

40-7-1-.02 Definitions. The following definitions shall apply in the interpretation and enforcement of this Chapter.

(23) **“Cut leafy greens”** means fresh leafy greens whose leaves have been cut, shredded, sliced, chopped, or torn. The term “leafy greens” includes iceberg lettuce, romaine lettuce, leaf lettuce, butter lettuce, baby leaf lettuce (i.e., immature lettuce or leafy greens), escarole, endive, spring mix, spinach, cabbage, kale, arugula and chard. The term “leafy greens” does not include herbs such as cilantro or parsley.

(2324) **“Department”** means the Department of Agriculture, the State of Georgia.

(2425) **“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.

(2526) **Drinking Water.**

(a) **"Drinking water"** means water that meets 40 CFR 141 National Primary Drinking Water Regulations.

(b) **"Drinking water"** is traditionally known as "potable water."

(c) **"Drinking water"** includes the term "water" except where the term used denotes that the water is not potable, such as "boiler water," "mop water," "rainwater," "wastewater," and "nondrinking" water.

(2627) **"Dry storage area"** means a room or area designated for the storage of PACKAGED or containerized bulk FOOD that is not POTENTIALLY HAZARDOUS and dry goods such as SINGLE-SERVICE items.

(2728) **Easily Cleanable.**

(a) **"Easily cleanable"** means a characteristic of a surface that:

1. Allows effective removal of soil by normal cleaning methods;
2. Is dependent on the material, design, construction, and installation of the surface; and
3. Varies with the likelihood of the surface's role in introducing pathogenic or toxigenic agents or other contaminants into FOOD based on the surface's APPROVED placement, purpose, and use.

(b) **"Easily cleanable"** includes a tiered application of the criteria that qualify the surface as EASILY CLEANABLE as specified under Subparagraph (a) of this definition to different situations in which varying degrees of cleanability are required such as:

1. The appropriateness of stainless steel for a FOOD preparation surface as opposed to the lack of need for stainless steel to be used for floors or for tables used for CONSUMER dining; or
2. The need for a different degree of cleanability for a utilitarian attachment or accessory in the deli-prep area as opposed to a decorative attachment or accessory in the CONSUMER dining area.

(2829) "**Easily movable**" means:

(a) Portable; mounted on casters, gliders, or rollers; or provided with a mechanical means to safely tilt a unit of EQUIPMENT for cleaning; and

(b) Having no utility connection, a utility connection that disconnects quickly, or a flexible utility connection line of sufficient length to allow the EQUIPMENT to be moved for cleaning of the EQUIPMENT and adjacent area.

(2930) "**Egg**" means the shell EGG of the domesticated chicken, turkey, duck, goose, or guinea.

(3031) "**Employee**" means the License Holder, PERSON IN CHARGE, 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 SALES ESTABLISHMENT.

(3132) "**EPA**" means the U.S. Environmental Protection Agency.

(3233) **Equipment.**

(a) "Equipment" means an article that is used in the operation of a food establishment such as a freezer, grinder, hood, ice-maker, meat block, mixer, oven, reach-in refrigerator, scale, sink, slicer, stove, table, temperature measuring device, or warewashing machine.

(b) "Equipment" does not include items used for handling or storage of large quantities of packaged foods that are received from a supplier in a cased or overwrapped lot, such as hand trucks, forklifts, and related equipment.

(3334) "**Exclude**" means to prevent a PERSON from working as a FOOD EMPLOYEE or entering a FOOD ESTABLISHMENT except for those areas open to the general public.

(35) "**Expiration Date**" is synonymous with Pull Date, Best-By Date, Best Before Date, Use-By Date, and Sell-By Date; and means the last date on which the following FOOD products can be sold at retail or wholesale:

(a) Prepackaged sandwiches;

(b) Eggs,

(c) Infant formula,

(d) Shucked oysters,

(e) Milk, and

(f) POTENTIALLY HAZARDOUS FOOD (TIME/TEMPERATURE CONTROL FOR SAFETY FOOD) that are labeled as "keep refrigerated."

(3436) Fish.

(a) "**Fish**" means fresh or saltwater finfish, crustaceans and other forms of aquatic life (including alligator, frog, aquatic turtle, jellyfish, sea cucumber, and sea urchin and the roe of such animals) other than birds or mammals, and all mollusks, if such animal life is intended for human consumption.

(b) "**Fish**" includes an edible human FOOD product derived in whole or in part from FISH, including FISH that have been processed in any manner

(3537) "**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.

(3638) "**Foodborne disease outbreak**" means the occurrence of two or more cases of a similar illness resulting from the ingestion of a common food.

(3739) "**Food-contact surface**" means:

(a) A surface of EQUIPMENT or a UTENSIL with which FOOD normally comes into contact; or

(b) A surface of EQUIPMENT or a UTENSIL from which FOOD may drain, drip, or splash:

1. Into a FOOD, or

2. Onto a surface normally in contact with FOOD.

(3840) "**Food employee**" means an individual working with unPACKAGED FOOD, FOOD EQUIPMENT or UTENSILS, or FOOD-CONTACT SURFACES.

(3941) Food Sales Establishment

(a) "Food Sales Establishment" means retail and wholesale grocery stores; retail seafood stores and places of business; food processing plants, seafood processing plants, except those food processing plants which are currently required to obtain a license from the Commissioner under any other provision of law; bakeries; confectioneries; fruit, nut, and vegetable stores or roadside stands; wholesale sandwich and salad manufacturers, including vending machines and operations connected therewith; and places of business and similar establishments, mobile or permanent, engaged in the sale of food primarily for consumption off premises. Within a food sales establishment, there may be a food service component, not separately operated, which may serve customers on site. This food service component shall be considered as part of the food sales establishment. The food sales component of any food service establishment defined in Code Section 26-2-370 shall not be included in this definition. Such "Food Sales Establishments" shall; except as in paragraph (b) of this part; comply with all requirements as set forth in these regulations. ~~This term shall not include "Food Service Establishments" as defined in Section 26-2-370. This term also shall not include establishments engaged in the sale of food primarily for consumption off the premises if such sale is an authorized part of, and occurs upon the site of a fair or festival which:~~

~~1. Is sponsored by a political subdivision of this state or by an organization exempt from taxes under paragraph (1) of subsection (a) of Code Section 48-7-25 or under Section 501(d) or paragraphs (1) through (8) or paragraph (10) of Section 501(c) of the Internal Revenue Code, as that is defined in Code Section 48-1-2;~~

~~2. Lasts 120 hours or less; and~~

~~3. When sponsored by such an organization, is authorized to be conducted pursuant to a permit issued by the municipality or county in which it is conducted.~~

(b) “Food Sales Establishments” shall include cottage food operations. See Department rules Chapter 40-7-19 for regulations and requirements specific to cottage food operations.

(c) “Food Sales Establishments” which do not receive, store, prepare, process, ship, display for sale or sell any open food, including but not limited to coffee, drinks, either dispensed or poured into an open container or any non-packaged food products including ice or ~~potentially hazardous food~~ **POTENTIALLY HAZARDOUS FOOD (TIME/TEMPERATURE CONTROL FOR SAFETY FOOD)** as defined in part 40-7-1-.02, or are involved in the manufacture and bagging of ice; may be exempt from the requirement for a three/two compartment sink with hot and cold running water under pressure, hand wash sink with hot and cold running water under pressure and a rest room, within the confines of the establishment; if there is convenient access to acceptable rest room facilities; and in the opinion of the Department, no public health risk will result from such action; however; all other provisions of these regulations shall be complied with as applicable.

(d) This term shall not include “Food Service Establishments” as defined in Section 26-2-370.

(e) This term also shall not include establishments engaged in the boiling, bottling, and sale of sugar cane syrup or sorghum syrup within this state, provided that such bottles contain a label listing the producer's name and street address, all added ingredients, and the net weight or volume of the product.

(f) This term also shall not include establishments engaged in the sale of food primarily for consumption off the premises if such sale is an authorized part of, and occurs upon the site of a fair or festival which:

1. Is sponsored by a political subdivision of this state or by an organization exempt from taxes under paragraph (1) of subsection (a) of Code Section 48-7-25 or under Section 501(d) or paragraphs (1) through (8) or paragraph (10) of Section 501(c) of the Internal Revenue Code, as that is defined in Code Section 48-1-2;

2. Lasts 120 hours or less; and

3. When sponsored by such an organization, is authorized to be conducted pursuant to a permit issued by the municipality or county in which it is conducted.

(4042) Food Processing Plant.

(a) "**Food processing plant**" means a commercial operation that manufactures, packages, labels, or stores FOOD for human consumption and does not provide FOOD directly to a CONSUMER.

(b) "**Food processing plant**" does not include a FOOD ESTABLISHMENT as defined under Subparagraph 40-7-1-.02(38).

(4443) **Game Animal.**

(a) "**Game animal**" means an animal, the products of which are FOOD, that is not classified as cattle, sheep, swine, goat, horse, mule, or other equine in 9 CFR Subchapter A - Mandatory Meat Inspection, Part 301, as Poultry in 9 CFR Subchapter C - Mandatory Poultry Products Inspection, Part 381, or as FISH as defined under Subparagraph 40-7-1-.02(33).

(b) "**Game animal**" includes mammals such as reindeer, elk, deer, antelope, water buffalo, bison, rabbit, squirrel, opossum, raccoon, nutria, or muskrat, and nonaquatic reptiles such as land snakes.

(c) "**Game animal**" does not include ratites such as ostrich, emu, and rhea.

(4244) "**General use pesticide**" means a pesticide that is not classified by EPA for restricted use as specified in 40 CFR 152.175.

