	<p>Amended subparagraph (a)2(v) to add the illness Typhoid fever to the descriptor for reportable diagnosis of illness diagnosed due to Salmonella Typhi so that it reads: “Typhoid fever (caused by Salmonella Typhi)”.</p>	<p>The amended language appears in the 2017 Model Food Code.</p>
<p>40-7-1-.04(1)(a)2(vi)</p>	<p>Amended subparagraph (a)2(vi) so that it reads: “Salmonella (nontyphoidal)”.</p>	<p>The amended language appears in the 2017 Model Food Code.</p>

40-7-1-.04(1)(a)3	Amended subparagraph (a)3 to replace the phrase, “Had a previous illness” with the phrase “Had Typhoid fever” and to delete the phrase “due to Salmonella Typhi”.	The amended language appears in the 2017 Model Food Code.
40-7-1-.04(1)(a)4(iii)	Amended subparagraph (a)4(iii) to replace “Salmonella Typhi” with “Typhoid fever”.	The amended language appears in the 2017 Model Food Code.
40-7-1-.04(1)(a)5(iii)	Amended subparagraph (a)5(iii) to add in descriptor text for the illness caused by Salmonella Typhi so that it reads: “. . . Typhoid fever (caused by Salmonella Typhi).”	The amended language appears in the 2017 Model Food Code.
40-7-1-.04(1)(c)2	Amended subparagraph (c)2 to correctly cross-reference paragraph 40-7-1-.04(3)(j).	Corrected reference amended in the 2017 Model Food Code
40-7-1-.04(2)(a)2	Amended subparagraph (a)2 to replace “nontyphoidal Salmonella” with “Salmonella (nontyphoidal)”.	The amended language appears in the 2017 Model Food Code.
40-7-1-.04(2)(c)	Amended paragraph (c) to replace “diagnosed with an infection from Salmonella Typhi” with “diagnosed with Typhoid fever, or reports having had Typhoid fever”.	The amended language appears in the 2017 Model Food Code.
40-7-1-.04(2)(g)	Amended paragraph (g) to replace “nontyphoidal Salmonella” with “Salmonella (nontyphoidal)”.	The amended language appears in the 2017 Model Food Code.
40-7-1-.04(3)(a)	Amended to revise paragraph (a) to replace “Salmonella Typhi” with “Typhoid fever”.	The amended language appears in the 2017 Model Food Code.

40-7-1-.04(3)(a)5	Amended to revise subparagraph (a)5 to replace “nontyphoidal Salmonella” with “Salmonella (nontyphoidal)”.	The amended language appears in the 2017 Model Food Code.
40-7-1-.04(3)(c)2	Amended to revise subparagraph (c)2 to replace “S. Typhi infection” with “Typhoid fever”.	The amended language appears in the 2017 Model Food Code.
40-7-1-.04(3)(g)1	Amended to revise subparagraph (g)1 to replace “nontyphoidal Salmonella infection” with “Salmonella (nontyphoidal) infection”.	The amended language appears in the 2017 Model Food Code.
40-7-1-.04(3)(j)3	Amended to revise subparagraph (J)(3) to replace “S. Typhi” with “Typhoid fever (caused by Salmonella Typhi)”.	The amended language appears in the 2017 Model Food Code.
40-7-1-.06(3)	<ul style="list-style-type: none"> <li>• Added new Section 40-7-1-.06(3) Use of Bandages, Finger Cots or Finger Stalls.</li> <li>• Re-designate sections (3) - (4) as new sections (4) - (5).</li> </ul>	Provision to cover a bandage, finger cot or stall with a single-use glove was added in the 2017 Model Food Code.
40-7-1-.07(1) Clean-up of Vomiting or Diarrheal Events	Amended Section 40-7-1-.07(1) to indicate that procedures for the clean-up of vomiting and diarrheal events for employees to follow shall be written.	Requirement that the clean-up procedures shall be written down was added in the 2017 Model Food Code.
40-7-1-.10(3)(a)1(iii)	<ul style="list-style-type: none"> <li>• Added new subparagraph (a)1(iii) to indicate separating raw animal foods during storage, preparation, holding and display from fruits and vegetables before they are washed.</li> <li>• Re-designated existing subparagraph (a)1(iii) as new subparagraph (a)1(iv).</li> </ul>	Requirement that was added in the 2017 Model Food Code.

