

RULES
OF
GEORGIA DEPARTMENT OF AGRICULTURE

CHAPTER 40-7-20
PRODUCE SAFETY REGULATIONS

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40-7-20-.01 Scope of Regulations

The following regulations will apply to a farm or farm mixed-type facility that meets the general provisions as outlined in the Code of Federal Regulations, Title 21 Part 112.

Authority O.C.G.A. Secs. 26-2-34, 26-2-441.

40-7-20-.02 Definitions

The following definitions will apply in the interpretation and enforcement of this Chapter:

- (1) “**Adulterated**” will have the same definition as defined in O.C.G.A. § 26-2-26.
- (2) “**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.
- (3) “**Commissioner**” means the Commissioner of Agriculture of the State of Georgia.
- (4) “**Department**” means the Georgia Department of Agriculture.
- (5) “**Egregious Condition**” means a practice, condition, or situation on a farm or in a packing house that is reasonably likely to lead to serious adverse health consequences or death from the consumption of or exposure to covered produce.

- (6) “Fresh Sprouts Processing Facility” means a commercial operation that grows, harvests, packs, or holds sprouts, except soil- or substrate-grown sprouts harvested without their roots.
- (7) “Imminent Public 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.
- (8) “License”, unless otherwise provided herein, means the document issued by the Department, for a fee, which authorizes a person to operate a fresh sprouts processing facility.
- (9) “Misbranded” will have the same definition as defined in O.C.G.A. § 26-2-28.
- (10) “Person” means an individual, partnership, corporation, or association or any combination thereof.

Authority O.C.G.A. Secs. 26-2-34, 26-2-441.

40-7-20-.03 Right of Entry

The Commissioner or his duly authorized agent will have free access during all hours of operation and at all other reasonable hours to any farm, mixed-type facility, warehouse, or establishment in which produce is grown, harvested, packed, or held for introduction into commerce, and any vehicle being used to transport or hold produce to commerce for the following purposes:

- (1) To inspect each farm, mixed-type facility, warehouse, or establishment in which produce is grown, harvested, packed, or held for introduction into commerce and any vehicle being used to transport or hold produce to commerce for compliance with this Chapter and any other applicable law or regulation enforced by the Department;
- (2) To make additional inspections and reinspections as are necessary for the effective enforcement of these regulations; and
- (3) To examine applicable records of a farm, mixed-type facility, warehouse, or establishment in which produce is grown, harvested, packed, or held for introduction into commerce and any vehicle being used to transport or hold produce to commerce.

Authority O.C.G.A. Secs. 26-2-34, 26-2-441.

40-7-20-.04 Embargo or Condemnation

- (1) Produce determined to be adulterated or misbranded will be subject to embargo or condemnation and destruction. The Department may temporarily or permanently issue an order to embargo or condemn all produce or produce containers found to be adulterated or misbranded.
- (2) It is unlawful for any person to remove or dispose of such detained or embargoed article by sale or otherwise without the express written permission of the Commissioner or his duly authorized agent.

Authority O.C.G.A. Secs. 26-2-34, 26-2-441.

40-7-20-.05 Remedies and Penalties

The Department may issue civil monetary penalties and seek injunctive relief against any person who violates any provision of this Chapter or any other applicable law or regulation enforced by the Department.

Authority O.C.G.A. Secs. 26-2-34, 26-2-441.

40-7-20-.06 Adoption of Reference

The following is hereby adopted by reference and therefore all applicable provisions become part of this chapter:

- (1) Federal Food Safety Modernization Act, Public Law 111-353; and
- (2) The Code of Federal Regulations, Title 21 Part 112 Standards for the Growing, Harvesting, Packing, and Holding of Produce for Human Consumption, as amended and regulations issued thereunder.

Authority O.C.G.A. Secs. 26-2-34, 26-2-441.

40-7-20-.07 License Required for Fresh Sprouts Processing Facility

- (1) Prerequisite for Fresh Sprout Operation. A person may not operate a Fresh Sprouts Processing Facility falling under Code of Federal Regulations, Title 21 Part 112, Subpart M without a valid food sales establishment license to operate issued by the Department.
- (2) Form of Submission. A person desiring to operate a Fresh Sprouts Processing Facility must submit to the Department a written application for a license on a form provided by the Department.

(3) License.

- (a) The Commissioner will charge a license fee of \$300 for the food sales establishment license issued, pursuant to O.C.G.A 26-2-25.
- (b) The license must be renewed annually on July 1. License fees will be increased by fifty percent (50%) for the renewal of a license not renewed by September 1.

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

- (a) Be an owner of the establishment or an officer of the legal ownership;
- (b) Comply with the requirements of these regulations, and the Current Good Manufacturing Practices (CGMP) found in 21 CFR Part 117 – Subpart B, adopted by reference in Department rule 40-7-18-.12(2); and
- (c) 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 Fresh Sprout Processing Facility. Further, a license holder must, at the time of inspection, correct a critical violation of these regulations and/or implement corrective actions.

(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.

Authority O.C.G.A. Secs. 26-2-34, 26-2-441.

40-7-20-.08 Reporting Requirements for Fresh Sprouts Processing Facilities

- (1) Whenever any person or firm operating a Fresh Sprouts Processing Facility in this state obtains information of a positive test result that indicates the presence of a poisonous or deleterious substance, either from testing of environmental, in-process product, finished product, or spent sprout irrigation water; such person or firm must report such test result(s) to the Department within 24 hours after obtaining such result.
 - (a) The person or firm that operates a Fresh Sprouts Processing Facility will be required to report the positive findings regardless if the product was not distributed or the problem was corrected.
 - (b) A presumptive positive test result or test result requiring further typing or numeration must be carried out through additional testing utilizing the same sample that yielded the presumptive to obtain a final result.
- (2) Firms reporting positive products will be placed on an accelerated sampling program as determined by the Department.
- (3) Records of the results of any tests required pursuant to the section must be kept by a Fresh Sprout Processing Facility 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. Secs. 26-2-34, 26-2-441.

40-7-20-.09 Laboratory Requirements

Any farm, mixed-type facility, warehouse, or establishment subject to any testing requirements in this Chapter must cause such required tests to be performed consistent and in accordance with testing standards and procedures outlined in Title 21 Part 112 Subpart M and 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. Secs. 26-2-34, 26-2-441.

40-7-20-.10 Egregious Conditions

The Commissioner maintains the right to take necessary action, regardless of exemption status if:

- (1) A practice, condition, or situation on a farm or in a packing house is reasonably likely to lead to serious adverse health consequence or death from the consumption of or exposure to covered produce; or
- (2) Corrective action is not immediately taken for an imminent public health hazard.

Authority O.C.G.A. Secs. 26-2-34, 26-2-441.