(4345) "**Grade A standards**" means the requirements of the United States Public Health Service/FDA "Grade A Pasteurized Milk Ordinance" and "Grade A Condensed and Dry Milk Ordinance" with which certain fluid and dry milk and milk products comply.

(4446) "**GMP**" refers to Good Manufacturing Practice as referenced in 21 CFR 110.

(4547) "**HACCP Plan**" means a written document that delineates the formal procedures for following the Hazard Analysis Critical Control Point principals developed by The National Advisory Committee on Microbiological Criteria for foods.

(4648) "**Hazard**" means a biological, chemical, or physical property that may cause an unacceptable consumer health risk.

(4749) "**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.

(4850) "**Imminent health hazard**" means a significant threat or danger to health that is considered to exist when there is evidence 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.

(4951) **“Injected”** means manipulating a meat so that infectious or toxigenic microorganisms may be introduced from its surface to its interior through tenderizing with deep penetration or injecting the meat such as with juices which may be referred to as “injecting,” “pinning,” or “stitch pumping”.

(5052) **“Juice”** means, when used in the context of FOOD safety, the aqueous liquid expressed or extracted from one or more fruits or vegetables, purées of the edible portions of one or more fruits or vegetables, or any concentrates of such liquid or purée. Juice includes juice as a whole beverage, an ingredient of a beverage and a purée as an ingredient of a beverage.

(5153) **“Law”** ~~means The Georgia Food Act.~~ means applicable local, state, and federal statutes, regulations, and ordinances.

(5254) **“Linens”** means fabric items such as cloth hampers, cloth napkins, table cloths, wiping cloths, and work garments including cloth gloves.

(5355) **“License”** means the document issued by the Department, which authorizes a person to operate a food sales establishment. The Department does not issue Temporary License.

(5456) **“Meat”** means the flesh of animals used as food including the dressed flesh of cattle, swine, sheep, or goats and other edible animals, except fish, poultry, and wild game that is offered for human consumption.

(5557) **“mg/L”** means milligrams per liter, which is the metric equivalent of parts per million (ppm).

(5658) **“Molluscan shellfish”** means any edible species of fresh oysters, clams, mussels, and scallops or edible portions thereof, except when the scallop product consists only of the shucked adductor muscle.

(5759) **Packaged**

(a) “Packaged” means bottled, canned, cartoned, bagged or securely wrapped, whether packaged in a Food Establishment or a Food Processing Plant.

(b) “Packaged” does not include a wrapper, carry-out box, or other nondurable container used to containerize food with the purpose of facilitating food protection during service and receipt of the food by the consumer.

(5860) **“Person”** means an association, a corporation, individual, partnership, other legal entity, government, or governmental subdivision or agency,

(5961) **“Person in charge”** means the individual present at a FOOD ESTABLISHMENT who is responsible for the operation at the time of inspection. as defined in part 40-7-1-.03 of these regulations.

(6062) **Personal Care Items.**

(a) **"Personal care items"** means items or substances that may be poisonous, toxic, or a source of contamination and are used to maintain or enhance a PERSON'S health, hygiene, or appearance.

(b) **"Personal care items"** include items such as medicines; first aid supplies; and other items such as cosmetics, and toiletries such as toothpaste and mouthwash.

(6463) **“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.

(6264) **“Physical facilities”** means the structure and interior surfaces of a food establishment including accessories such as soap and towel dispensers and attachments such as light fixtures and heating or air conditioning system vents.

(6365) **“Plumbing fixture”** means a receptacle or device that:

(a) Is permanently or temporarily connected to the water distribution system of the premises and demands a supply of water from the system; or

(b) Discharges used water, waste materials, or sewage directly or indirectly to the drainage system of the premises.

(6466) **“Plumbing system”** means the water supply and distribution pipes; PLUMBING FIXTURES and traps; soil, waste, and vent pipes; sanitary and storm sewers and building drains, including their respective connections, devices, and appurtenances within the PREMISES; and water-treating EQUIPMENT.

(6567) **“Poisonous or toxic materials”** means substances that are not intended for ingestion and are included in 4 categories.

(a) Cleaners and sanitizers, which include cleaning and sanitizing agents and agents such as caustics, acids, drying agents, polishes, and other chemicals.

(b) Pesticides which include substances such as insecticides and rodenticides.

(c) Substances that are not necessary for the operation and maintenance of the establishment such as nonfood grade lubricants and personal care items that may be deleterious to health; and

(d) Substances that are not necessary for the operation and maintenance of the establishment and are on the premises for retail sale, such as petroleum products and paints.

(6668) ~~Potentially Hazardous Food.~~ **Potentially Hazardous Food (Time/Temperature Control for Safety Food)**

(a) ~~"Potentially hazardous food"~~ means a FOOD that is natural or synthetic and that requires temperature control because it is in a form capable of supporting: **"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.

- ~~1. The rapid and progressive growth of infectious or toxigenic microorganisms;~~
- ~~2. The growth and toxin production of *Clostridium botulinum*; or~~
- ~~3. In raw shell EGGS, the growth of *Salmonella Enteritidis*.~~

(b) **"Potentially hazardous food"** includes an animal FOOD (a FOOD of animal origin) that is raw or heat-treated; a FOOD of plant origin that is heat treated or consists of raw seed sprouts; cut melons; and garlic in oil mixtures that are not modified in a way that results in mixtures that do not support growth as specified under Subparagraph (a) of this definition. **"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 leafy greens, 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"~~ does not include: "Potentially hazardous food (time/temperature control for safety food)" does not include:

1. ~~An air cooled hard boiled EGG with shell intact, or a shell EGG that is not hard boiled, but has been treated to destroy all viable Salmonellae;~~ 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 with an a_w value of 0.85 or less;~~ 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 with a pH level of 4.6 or below when measured at 24°C (75°F);~~ A FOOD that because of its pH or A_w value, or interaction of A_w and pH values, is designated as a non-PHF/non-TCS FOOD in Table A or B of this definition;

4. ~~A FOOD, in an unopened HERMETICALLY SEALED CONTAINER, that is commercially processed to achieve and maintain commercial sterility under conditions of nonrefrigerated storage and distribution;~~ 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, or

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

5. ~~A FOOD for which laboratory evidence that is the basis of a variance granted by the Department demonstrates that the rapid and progressive growth of infectious or toxigenic microorganisms or the growth of *S. Enteritidis* in EGGS or *C. botulinum* can not occur, such as a FOOD that has an a_w and a pH that are above the levels specified under Subparagraphs (c)2 and 3 of this definition and that may contain a preservative, other barrier to the growth of microorganisms, or a combination of barriers that inhibit the growth of microorganisms; or 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.~~

6. ~~A FOOD that does not support the growth of microorganisms as specified under Subparagraph (a) of this definition even though the FOOD may contain an infectious or toxigenic microorganism or chemical or physical contaminant at a level sufficient to cause illness.~~

(6769) Poultry.

(a) **"Poultry"** means:

1. Any domesticated bird (chickens, turkeys, ducks, geese, or guineas), whether live or dead, as defined in 9 CFR 381 Poultry Products Inspection Regulations; and
2. Any migratory waterfowl, game bird, such as pheasant, partridge, quail, grouse, or guinea, or pigeon or squab, whether live or dead, as defined in 9 CFR 362 Voluntary Poultry Inspection Program.

(b) **"Poultry"** does not include ratites.

(~~6870~~) **"Premises"** means:

(a) The physical facility, its contents, and the contiguous land or property under the control of the permit holder or;

(b) The physical facility, its contents, and the contiguous land or property and its facilities and contents that are under the control of the permit holder that may impact food establishment personnel, facilities, or operations, if a food establishment is only one component of a larger organization .

(~~6971~~) **"Primal cut"** means a basic major cut into which carcasses and sides of meat are separated, such as a beef round, pork loin, lamb flank or veal breast.

(~~7072~~) **"Private water system"** means a system for the provision of piped water for human consumption that is not a public water system. *****not in new code**

(~~7173~~) **"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.

(~~7274~~) **"Product Code"** is a method with which a consumer size product package is marked, from which accurate process information such as, but not limited to, date of production, lot designation, process line identification, or any other information which would provide product traceability, should there be a recall or other need for such information.

(~~7375~~) **"Public water system"** has the meaning stated in 40 CFR Part 141 National Drinking Water Regulations.

(~~7476~~) **Ready-to-Eat Food.**

(a) **"Ready-to-eat food"** means FOOD that:

- (i) Is in a form that is edible without additional preparation to achieve FOOD safety, as specified under ¶ 40-7-1-.17(1) (a) or 40-7-1-.17(2) or 40-7-1-.18; or

(ii) Is a raw or partially cooked animal FOOD and the consumer is advised as specified under Subparagraphs 40-7-1-.27; or

(iii) Is prepared in accordance with a variance that is granted as specified under Subparagraphs 40-7-1-.17(b); and

(iv) May receive additional preparation for palatability or aesthetic, epicurean, gastronomic, or culinary purposes.

(b) "**Ready-to-eat food**" includes:

(i) Raw animal FOOD that is cooked as specified under paragraph 40-7-1-.17, or frozen as specified under paragraph 40-7-1-.18;

(ii) Raw fruits and vegetables that are washed as specified under paragraph 40-7-1-.12(6);

(iii) Fruits and vegetables that are cooked for hot holding, as specified under § 40-7-1-.17(3);

(iv) All ~~POTENTIALLY HAZARDOUS FOOD~~ POTENTIALLY HAZARDOUS FOOD (TIME/TEMPERATURE CONTROL FOR SAFETY FOOD) that is cooked to the temperature and time required for the specific food under 40-7-1-.17 and cooled as specified in § 40-7-1-.20 (5);

(v) Plant FOOD for which further washing, cooking, or other processing is not required for FOOD safety, and from which rinds, peels, husks, or shells, if naturally present are removed;

(vi) Substances derived from plants such as spices, seasonings, and sugar;

(vii) A bakery item such as bread, cakes, pies, fillings, or icing for which further cooking is not required for FOOD safety;

(viii) The following products that are produced in accordance with USDA guidelines and that have received a lethality treatment for pathogens: dry, fermented sausages, such as dry salami or pepperoni; salt-cured MEAT and POULTRY products, such as prosciutto ham, country cured ham, and Parma ham; and dried MEAT and POULTRY products, such as jerky or beef sticks; and

(ix) FOODS manufactured according to 21 CFR Part 113, Thermally Processed Low-Acid Foods Packaged in Hermetically Sealed Containers.