40-7-1-.11(1)(a)1(ii)	Amended subparagraph (a)1(ii) to include the term “intact meat.”	Revision to reflect the newly included term was added in the 2017 Model Food Code.
40-7-1-.11(1)(a)2	Amended subparagraph (a)(2) to reflect new cooking time in seconds for ratites, mechanically tenderized and injected meats, comminuted fish, comminuted meat, comminuted game animals commercially raised for food or under voluntary inspection, and raw eggs that are not prepared to a consumer’s order from 15 seconds to 17 seconds.	Cooking time parameters were revised in the 2017 Model Food Code.
40-7-1-.11(1)(a)3	Amended subparagraph (a)3 to reflect new cooking time for poultry, baluts, wild game animals, stuffed foods or stuffing containing fish, meat, poultry or ratites from 15 seconds to <1 second (instantaneous).	Cooking time parameters were revised in the 2017 Model Food Code.
40-7-1-.11(1)(b)1 - 2	Amended paragraph (b) by reversing the order of subparagraphs (b)1 and (b)2, where subparagraph (b)2 is now subparagraph (b)1.	Reversing the subparagraphs, and their respective weight/temperature and time/temperature tables, was included in the 2017 Model Food Code.
40-7-1-.11(3) Plant Food Cooking for Hot Holding	Amended Section (3) to delete the phrase “fruits and vegetables” and replace it with the term “plant foods”.	Revision to mirror the language used in the section heading was included in the 2017 Model Food Code.
40-7-1-.11(5)(b)5	Amended subparagraph (b)5 by italicizing the text to correctly indicate it as an exception.	Font revision appears in the 2017 Model Food Code.

40-7-1-.11(6)(c)	Amended paragraph (c) to correctly cross reference subparagraph 40-7-1-.11(5)(b)4.	Corrected reference appears in the 2017 Model Food Code.
40-7-1-.11(9)(a)	Amended paragraph (a) to replace cross reference to paragraphs 40-7-1-.39(4)(b) - (e) with a cross reference to §40-7-1-.39(4).	Corrected reference appears in the 2017 Model Food Code.
40-7-1-.12(8)(a)3	Amended subparagraph (a)3 by deleting the term “appropriately” and replacing it with “inappropriately”.	Typo corrected in the 2017 Model Food Code.
40-7-1-.12(9)(a)1(i)	Amended subparagraph (a)1(i) to add a missing cross reference to subparagraph 40-7-1-.12(9)(b)4 in order to correctly reference subparagraphs 40-7-1-.12(9)(b)1 - 4.	Corrected reference appears in the 2017 Model Food Code.
40-7-1-.12(11)(b)	Amended paragraph (b) to replace cross reference to paragraphs 40-7-1-.39(4)(b) and (d) with a cross reference to paragraphs 40-7-1-.39(4)(c) and (d).	Corrected reference appears in the 2017 Model Food Code.
40-7-1-.12(11)(b)6(iii)	Amended subparagraph (b)6(iii) to replace cross reference to paragraphs 40-7-1-.39(4)(b) and (d) with a cross reference to paragraphs 40-7-1-.39(4)(c) and (d).	Corrected reference appears in the 2017 Model Food Code.
40-7-1-.12(11)(c)	Amended paragraph (c) to add in additional exception criteria for fish that is reduced oxygen packaged at retail to bear a label indicating that it is to be kept frozen until time of use.	Language requiring the package to be labeled with holding information was added in the 2017 Model Food Code.

40-7-1-.12(11)(d)1	Amended subparagraph (d)1 to replace cross reference to paragraphs 40-7-1-.39(4)(b) and (d) with a cross reference to paragraphs 40-7-1-.39(4)(c) and (d).	Corrected reference appears in the 2017 Model Food Code.
40-7-1-.12(11)(e)2	Amended subparagraph (e)2 to replace cross reference to paragraphs 40-7-1-.39(4)(b) and (d) with a cross reference to paragraphs 40-7-1-.39(4)(c) and (d).	Corrected reference appears in the 2017 Model Food Code.
40-7-1-.13(3)(e)4	<ul style="list-style-type: none"> <li>• Struck subparagraph (e)4 to remove prepackaged sandwiches from the expiration date requirements.</li> <li>• Re-designated existing subparagraphs (e)5 and (e)6 as new subparagraphs (e)4 and (e)5, respectively.</li> </ul>	Prepackaged sandwiches are adequately covered under the provisions of 40-7-1-.12 <i>Limitation of Growth of Organisms of Public Health Concern</i> ; and expiration date requirements still are in effect for time/temperature control for safety (TCS) sandwiches labeled as “keep refrigerated,” per 40-7-1-.13(3)(e)5.
40-7-1-.18(10) Cleaning Agents and Sanitizers, Availability	Amended to add new Section 40-7-1-.18(10) Cleaning Agents and Sanitizers, Availability, to require that equipment and utensil cleaning agents and sanitizers be provided and readily accessible for use.	New section requiring accessibility to cleaning agents and sanitizers was added in the 2017 Model Food Code.
40-7-1-.26(2)(b)	Amended paragraph (b) to replace “physical facilities” with “plumbing fixtures”.	Correcting a typo so the amended language mirrors the 2017 Model Food Code verbiage.
40-7-1-.36(6)(a)	Amended paragraph (a) to re-designate it as the lead-in paragraph for this section.	The amended language appears in the 2017 Model Food Code.