(7577) Reduced Oxygen Packaging.

(a) "**Reduced oxygen packaging**" means:

1. The reduction of the amount of oxygen in a PACKAGE by-removing oxygen; displacing oxygen and replacing it with another gas or combination of gases; or otherwise controlling the oxygen content to a level below that normally found in the surrounding, 21% oxygen atmosphere, and

2. A process as specified in Subparagraph (a) (1) of this definition that involves a FOOD for which *Clostridium botulinum* is identified as a microbiological HAZARD in the final PACKAGED form.

(b) "**Reduced oxygen packaging**" includes:

1. Vacuum PACKAGING, in which air is removed from a PACKAGE of FOOD and the package is HERMETICALLY SEALED so that a vacuum remains inside the PACKAGE, such as sous vide;

2. Modified atmosphere PACKAGING, in which the atmosphere of a PACKAGE of FOOD is modified so that its composition is different from air but the atmosphere may change over time due to the permeability of the PACKAGING material or the respiration of the FOOD. Modified atmosphere PACKAGING includes: reduction in the proportion of oxygen, total replacement of oxygen, or an increase in the proportion of other gases such as carbon dioxide or nitrogen; and

3. Controlled atmosphere PACKAGING, in which the atmosphere of a PACKAGE of FOOD is modified so that until the PACKAGE is opened, its composition is different from air, and continuous control of that atmosphere is maintained, such as by using oxygen scavengers or a combination of total replacement of oxygen, nonrespiring food, and impermeable packaging material.

(7678) "**Refuse**" means solid waste not carried by water through the sewage system.

(7779) "**Restrict**" means to limit the activities of a FOOD EMPLOYEE so that there is no RISK of transmitting a disease that is transmissible through FOOD and the FOOD EMPLOYEE does not work with exposed FOOD, clean EQUIPMENT, UTENSILS, LINENS; and unwrapped SINGLE-SERVICE or SINGLE-USE ARTICLES.

(7880) "**Restricted egg**" means any check, dirty EGG, incubator reject, inedible, leaker, or loss as defined in 9 CFR 590.

(7981) "**Restricted use pesticide**" means a pesticide product that contains the active ingredients specified in 40 CFR 152.175 Pesticides classified for restricted use, and that is limited to use by or under the direct supervision of a certified applicator.

(8082) "**Risk**" means the likelihood that an adverse health effect will occur within a population as a result of a HAZARD in a FOOD.

(8483) "**Safe materials**" means

(a) An article manufactured from or composed of materials that may not reasonably be expected to result, directly or indirectly, in their becoming a component or otherwise affecting the characteristics of any food.

(b) An additive that is used as specified in paragraph 409 or 706 of the Federal Food, Drug and Cosmetic Act;
or

(c) Other materials that are not additives and that are used in conformity with applicable regulations of the Food and Drug Administration.

(8284) "**Sanitization**" means the application of cumulative heat or chemicals on cleaned food contact surfaces that, when evaluated for efficacy, yield a reduction of 5 logs, which is equal to a 99.999% reduction, of representative disease microorganisms of public health importance.

(8385) "**Sealed**" means free of cracks or other openings that allow the entry or passage of moisture.

(8486) "**Service animal**" means an animal such as a guide dog, signal dog, or other animal individually trained to provide assistance to an individual with a disability.

(8587) "**Servicing area**" means an operating base location to which a mobile FOOD ESTABLISHMENT or transportation vehicle returns regularly for such things as vehicle and equipment cleaning, discharging liquid or solid wastes, refilling water tanks and ice bins, and boarding FOOD.

(8688) "**Sewage**" means liquid waste containing animal or vegetable matter in suspension or solution and may include liquids containing chemicals in solution.

(8789) "**Shellfish control authority**" means a state, federal, foreign, tribal, or other government entity legally responsible for administering a program that includes certification of MOLLUSCAN SHELLFISH harvesters and dealers for interstate commerce.

(8890) "**Shellstock**" means raw, in-shell molluscan shellfish.

(8991) "**Shiga toxin-producing *Escherichia coli***" means any *E. coli* capable of producing Shiga toxins (also called verocytotoxins or "Shiga-like" toxins). This includes, but is not limited to, *E. coli* reported as serotype O157:H7, O157:NM, and O157:H-."

(9092) "**Shucked shellfish**" means molluscan shellfish that have one or both shells removed.

(9193) "**Single service articles**" means items used by the food sales establishment or the consumer such as cups, containers, lids, and packing materials, including bags and similar articles, intended for contact with food, and designed for one-time use. The term does not include "Single use articles" such as number 10 cans, aluminum pie pans, bread wrappers and similar articles into which food has been packaged by the manufacturer.

(9294) "**Slacking**" means the process of moderating the temperature of a food such as allowing a food to gradually increase from a temperature of -23 C (-10 F) to -4 C (25 F) in preparation for deep-fat frying or to facilitate even heat penetration during the cooking of previously block-frozen food such as frozen vegetables or in preparation of frozen foods for further processing.

(~~9395~~) **“Smooth”** means:

(a) A food-contact surface having a surface free of pits and inclusions with cleanability equal to or exceeding that of (100 grit) no. 3 stainless steel;

(b) A nonfood -contact surface of equipment having a surface equal to that of commercial grade hot- rolled steel, free of visible scale; and;

(c) A floor, wall, or ceiling having an even or level surface with no roughness or projections that renders it difficult to clean.

(~~9496~~) **“Temperature measuring device”** means a thermometer, thermocouple, thermistor, or other device that indicates the temperature of food, air, or water.

(~~9597~~) **“Transportation (transported)”** means movement of food within the food sales establishment or delivery of food from that food sales establishment to another place while under the control of the person in charge.

(~~9698~~) **“Utensil”** means a FOOD-contact implement or container used in the storage, preparation, transportation, dispensing, sale, or service of FOOD, such as KITCHENWARE or TABLEWARE that is multiuse, SINGLE-SERVICE, or SINGLE-USE; gloves used in contact with FOOD; temperature sensing probes of FOOD TEMPERATURE MEASURING DEVICES; and probe-type price or identification tags used in contact with FOOD.

(~~9799~~) **“Variance”** 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.

(~~98100~~) **“Vending machine”** means a self-service device that, upon insertion of a coin, paper currency, token, card, or key, or by optional manual operation, dispenses unit servings of FOOD in bulk or in packages without the necessity of replenishing the device between each vending operation.

(~~99101~~) **“Vending machine location”** means the room, enclosure, space, or area where one or more VENDING MACHINES are installed and operated and includes the storage areas and areas on the PREMISES that are used to service and maintain the VENDING MACHINES.

(~~400102~~) **“Warewashing”** means the cleaning and sanitizing of food contact - surfaces of equipment and utensils.

(~~401103~~) **“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”.

40-7-1-.03 Person in Charge.* The license holder shall be the Person in Charge or shall designate a person in charge and shall assure that a person in charge is present at the food sales establishment during all hours of its operation.

(1) **Demonstration of Knowledge** Based on the RISKS of foodborne illness inherent to the FOOD operation, during inspections and upon request the PERSON IN CHARGE shall demonstrate to the REGULATORY AUTHORITY knowledge of foodborne disease prevention, application of the HAZARD ANALYSIS CRITICAL CONTROL POINT principles, and the requirements of this Code. The PERSON IN CHARGE shall demonstrate this knowledge by:

(A) Complying with this Code by having no critical violations during the current inspection.

(B) Being a certified FOOD protection manager who has shown proficiency of required information through passing a test that is part of an ACCREDITED PROGRAM; or

(C) Responding correctly to the inspector's questions as they relate to the specific FOOD operation. The areas of knowledge include:

(1) Describing the relationship between the prevention of foodborne disease and the PERSONAL hygiene of a FOOD EMPLOYEE;

(2) Explaining the responsibility of the PERSON IN CHARGE for preventing the transmission of foodborne disease by a FOOD EMPLOYEE who has a disease or medical condition that may cause foodborne disease;

(3) Describing the symptoms associated with the diseases that are transmissible through food;

(4) Explaining the significance of the relationship between maintaining the time and temperature of ~~POTENTIALLY HAZARDOUS FOOD~~ POTENTIALLY HAZARDOUS FOOD (TIME/TEMPERATURE CONTROL FOR SAFETY FOOD) and the prevention of foodborne illness;

(5) Explaining the HAZARDS involved in the consumption of raw or undercooked MEAT, POULTRY, EGGS, and FISH;

(6) Stating the required FOOD temperatures and times for safe cooking of ~~POTENTIALLY HAZARDOUS FOOD~~ POTENTIALLY HAZARDOUS FOOD (TIME/TEMPERATURE CONTROL FOR SAFETY FOOD) including MEAT, POULTRY, EGGS, and FISH;

(7) Stating the required temperatures and times for the safe refrigerated storage, hot holding, cooling, and reheating of ~~POTENTIALLY HAZARDOUS FOOD~~ POTENTIALLY HAZARDOUS FOOD (TIME/TEMPERATURE CONTROL FOR SAFETY FOOD);

(8) Describing the relationship between the prevention of foodborne illness and the management and control of the following:

- (a) Cross contamination,
- (b) Hand contact with READY-TO-EAT FOODS,
- (c) Handwashing, and
- (d) Maintaining the FOOD ESTABLISHMENT in a clean condition and in good repair;
- (9) Explaining the relationship between FOOD safety and providing EQUIPMENT that is:
 - (a) Sufficient in number and capacity, and
 - (b) Properly designed, constructed, located, installed, operated, maintained, and cleaned;
- (10) Explaining correct procedures for cleaning and SANITIZING UTENSILS and FOOD-CONTACT SURFACES of EQUIPMENT;
- (11) Identifying the source of water used and measures taken to ensure that it remains protected from contamination such as providing protection from backflow and precluding the creation of cross connections;
- (12) Identifying POISONOUS OR TOXIC MATERIALS in the FOOD ESTABLISHMENT and the procedures necessary to ensure that they are safely stored, dispensed, used, and disposed of according to LAW;
- (13) Identifying CRITICAL CONTROL POINTS in the operation from purchasing through sale or service that when not controlled may contribute to the transmission of foodborne illness and explaining steps taken to ensure that the points are controlled in accordance with the requirements of this Code;
- (14) Explaining the details of how the PERSON IN CHARGE and FOOD EMPLOYEES comply with the HACCP plan if a plan is required by the LAW, this Code, or an agreement between the REGULATORY AUTHORITY and the establishment; and
- (15) Explaining the responsibilities, rights, and authorities assigned by this Code to the:
 - (a) FOOD EMPLOYEE,
 - (b) PERSON IN CHARGE, and
 - (c) REGULATORY AUTHORITY.

40-7-1-.04 Responsibility of Person in Charge.

- (1) The PERSON IN CHARGE shall ensure that:

(A) FOOD ESTABLISHMENT operations are not conducted in a private home or in a room used as living or sleeping quarters as specified under § 40-7-1-.65(9)

(B) PERSONS unnecessary to the FOOD ESTABLISHMENT operation are not allowed in the FOOD preparation, FOOD storage, or WAREWASHING areas, except that brief visits and tours may be authorized by the PERSON IN CHARGE if steps are taken to ensure that exposed food; clean EQUIPMENT, UTENSILS, and LINENS; and unwrapped SINGLE-SERVICE and SINGLE-USE ARTICLES are protected from contamination;

(C) EMPLOYEES and other PERSONS such as delivery and maintenance PERSONS and pesticide applicators entering the FOOD preparation, FOOD storage, and WAREWASHING areas comply with this Code;

(D) EMPLOYEES are effectively cleaning their hands, by routinely monitoring the EMPLOYEES' handwashing;

(E) EMPLOYEES are visibly observing FOODS as they are received to determine that they are from APPROVED sources, delivered at the required temperatures, protected from contamination, unADULTERATED, and accurately presented, by routinely monitoring the EMPLOYEES' observations and periodically evaluating FOODS upon their receipt;

(F) EMPLOYEES are properly cooking ~~POTENTIALLY HAZARDOUS FOOD~~ POTENTIALLY HAZARDOUS FOOD (TIME/TEMPERATURE CONTROL FOR SAFETY FOOD), being particularly careful in cooking those FOODS known to cause severe foodborne illness and death, such as EGGS and COMMINUTED MEATS, through daily oversight of the EMPLOYEES' routine monitoring of the cooking temperatures using appropriate temperature measuring devices properly scaled and calibrated as specified under § 40-7-1-.32(7)(c) and ¶ 40-7-1-.38(1)(b);

(G) EMPLOYEES are using proper methods to rapidly cool ~~POTENTIALLY HAZARDOUS FOODS~~ POTENTIALLY HAZARDOUS FOODS (TIME/TEMPERATURE CONTROL FOR SAFETY FOODS) that are not held hot or are not for consumption within 4 hours, through daily oversight of the EMPLOYEES' routine monitoring of FOOD temperatures during cooling;

(H) CONSUMERS who order raw or partially cooked READY-TO-EAT FOODS of animal origin are informed as specified under 40-7-1-.27 that the FOOD is not cooked sufficiently to ensure its safety;

(I) EMPLOYEES are properly SANITIZING cleaned multiuse EQUIPMENT and UTENSILS before they are reused, through routine monitoring of solution temperature and exposure time for hot water SANITIZING, and chemical concentration, pH, temperature, and exposure time for chemical SANITIZING;

(J) CONSUMERS are notified that clean TABLEWARE is to be used when they return to self-service areas such as salad bars and buffets.

(K) EMPLOYEES are preventing cross-contamination of READY-TO-EAT FOOD with bare hands by properly using suitable UTENSILS such as deli tissue, spatulas, tongs, SINGLE-USE gloves, or dispensing EQUIPMENT; and

(L) EMPLOYEES are properly trained in FOOD safety as it relates to their assigned duties.

(M) The person in charge shall ensure that all vehicles used to ship food products from their facility and incoming shipments of product received into their facility are compliant with these regulations.

(2) Reporting by applicants / employees The PERMIT HOLDER shall require FOOD EMPLOYEE applicants to whom a conditional offer of employment is made and FOOD EMPLOYEES to report to the PERSON IN CHARGE, information about their health and activities as they relate to diseases that are transmissible through FOOD. A FOOD EMPLOYEE or applicant shall report the information in a manner that allows the PERSON IN CHARGE to prevent the likelihood of foodborne disease transmission, including the date of onset of jaundice or of an illness specified under ¶ (C) of this section, if the FOOD EMPLOYEE or applicant:

(A) Is diagnosed with an illness due to:

1. *Salmonella Typhi*,
2. *Shigella* spp.,
3. SHIGA TOXIN-PRODUCING *Escherichia coli*, or
4. Hepatitis A virus;

(B) Has a symptom caused by illness, infection, or other source that is:

1. Associated with an acute gastrointestinal illness such as:

- (a) Diarrhea,
- (b) Fever,
- (c) Vomiting,
- (d) Jaundice, or
- (e) Sore throat with fever, or

2. A lesion containing pus such as a boil or infected wound that is open or draining and is:

- (a) On the hands or wrists, unless an impermeable cover such as a finger cot or stall protects the lesion and a SINGLE-USE glove is worn over the impermeable cover,
- (b) On exposed portions of the arms, *unless the lesion is protected by an impermeable cover*, or
- (c) On other parts of the body, *unless the lesion is covered by a dry, durable, tight-fitting bandage*;

(C) Had a past illness from:

1. *S. Typhi* within the past three months,
2. *Shigella* spp. within the past month,

3. SHIGA TOXIN-PRODUCING *Escherichia coli*, within the past month; or

4. Hepatitis A virus;

(D) Meets one or more of the following high-RISK conditions:

1. Is suspected of causing, or being exposed to, a CONFIRMED DISEASE OUTBREAK caused by *S. Typhi*, *Shigella* spp., SHIGA TOXIN-PRODUCING *Escherichia coli*, or hepatitis A virus including an outbreak at an event such as a family meal, church supper, or festival because the FOOD EMPLOYEE or applicant:

(a) PREPARED FOOD implicated in the outbreak,

(b) Consumed FOOD implicated in the outbreak, or

(c) Consumed FOOD at the event prepared by a PERSON who is infected or ill with the infectious agent that caused the outbreak or who is suspected of being a shedder of the infectious agent,

2. Lives in the same household as, and has knowledge about, a PERSON who is diagnosed with a disease caused by *S. Typhi*, *Shigella* spp., SHIGA TOXIN-PRODUCING *Escherichia coli*, or hepatitis A virus, or

3. Lives in the same household as, and has knowledge about, a PERSON who attends or works in a setting where there is a confirmed disease outbreak caused by *S. Typhi*, *Shigella* spp., SHIGA TOXIN-PRODUCING *Escherichia coli*, or hepatitis A virus.

(3) Restriction. The PERSON IN CHARGE shall:

(A) EXCLUDE a FOOD EMPLOYEE from a FOOD ESTABLISHMENT if the FOOD EMPLOYEE is diagnosed with an infectious agent specified under ¶ 40-7-1-.04(2) (A);

(B) Except as specified under ¶ (C) or (D) of this section, RESTRICT a FOOD EMPLOYEE from working with exposed food; clean EQUIPMENT, UTENSILS, and LINENS; and unwrapped SINGLE-SERVICE and SINGLE-USE ARTICLES, in a FOOD ESTABLISHMENT if the FOOD EMPLOYEE is:

1. Suffering from a symptom specified under ¶ 40-7-1-.04(2) (B) (1) (a), (b), (c), and (e), or

2. Not experiencing a symptom of acute gastroenteritis specified under Subparagraph 40-7-1-.04(2) (B) (1) but has a stool that yields a specimen culture that is positive for *Salmonella Typhi*, *Shigella* spp., or SHIGA TOXIN-PRODUCING *Escherichia coli*;

(C) For a FOOD EMPLOYEE who is jaundiced:

1. If the onset of jaundice occurred within the last 7 calendar days, EXCLUDE the FOOD EMPLOYEE from the FOOD ESTABLISHMENT, or

2. If the onset of jaundice occurred more than 7 calendar days before:

(a) RESTRICT the FOOD EMPLOYEE from activities specified under ¶ 40-7-1-.04(3) (B) in the FOOD ESTABLISHMENT

(4) Removal of exclusions

(A) The PERSON IN CHARGE may remove an EXCLUSION specified under ¶ 40-7-1-.04(3) (A) if:

1. The PERSON IN CHARGE obtains approval from the REGULATORY AUTHORITY; and
2. The PERSON EXCLUDED as specified under ¶ 40-7-1-.04(3)(A) provides to the PERSON IN CHARGE written medical documentation from a physician licensed to practice medicine or, if allowed by LAW, a nurse practitioner or physician assistant, that specifies that the EXCLUDED PERSON may work as a FOOD EMPLOYEE in a FOOD ESTABLISHMENT.