40-7-1-.36(6)(a)1 - 4	Amended subparagraphs (a)1 - 4 by re-designating them as paragraphs (a) - (d) in order to be inclusive of all washing chemicals and antimicrobial agents that may be used in the washing and treatment of produce as specified in 21 CFR 173.	The amended language appears in the 2017 Model Food Code.
40-7-1-.36(6)(b)	Deleted existing paragraph (b).	Ozone was removed from this section in the 2017 Model Food Code.
40-7-1-.38(5)(b)	Amended paragraph (b) to replace existing cross reference to paragraphs 40-7-1-.39(4)(d) and (e) with a cross reference to paragraph 40-7-1-.39(4)(d) and subparagraph (e)3.	Corrected reference appears in the 2017 Model Food Code.
40-7-1-.39(4) Contents of a HACCP Plan	Amended the lead-in paragraph for this section to indicate the license applicant or license holder is responsible for submitting a properly prepared HACCP plan, when a plan is required under 40-7-1-.39(3).	The amended language appears in the 2017 Model Food Code.
40-7-1-.39(4)(a)	Amended to add new paragraph (a) to introducing a new specification for the license holder or license applicant to include general information with the HACCP plan submission.	New paragraph (a) was added in the 2017 Model Food Code.

40-7-1-.39(4)(a)	Amended to re-designate existing paragraph (a) as new paragraph (b) where the intent of paragraph (b) remains the same, although the paragraph was revised to remove the list of examples.	The amended language appears in the 2017 Model Food Code.
40-7-1-.39(4)(b)	Amended to re-designate existing paragraph (b) (flow diagram) as new paragraph (c) which keeps its original intent, and includes a more descriptive list of what the flow diagram should include.	The amended language appears in the 2017 Model Food Code.
40-7-1-.39(4)(c)	Amended to delete paragraph (c) and move the food employee and supervisory training plan provision to new paragraph (e).	The amended language appears in the 2017 Model Food Code.
40-7-1-.39(4)(d)	Amended paragraph (d) by striking the language for standard operating procedures and incorporating language from the former paragraph (b); including a critical control points summary for each specific food or category type but keeping the original intent of paragraph (d).	The amended language appears in the 2017 Model Food Code.
40-7-1-.39(4)(d)3	Amended to revise subparagraph (d)3 to clarify that a food employee or person in charge may monitor critical control points.	The amended language appears in the 2017 Model Food Code.

40-7-1-.39(4)(d)5	Amended to revise subparagraph (d)5 to clarify that a person in charge, or a food employee, may be responsible for taking corrective action when a critical limit is not met.	The amended language appears in the 2017 Model Food Code.
40-7-1-.39(4)(e)	Amended to revise paragraph (e) to incorporate the food employee and supervisory training plan from deleted paragraph (c) as new subparagraph (e)1, included a new requirement in subparagraph (e)2 for the permit holder's or permit applicant's HACCP plan submission to incorporate copies of blank records forms necessary for implementation of the HACCP Plan, and a provision for including supporting documentation in subparagraph (e)3.	The amended language appears in the 2017 Model Food Code.
40-7-1-.39(4) Contents of a HACCP Plan	Amended to add a new paragraph (f) that is not a new requirement within §40-7-1-.39(4), but rather clarifies what was already required under the previous paragraph (e). This new paragraph (f) requires the license holder to include any other application or submission information required by the regulatory authority.	The amended language appears in the 2017 Model Food Code.

<p>40-7-1-.41(9) Issuing Report and Obtaining Acknowledgement of Receipt.</p>	<ul style="list-style-type: none"> <li>• Amended to remove the lead-in paragraph and insert it as new paragraph (a).</li> <li>• Added paragraph (b) to clarify that a “Regular” inspection report must be posted following a routine inspection, and to allow seven (7) calendar days to post that report.</li> <li>• Re-designated paragraphs (a) and (b) as new subparagraphs (b)1 and (b)2.</li> <li>• Added new subparagraph (b)3 to describe violative conditions when posting inspection reports.</li> </ul>	<p>Clarifying that routine inspection reports, denoted as “Regular” under the <i>Purpose of Inspection</i>, are the reports that should be posted to comply with 40-7-1-.41(9).</p>
<p>40-7-1-.41(12) Ceasing Operations and Reporting</p>	<p>Amended by adding subparagraphs 40-7-1-.41(12)(c)1 - 3 as new exception criteria indicating that the regulatory authority may agree to continuing operations during an extended water or electrical outage if written operational plans have been approved by the Department.</p>	<p>New paragraph (c) and subparagraphs 1 - 3 were added in the 2017 Model Food Code.</p>

**Comment Period and Additional Information:**

The Department will be accepting written comments from July 8, 2019, to close of business (4:30 p.m. EST) on August 9, 2019. Please submit written comments to:

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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](http://www.agr.georgia.gov).

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