B) The PERSON IN CHARGE may remove a RESTRICTION specified under:

1. Subparagraph 40-7-1-.04(3) (B) if the RESTRICTED PERSON:

(a) Is free of the symptoms specified under ¶ 40-7-1-.04(2) (B) (1) (a), (b), (c), and (e), or (2) and no foodborne illness occurs that may have been caused by the RESTRICTED PERSON,

(b) Is suspected of causing foodborne illness but:

(i) Is free of the symptoms specified under ¶ 40-7-1-.04(2) (B) (1) (a), (b), (c), and (e), or (2), and

(ii) Provides written medical documentation from a physician licensed to practice medicine or, if allowed by LAW, a nurse practitioner or physician assistant, stating that the RESTRICTED PERSON is free of the infectious agent that is suspected of causing the PERSON's symptoms or causing foodborne illness, as specified in § 40-7-1-.76(4)

(c) Provides written medical documentation from a physician licensed to practice medicine or, if allowed by LAW, a nurse practitioner or physician assistant, stating that the symptoms experienced result from a chronic noninfectious condition such as Crohn's disease, irritable bowel syndrome, or ulcerative colitis; or

2. Subparagraph 40-7-1-.04(3) (B) (2), if the RESTRICTED PERSON provides written medical documentation from a physician, licensed to practice medicine, or, if allowed by LAW, a nurse practitioner or physician assistant, according to the criteria specified in § 40-7-1-.76(4) that indicates the stools are free of *Salmonella Typhi*, *Shigella* spp., or SHIGA TOXIN-PRODUCING *Escherichia coli*, whichever is the infectious agent of concern.

(C) The PERSON IN CHARGE may remove an EXCLUSION specified under Subparagraph 40-7-1-.04(3) (D) (1) and a RESTRICTION specified under Subparagraph 40-7-1-.04(3) (D) (2) (a) if:

1. No foodborne illness occurs that may have been caused by the EXCLUDED or RESTRICTED PERSON and the PERSON provides written medical documentation from a physician licensed to practice medicine or, if allowed by LAW, a nurse practitioner or physician assistant, that specifies that the PERSON is free of hepatitis A virus as specified in Subparagraph 40-7-1-.76(4) (d) (1); or

2. The EXCLUDED or RESTRICTED PERSON is suspected of causing foodborne illness and complies with the requirements in Subparagraphs 40-7-1-.76(4) (d) (1); and 40-7-1-.76(4) (d) (2);

(5) Reporting

(A) A FOOD EMPLOYEE or a PERSON who applies for a job as a FOOD EMPLOYEE shall:

(i) In a manner specified under § 40-7-1-.04(2), report to the PERSON IN CHARGE the information specified under ¶¶ 40-7-1-.04(2) (A)-(D); and

(ii) Comply with EXCLUSIONS and RESTRICTIONS that are specified under ¶¶ 40-7-1-.04(3) (A)-(D).

(B) The PERSON IN CHARGE shall notify the REGULATORY AUTHORITY that a FOOD EMPLOYEE is diagnosed with an illness due to *Salmonella Typhi*, *Shigella* spp., SHIGA TOXIN-PRODUCING *Escherichia coli*, or hepatitis A virus.

40-7-1-.09. Transportation of Food.

(1) Protection from Cross-Contamination.* At all times, including while being loaded, transported, and unloaded, food shall be protected from cross-contamination between foods and from potential contamination by insects, chemicals, rodents, waste products, toxic materials, unclean equipment, unnecessary handling, or other agents of public health significance.

(a) All foods must be protected from contamination by use of packaging or covered containers while being transported.

1. Foods in original individual packages do not need to be overwrapped if the original package has not been torn or broken.

2. Exclusions to this requirement may be raw fruits and vegetables.

(b) Adequate food temperature controls must be maintained.

1. All ~~potentially hazardous foods~~ POTENTIALLY HAZARDOUS FOODS (TIME/TEMPERATURE CONTROL FOR SAFETY FOODS) shall be transported only in vehicles provided with sufficient refrigeration and freezing capabilities, if necessary, for product temperature maintenance

2. During transportation, ~~potentially hazardous food~~ POTENTIALLY HAZARDOUS FOOD (TIME/TEMPERATURE CONTROL FOR SAFETY FOOD) shall be maintained at ~~40~~ 41 degrees F. or below, for cold foods, or 135 degrees F., or above, for hot foods.

3. Frozen foods shall remain frozen during transport.

4. Shellfish shall be held at temperatures between 32 - 45 degrees F. unless frozen.

(c) Food items that are spoiled or that are in damaged containers that may affect the product because of spoilage, container damage, or other public health considerations, shall be removed from the transporting vehicle and stored properly pending satisfactory disposition by a regulatory authority.

(2) Prior to being used to Transport Food, All vehicles shall be examined for deficiencies that would prevent their use as food carriers. Vehicles shall be maintained in a clean and sanitary condition to protect the food products from contamination at all times.

(a) All equipment used in transporting food shall be smooth, impervious, corrosion resistant, nontoxic, in good repair, and constructed to permit adequate cleaning.

(b) The vehicles must be constructed to prevent waste products such as iced poultry wastes from leaking on to the ground surfaces during transport.

(3). Open (uncovered) commercial trucks shall not be used for transporting food unless approved by the Department.

(4) A vehicle transporting trash, garbage, soiled linen, toxic chemicals, or other similar loads shall not be used for transporting foods except after cleaning and sanitizing in a manner acceptable by the Department.

(5) The delivery, shipping, and receiving personnel shall ensure that all vehicles used to transport food products are compliant with these regulations. Shipments from non-compliant vehicles shall be rejected by receiving firm and the department notified immediately

40-7-1-.10 Specifications for Receiving.

(1) Temperature at receiving. *

(a) Except as specified in paragraph (b) of this section, refrigerated, ~~potentially hazardous food~~ POTENTIALLY HAZARDOUS FOOD (TIME/TEMPERATURE CONTROL FOR SAFETY FOOD) shall be at a temperature of ~~40~~ 41 F or below when received.

(b) A food may be received at the temperature specified in laws governing its distribution. (Example: fluid milk and milk products, molluscan shellstock, and shell eggs).

(c) Except as specified under paragraph (d) of this section, ~~potentially hazardous food~~ POTENTIALLY HAZARDOUS FOOD (TIME/TEMPERATURE CONTROL FOR SAFETY FOOD) that is cooked to a temperature and for a time specified in 40-7-1-.17(1) - 40-7-1-.17(2)(d) and received hot, shall be at a temperature of 135°F or above when received.

(d) Upon receipt, ~~potentially hazardous foods~~ POTENTIALLY HAZARDOUS FOODS (TIME/TEMPERATURE CONTROL FOR SAFETY FOODS) shall be free of evidence of previous temperature abuse.

(e) A food that is labeled frozen and shipped frozen by a Food Processing Plant or Distributor shall be received frozen.

(2) Additives.* Food may not contain unapproved food additives or additives that exceed amounts allowed in 21 CFR, 170-180 relating to food additives, GRAS or prior sanctioned substances that exceed amounts allowed in 21 CFR, 181-186, substances that exceed amounts specified in 9 CFR Subpart C Section 424.21(b) Food ingredients and sources of radiation, or pesticide residues that exceed provisions specified in 40 CFR 185 Tolerances for Pesticides in Food

(3) Shell Eggs.* Shell eggs shall be received in refrigerated equipment that maintains an ambient air temperature of 45 F or less; and clean and sound and may not exceed the restricted egg tolerances for U.S. Consumer Grade B as specified in 7 CFR Part 56 - Regulations Governing the Grading of Shell Eggs and U.S. Standards, Grades, and Weight classes for Shell Eggs, and 9 CFR Part 590 - Regulations Governing the Inspection of Eggs and Egg Products.

(4) Liquid, Frozen, and Dry Eggs *- Liquid, frozen, and dry eggs and egg products shall be obtained pasteurized.

(5) Fluid, Frozen, and Dry Milk and Milk Products.*

(a) Fluid and dry milk and milk products complying with Grade A standards as specified by law shall be obtained pasteurized.

(b) Frozen milk products, such as ice cream, shall be obtained pasteurized in accordance with 21 CFR 135 - Frozen Desserts.

(c) Cheese shall be obtained pasteurized unless alternative procedures to pasteurization are provided for in the CFR, such as in 21 CFR 133 - Cheeses and Related Cheese Products, for curing certain cheese varieties.

(6) Package Integrity.* Food packages shall be in good condition and protect the integrity of the contents so that the food is not exposed to adulteration or potential contaminants. The sale of the following described food products is prohibited and such products shall be considered distressed merchandise:

(a) Cans damaged to the degree that could possibly result in the contents being unfit for human consumption.

(b) Cans excessively rusty.

(c) Packaged foods; boxes/packages having openings whereby the contents may be exposed to contamination.

(d) Abnormal cans: puffed, springer or flipper.

(e) Food packages or cans: where required labeling information is illegible or absent.

(7) Ice.* Ice for use as a food or a cooling medium shall be made from drinking water.

(8) Pre-packaged juice shall:

(a) Be obtained from a processor with a HACCP system as specified in 21 CFR Part 120;

(b) Be obtained pasteurized or otherwise treated to attain a 5-log reduction of the most resistant microorganism of public health significance as specified in 21 CFR Part 120.24; or

(c) Bear a warning label as specified in 21 CFR Section 101.17(g).

(8) Shucked Shellfish, Packaging and Identification.

(a) Raw and frozen shucked molluscan shellfish shall be obtained in nonreturnable packages legibly bearing the name, address, and certification number of the shucker-packer or repacker of the shellfish, and the "sell by" date for packages with a capacity of less than 1.87L (one-half gallon) or the date shucked for packages with a capacity of 1.87L (one-half gallon) or more.

(b) A package of raw shucked shellfish that does not bear a label or which bears a label which does not contain all the information as specified under (a) of this section shall be subject to a withhold from sale as allowed by law.

(9) Shellstock Identification.* Molluscan shellstock shall be obtained in containers bearing legible source identification tags or labels that are affixed by the harvester and each dealer that depurates, ships, or reships the shellstock as specified in the National Shellfish Sanitation Program (NSSP) Guide for the Control of Molluscan Shellfish, and that list:

(a) Except as specified under paragraph (c) of this section, on the harvester's tag or label, the following information in the following order:

1. The harvester's identification number that is assigned by the shellfish control authority;

2. The date of harvesting;

3. The most precise identification of the harvest location or aquaculture site that is practicable based on the system of harvest area designations that is in use by the shellfish control authority and including the abbreviation of the name of the state or country in which the shellfish are harvested;

4. The type and quantity of shellfish; and

5. The following statement in bold, capitalized type: “This tag is required to be attached until container is empty or retagged and thereafter kept on file for 90 days.”

(b) Except as specified in paragraph (d) of this section, on each dealer’s tag or label, the following information in the following order:

1. The dealer’s name and address and the certification number assigned by the shellfish control authority.
2. The original shipper’s certification number including the abbreviation of the name of the state or country in which the shellfish are harvested.
3. The information specified in Subparagraphs (a) 2-5 of this section, and
4. The following statement in bold, capitalized type: “This tag is required to be attached until container is empty and thereafter kept on file for 90 days.”

(c) A container of shellstock that does not bear a tag or label or that bears a tag or label that does not contain all the information as specified under (b) of this section shall be subject to a hold order, as allowed by law

(d) If a place is provided on the harvester’s tag or label for a dealer’s name, address, and certification number, the dealer’s information shall be listed first.

(e) If the harvester’s tag or label is designed to accommodate each dealer’s identification specified under Subparagraphs (b) 1 and 2 of this section, individual dealer tags or labels need not be provided.

(10) Molluscan Shellstock, Condition. When received by a food establishment, molluscan shellstock shall be reasonably free of mud, dead shellfish or shellstock with badly broken shells. Dead shellstock with badly broken shells shall be discarded.

40-7-1-.14 Preventing Contamination from Equipment, Utensils, and Wiping Cloths.

(1) Food Contact with Equipment and Utensils.* Food may not contact:

- (a) Probe-type price or identification tag(s); and
- (b) Surfaces of utensils and equipment that are not cleaned as specified in the regulations.

(2) In-Use Utensils, Between-Use Storage. During pauses in food preparation, or dispensing, food preparation and dispensing utensils shall be stored;

(a) Except as specified under paragraph (b) of this section, in the food with their handles above the top of the food and the container.

(b) In food that is not potentially hazardous with their handles above the top of the food within containers or equipment that can be closed, such as bins of sugar, flour, or cinnamon.

(c) On a clean portion of the food preparation table or cooking equipment only if the in-use utensil and the food contact surface of the food preparation table or cooking equipment are cleaned and sanitized at a frequency specified in part 40-7-1-.40(1)(a) and 40-7-1-.43;

(d) In running water of sufficient velocity to flush particulate to the drain, if used with moist food such as ice cream or mashed potatoes; or

(e) In a clean, protected location, If the utensils, such as ice scoops, are used only with a food that is not potentially hazardous.

(f) In a container of water if the water is maintained at a temperature of at least 57°C (135°F) and the container is cleaned at a frequency specified in part 40-7-1-.40(1)(a) and 40-7-1-.43;

(3) Wiping Cloths, Use Limitation.

(a) Cloths that are in use for wiping food spills shall be used for no other purpose.

(b) Cloths used for wiping food spills shall be:

1. Dry and used for wiping FOOD spills from TABLEWARE and carry-out containers; or

2. Wet and cleaned as specified under part 40-7-1-.46(d), stored in a chemical sanitizer as specified under part 40-7-1-.69(6) and used for wiping spills from food-contact and nonfood-contact surfaces of equipment.

3. Dry or wet cloths that are used with raw animal foods shall be kept separate from cloths used for other purposes, and moist cloths used with raw animal foods shall be kept in a separate sanitizing solution.

4. Wet wiping cloths used with a freshly made sanitizing solution and dry wiping cloths shall be free of FOOD debris and visible soil.

(4) Gloves, Use Limitation *

(a) Single-use gloves shall be used for only one task, such as working with ready-to-eat food or with raw animal food, used for no other purpose, and discarded when damaged or soiled, or when interruptions occur in the operation.

(b) Except as specified in (c) of this section, slash-resistant gloves that are used to protect the hands during operations requiring cutting shall be used in direct contact only with food that is subsequently cooked as specified under paragraph 40-7-1-.17 such as frozen food or a primal cut of meat.

(c) Slash-resistant gloves may be used with ready-to-eat food that will not be subsequently cooked if the slash-resistant gloves have a smooth, durable, and nonabsorbent outer surface; or if the slash-resistant gloves are covered with a smooth, durable, nonabsorbent glove, or a single-use glove.

(d) Cloth gloves may not be used in direct contact with food unless the food is subsequently cooked as required under paragraph 40-7-1-.17 such as frozen food or a primal cut of meat.

(5) Refilling returnables.

(a) A take home container returned to a food sales establishment may not be refilled at a food sales establishment with a ~~potentially hazardous food~~ POTENTIALLY HAZARDOUS FOOD (TIME/TEMPERATURE CONTROL FOR SAFETY FOOD).

(b) Except as specified in ¶ (c), a take-home food container refilled with food that is not potentially hazardous shall be cleaned as specified under ¶ 40-7-1-.40(4)

(c) Personal take-out beverage containers, such as thermally insulated bottles, nonspill coffee cups, and promotional beverage glasses, may be refilled by employees or the consumer if refilling is a contamination-free process as specified under 40-7-1-.12(9).

(6) Linens and Napkins, Use Limitation.

(a) Linens and napkins may not be used in contact with food unless they are used to line a container for the service of foods and the linens and napkins are replaced each time the container is refilled for a new consumer.

40-7-1-.19 Reheating.

(1) Reheating for Hot Holding.*

(a) Except as specified under paragraph (b) and (c) of this section, ~~potentially hazardous food~~ POTENTIALLY HAZARDOUS FOOD (TIME/TEMPERATURE CONTROL FOR SAFETY FOOD) that is cooked, cooled, and reheated for hot holding shall be reheated so that all parts of the food reach a temperature of at least 165 F (74 C) for 15 seconds.

(b) Except and specified under paragraph (c) of this section, food reheated in a microwave oven shall be covered; rotated or stirred throughout or midway during cooking or according to label instructions during heating; heated to a temperature of at least 165 F (74 C); and allowed to stand covered 2 minutes after reheating.

(c) Ready-to-eat food taken from a commercially processed, hermetically sealed container, or from an intact package from a food processing plant that is inspected by the food regulatory authority that has jurisdiction over the plant, shall be heated to a temperature of at least 135 F (57 C) hot holding.

(d) Reheating shall be done rapidly and the minimum temperature specified under paragraph (a) of this section shall be reached within 2 hours.

40-7-1-.20 Temperature and Time Control.

(1) Frozen Foods. Stored frozen foods shall be maintained frozen.

(2) ~~Potentially Hazardous Food~~, POTENTIALLY HAZARDOUS FOOD (TIME/TEMPERATURE CONTROL FOR SAFETY FOOD), Slacking. Frozen ~~potentially hazardous food~~ POTENTIALLY HAZARDOUS FOOD (TIME/TEMPERATURE CONTROL FOR SAFETY FOOD) that is slacked to moderate the temperature shall be held:

(a) Under refrigeration that maintains the food temperature at ~~40~~ 41 F or below; or

(b) At any temperature if the food remains frozen.

(3) Thawing. ~~Potentially hazardous food~~ POTENTIALLY HAZARDOUS FOOD (TIME/TEMPERATURE CONTROL FOR SAFETY FOOD) shall be thawed:

(a) Under refrigeration that maintains the food temperature at ~~40~~ 41 F, or below;

(b) Completely submerged under running water;

1. At a water temperature of 70 F (21 C) or below,

2. With sufficient velocity to agitate and float off loose particles in an overflow, and

3. For a period of time that does not allow thawed portions of ready-to-eat food to rise above ~~40~~ 41 F; or

4. For a period of time that does not allow thawed portions of raw animal food requiring cooking, to be above ~~40~~ 41 F for more than 4 hours including the time the food is exposed to the running water and the time needed for preparation for cooking or the time it takes under refrigeration to lower the food temperature to ~~40~~ 41 F; or

(c) As part of a cooking process if the food that is frozen is:

1. Cooked as specified in part 40-7-1-.17(1) (a) 1-4.

2. Thawed in a microwave oven and immediately transferred to conventional cooking equipment with no interruption in the process.

(4) Cooling.*

(a) Cooked ~~potentially hazardous food~~ POTENTIALLY HAZARDOUS FOOD (TIME/TEMPERATURE CONTROL FOR SAFETY FOOD) shall be cooled:

1. From 135 F to 70 F within 2 hours; and
2. From 70 F to ~~40~~ 41 F or below within 4 hours.

(b) ~~Potentially hazardous food~~ POTENTIALLY HAZARDOUS FOOD (TIME/TEMPERATURE CONTROL FOR SAFETY FOOD) shall be cooled to ~~40~~ 41 F or below within 4 hours if prepared from ingredients at ambient temperature, such as reconstituted foods and canned tuna.

(c) Except as specified in ¶ (d) of this section, a ~~POTENTIALLY HAZARDOUS FOOD~~ POTENTIALLY HAZARDOUS FOOD (TIME/TEMPERATURE CONTROL FOR SAFETY FOOD) received in compliance with LAWS allowing a temperature above ~~40~~ 41 °F during shipment from the supplier, shall be cooled within 4 hours to ~~40~~ 41 °F or less.

(d) Raw shell EGGS shall be received and immediately placed in refrigerated EQUIPMENT that maintains an ambient air temperature of 45°F or less.

(5) Cooling Methods.

(a) Cooling shall be accomplished in accordance with the time and temperature criteria specified in part 40-7-1-.20(4) by using one or more of the following methods based on the type of food being cooled:

1. Placing the food in shallow pans;
2. Separating the food into smaller or thinner portions;
3. Using rapid cooling equipment;
4. Stirring the food in a container placed in an ice water bath;
5. Using containers that facilitate heat transfer;
6. Adding ice as an ingredient; or
7. Other effective methods.

(b) When placed in cooling or cold holding equipment, food containers in which food is being cooled shall be:

1. Arranged in the equipment to provide maximum heat transfer through the container wall; and;
2. Loosely covered, or uncovered if protected from overhead contamination, during the cooling period to facilitate heat transfer from the surface of the food.

(6) ~~Potentially Hazardous Food~~, POTENTIALLY HAZARDOUS FOOD (TIME/TEMPERATURE CONTROL FOR SAFETY FOOD) Hot and Cold Holding.* Except during preparation, cooking, cooling, or when time is used as a public health control as specified under 40-7-1-.20(9), ~~potentially hazardous food~~ POTENTIALLY HAZARDOUS FOOD (TIME/TEMPERATURE CONTROL FOR SAFETY FOOD) shall be maintained:

(a) At 135 F or above; except that roasts cooked to temperature and for a time specified in Table 3-4-03 or reheated as specified in 40-7-1-.19 may be held at a temperature of 130 F (54 C); or

(b) At 40-41 F or below

(7) Ready-to-Eat, ~~Potentially Hazardous Food~~ POTENTIALLY HAZARDOUS FOOD (TIME/TEMPERATURE CONTROL FOR SAFETY FOOD), Date Marking.*

(a) Refrigerated, ready-to-eat, ~~potentially hazardous food~~ POTENTIALLY HAZARDOUS FOOD (TIME/TEMPERATURE CONTROL FOR SAFETY FOOD) prepared for sale or to be used as an ingredient in other ~~potentially hazardous food~~ POTENTIALLY HAZARDOUS FOOD (TIME/TEMPERATURE CONTROL FOR SAFETY FOOD) and held more than 24 hours in a food sales establishment shall be marked to indicate the date as specified in part 40-7-1-.20(8) (b), by which the food shall be sold or used.

(b) Refrigerated ready-to-eat, ~~potentially hazardous food~~ POTENTIALLY HAZARDOUS FOOD (TIME/TEMPERATURE CONTROL FOR SAFETY FOOD), in containers from a food processing plant, to be sold or used as an ingredient in other ~~potentially hazardous food~~ POTENTIALLY HAZARDOUS FOOD (TIME/TEMPERATURE CONTROL FOR SAFETY FOOD); shall be marked to indicate the date or day as specified in part 40-7-1-.20(8)(b), by which the food shall be sold or used; and

1. The day the original container is opened in the FOOD ESTABLISHMENT shall be counted as Day 1; and

2. The day or date marked by the FOOD ESTABLISHMENT may not exceed a manufacturer's use-by date.

(c) Sub-Paragraph (b) of this section does not apply to whole unsliced portions of a cured and processed product with original casing maintained on the remaining portion, such as bologna, salami, or other sausages in a cellulose casing.

(d) A refrigerated, ready-to-eat, ~~potentially hazardous food~~ POTENTIALLY HAZARDOUS FOOD (TIME/TEMPERATURE CONTROL FOR SAFETY FOOD) ingredient or a portion of a refrigerated, ready-to-eat, ~~potentially hazardous food~~ POTENTIALLY HAZARDOUS FOOD (TIME/TEMPERATURE CONTROL FOR SAFETY FOOD) that is subsequently combined with additional ingredients or portions of food shall retain the date marking of the earliest-prepared or first-prepared ingredient.

(8) Ready-to-Eat, ~~Potentially Hazardous Food~~ POTENTIALLY HAZARDOUS FOOD (TIME/TEMPERATURE CONTROL FOR SAFETY FOOD), Disposition.*

(a) Refrigerated ready-to-eat, ~~potentially hazardous food~~ POTENTIALLY HAZARDOUS FOOD (TIME/TEMPERATURE CONTROL FOR SAFETY FOOD), specified in 40-7-1-.20(7) (a) shall be discarded if not sold or used within 7 calendar days

(b) An ingredient or container of refrigerated ready-to-eat, ~~potentially hazardous food~~ POTENTIALLY HAZARDOUS FOOD (TIME/TEMPERATURE CONTROL FOR SAFETY FOOD) as specified in part 40-7-1-.20(7)(a) or (b) shall be discarded if not sold or used within 7 calendar days after the original container is opened or by the manufacturer's "sell by" or "use by" date which ever comes first.

(9) Time as a Public Health Control.* Time only, rather than time in conjunction with temperature, may be used as the public health control for a working supply of ~~potentially hazardous food~~ POTENTIALLY HAZARDOUS FOOD (TIME/TEMPERATURE CONTROL FOR SAFETY FOOD) before cooking, or for ready-to-eat ~~potentially hazardous food~~ POTENTIALLY HAZARDOUS FOOD (TIME/TEMPERATURE CONTROL FOR SAFETY FOOD) that is displayed or held for service for immediate consumption, if:

(a) The food is marked or otherwise identified with the time within which it shall be cooked, served, or discarded;

(b) The food is served or discarded within 4 hours from the point in time when the food is removed from temperature control;

(c) Food in unmarked containers or packages; or for which the time expires, is discarded; and

(d) Written procedures that assure compliance with Sub-paragraphs (a)-(c) of this section are maintained in the establishment and made available to the Department upon request, to ensure compliance with:

1. Paragraph (a) -(c) of this section; and

2. Written procedures for cooling of foods that are prepared, cooked, and refrigerated before time is used as a public health control.

40-7-1-.21 Specialized Processing Methods.

(1) Variance Requirement.* A retail food establishment shall obtain a variance from the Department as specified in 40-7-1-.70(2) before smoking or curing food as a method of food preservation rather than as a method of flavor enhancement; using food additives or adding components such as vinegar as a method of food preservation rather than as a method of flavor enhancement or to render a food so that it is not potentially hazardous; Operating a molluscan shellfish life-support system display tank used to store and display shellfish that are offered for human consumption; Custom processing animals that are for personal use as food and not for sale or service in a food establishment:: using a reduced oxygen method of packaging food except as specified in 40-7-1-.21(2), where a barrier to Clostridium botulinum in addition to refrigeration exists; or preparing food by another method that is determined by the Department to require a variance.

(2) Reduced Oxygen Packaging, Criteria.*

(a) A retail food establishment that packages food using a reduced oxygen packaging method shall have a HACCP plan that contains the information specified under paragraph 40-7-1-.72(2) and that:

1. Identifies the food to be packaged;

2. Limits the food packaged to a food that does not support the growth of *Clostridium botulinum* because it complies with one or more of the following:

(i) Has an a_w of 0.91 or less,

(ii) Has a pH of 4.6 or less,

(iii) Is a meat product cured at a processing plant regulated by the Georgia Department of Agriculture or U.S. Department of Agriculture using substances specified in 9 CFR 318.7 Approval of substances for use in the preparation of products and 9 CFR 381.147 Restrictions on the use of substances in poultry products and is received in an intact package, or

(iv) Is a food with a high level of competing organisms such as raw meat or raw poultry;

3. Specifies methods for maintaining food at ~~40~~ 41°F or below;

4. Describes how the packages shall be prominently and conspicuously labeled on the principal display panel in bold type on a contrasting background, with instructions to:

(i) Maintain the food at ~~40~~ 41°F or below, and

(ii) Discard the food if within 14 calendar days of its packaging if it is not sold.

5. Limits the shelf life to no more than 14 calendar days from packaging to consumption or the original manufacturer's "sell by" or "use by" date, whichever occurs first;

6. Includes operational procedures for packaging that:

(i) Prohibit contacting food with bare hands,

(ii) Identify a designated area and the method by which

(I) Physical barriers or methods of separation of raw foods and ready-to-eat foods minimize cross contamination, and

(II) Access to the processing equipment is restricted to responsible trained personnel familiar with the potential hazards of the operation, and

(iii) Delineate cleaning and sanitization procedures for food- contact surfaces; and

7. Describes the training program that assures that the individual responsible for the reduced oxygen packaging operation understands the:

(i) Concepts required for a safe operation,

(ii) Equipment and facilities, and

(iii) Procedures specified in Subparagraph (a) 6 of this section and paragraph 40-7-1-72 (2).

(b) Except for fish that is frozen before, during, and after packaging, a retail food establishment may not package fish using a reduced oxygen packaging method.

40-7-1-.26 Labeling.

(1) Packaged Food Labels.

(a) ~~Food packaged~~ **FOOD PACKAGED** in a ~~food establishment~~ **FOOD ESTABLISHMENT** shall be labeled as ~~provided for in the Georgia Food Act and according to requirements set forth in~~ specified in LAW; including the Georgia Department of Agriculture Weights and Measures Rules and Regulations Chapter 40-15-2 and Chapter 40-15-3; National Institute of Standards and Technology - Handbook Number 130 and 133; 21 CFR 101 Food and 9 CFR 317 Subpart A and B Labeling and Containers; provided that the Commissioner may authorize the omission from the label of packaged food of the name and place of business of the manufacturer, packer, or distributor if the manufacturer, packer, or distributor shows a hardship in fully labeling his food product because of the size of the package, the material of which the package is made, or the disproportionate cost of compliance. Before authorizing such omission, the Commissioner shall require the filing of a Certificate of Territorial Responsibility in a form prescribed by him. Failure to maintain on file with the Commissioner a correct current statement of territorial responsibility in accordance with the Commissioner's requirements shall terminate any such authorization previously granted. Prior to the manufacture of products, all packaged product labels are subject to review by the Department as administrative procedures enjoin.

(b) ~~Prior to the manufacture of products, all packaged product labels are subject to review by the Department as administrative procedures enjoin.~~ Label information shall include:

1. The common name of the FOOD, or absent a common name, an adequately descriptive identity statement;

2. If made from two or more ingredients, a list of ingredients in descending order of predominance by weight, including a declaration of artificial color or flavor and chemical preservatives, if contained in the FOOD;

3. An accurate declaration of the quantity of contents;

4. The name and place of business of the manufacturer, packer, or distributor; and

5. The name of the FOOD source for each MAJOR FOOD ALLERGEN contained in the FOOD unless the FOOD source is already part of the common or usual name of the respective ingredient (Effective January 1, 2006).

6. Except as exempted in the Federal Food, Drug, and Cosmetic Act § 403(Q)(3) – (5), nutrition labeling as specified in 21 CFR 101 – Food Labeling and 9 CFR 317 Subpart B Nutrition Labeling.

7. For any salmonid FISH containing canthaxanthin as a COLOR ADDITIVE, the labeling of the bulk FISH container, including a list of ingredients, displayed on the retail container or by other written means, such as a counter card, that discloses the use of canthaxanthin.

~~(c) A product code (lot number) indicating the date of production shall be applied to all packaged foods by the food manufacturer or processor at the time of packaging. Further designations indicating time of production, production line, and like information, may be also incorporated at manufacturer' option. This information on food packages may not be concealed or altered. BULK FOOD that is available for CONSUMER self-dispensing shall be prominently labeled with the following information in plain view of the CONSUMER:~~

1. The manufacturer's or processor's label that was provided with the FOOD; or

2. A card, sign, or other method of notification that includes the information specified under Subparagraphs (b)1., 2., and 5. of this section.

~~(d) Food that is not packaged need not be labeled unless a health or nutrient content claim is made. Bulk, unPACAKGED FOODS such as bakery products and unPACKAGED FOODS that are portioned to CONSUMER specification need not be labeled if:~~

1. A health, nutrient content, or other claim is not made;

2. There are no local LAWS requiring labeling; and

3. The FOOD is manufactured or prepared on the PREMISES of the FOOD SALES ESTABLISHMENT or at another FOOD SALES ESTABLISHMENT or a FOOD PROCESSING PLANT that is owned by the same PERSON and is regulated by the FOOD regulatory agency that has jurisdiction.

~~(e) A PRODUCT CODE (lot number) indicating the date of production shall be applied to all PACKAGED FOOD by the FOOD manufacturer or processor at the time of packaging. Further designations indicating time of production, production line, and like information, may be also incorporated at the manufacturer's option. This information on FOOD packages may not be concealed or altered.~~

(f) The alteration, mutilation, destruction, obliteration, concealment, or removal of the whole, or any part of the labeling of a FOOD, results in such product being ADULTERATED or misbranded.

(g) If required by LAW, CONSUMER warnings shall be provided.

(h) All products labeled as "keep refrigerated"; except those covered by other temperature regulations; shall be transported, held, stored, and displayed for sale at 41°F or below.

~~(2) Open Dating on Food Products in Package Form. All food products in package form and labeled as defined in the Georgia Food Act, Section 26-2-28; which are sold, offered for sale or stored for sale at retail or wholesale and having open dating shall comply with the following requirements. This regulation does not apply to food products which are required to be open dated under other regulations. Expiration Dates. It shall be unlawful to sell or offer for sale, at retail or wholesale, the following food items past the EXPIRATION DATE stated on the label:~~

~~(a) Definitions.~~

~~1. Open dating. Means the voluntary use of letters or numbers (for the month) together with number(s) (for the day of the month) and a number which designates the last digit(s) of the year.~~

~~2. Pull date / Expiration Date. The use of a pull date / expiration date means the last date on which the food in package form shall be sold at retail or wholesale. These terms shall have the same meaning within this section.~~

~~(b) Qualifying Open Date Statement. The terms "Sell by _____"; or "Not To Be Sold After _____"; or "Best If Used By _____"; or Expiration _____" or words of similar import; shall be considered to fulfill requirements of this regulation.~~

~~(c) Manner of Expressing the Pull Date / Expiration Date. Except as specified in paragraph 1 of this section, The Pull Date / Expiration Date shall consist of a Qualifying Open Date Statement combined with a date consisting of a combination of letters and or numbers (for the month, day, and year).~~

~~1. A combination of letters and numbers without a Qualifying Open Date Statement shall be considered a Pull Date / Expiration Date if:~~

~~(i) Numbers only are used and separated by a divider (hyphen, slash, or period) Examples: 6-10-05; or 6/10/05; or 06.10.05; or~~

~~(ii) A combination of letters and numbers are used in a standard dating format. Examples: June 10 05; or 10 Jun 05.~~

~~(d) Location of Stating the Open Date. The open dating information shall be prominently placed on the label with such conspicuousness (as compared with other words, statements, designs, or devices on the labeling) and in such terms as to render it likely to be read and understood by the ordinary individual under customary conditions of purchase and use.~~

~~(e) Prohibited Acts. The following acts and the causing thereof are hereby prohibited:~~

~~1. Food products in package form are not to be sold or offered for sale at retail or wholesale after the expiration date stated on the label.~~

~~2. Food products in package form shall be removed from sale after the pull date stated on the label. These food products may be voluntarily destroyed or returned to the manufacturer, packer or distributor or donated to a recognized non-profit organization provided the food shows no evidence of spoilage and is not suspected of being a health hazard.~~

~~3. The alteration, mutilation, destruction, obliteration, or removal of the whole or any part of the labeling of, or the doing of any other act with respect to a food if such act is done while such article is held and results in such product being adulterated or misbranded.~~

~~(3) Expiration Date of Infant Formula Products.~~

~~(a) Infant Formula. Expiration Dating.~~

1. Each and every container of liquid or powdered infant formula made from two or more ingredients and represented as or intended as a replacement or supplement for milk, shall conspicuously show in common and express terms the calendar month and year after which the product is not to be sold or used for human consumption.

2. The expiration date, or the date after which the product is not to be sold or used for human consumption, shall be determined by the manufacturer based on empirical data, or other verifiable scientific means.

3. If the Commissioner or his authorized agent has prohibited the sale of a product still within date, after notice, the manufacturer shall for each and every brand, variety, or formulation of infant formula intended to be sold or offered for sale in Georgia, submit scientific data establishing the expiration date to comply with Section (a)2 of this regulation. Such data shall include, but is not limited to, physical, nutritional, and chemical properties. In the absence of empirical data on any specific formulation, the manufacturer shall provide such scientific data to reasonably substantiate the expiration date, If the data submitted does not in the opinion of the Commissioner justify the expiration date, the Commissioner shall prohibit the sale of the product until a new expiration date consistent with data is applied to the food product.

4. Each and every shipping carton container, and consumer package shall in like manner show the calendar month and year after which the product is not to be sold or used. This section will be complied with if the information is not contained on the shipping carton, container, and consumer package, but is easily legible by virtue of the transparency of the outer wrapper or container.

5. Any manufacturer, distributor, dealer, or other person who offers for sale or sells infant formula not showing an expiration date or who offers for sale or sells infant formula on a date after the expiration date shown, shall be deemed to be offering for sale a product unfit for food within the meaning of part 26-2-28 of the Georgia Food Act.

6. Knowingly filing with the Commissioner incorrect or unverifiable date or placing an expiration date upon a shipping carton, container or any consumer package, which date is inconsistent with the data filed with the Commissioner shall be deemed to be misbranding under part 26-2-28 of the Georgia Food Act provided, however,

that it shall not be deemed misbranded if the expiration date shown is an earlier date than the filed data would warrant.

~~(b)~~ 7. Special Formulation. The provisions of this regulation shall not apply to any special formulation manufactured on request of any licensed physician for the express purpose of meeting dietary needs of a specific individual.

~~(4) Sandwiches.~~

~~(a) For the purpose of this section, prepackaged sandwiches shall be classified as Type A, Type B or Type C.~~

(b) Prepackaged Sandwiches. For the purpose of this section, prePACKAGED sandwiches shall be classified as Type A, Type B or Type C.

~~1. Type A sandwiches are those prepackaged sandwiches which are handled and sold as non-refrigerated sandwiches. Type A sandwiches shall not contain foods defined as potentially hazardous in hold or as an ingredient.~~

(i) Type A sandwiches are those prePACKAGED sandwiches which are handled and sold as non-refrigerated sandwiches. Type A sandwiches shall not contain POTENTIALLY HAZARDOUS FOOD (TIME/TEMPERATURE CONTROL FOR SAFETY FOOD) in whole, or as an ingredient.

(ii) Type A Sandwiches which are stored, transported and offered for sale in a non-refrigerated state shall be labeled with an EXPIRATION DATE not later than two (2) days from the date of manufacture.

~~2. Type B Sandwiches are those prepackaged sandwiches which are handled and sold as refrigerated sandwiches.~~

(i) Type B Sandwiches are those prePACKAGED sandwiches which are handled and sold as refrigerated sandwiches.

(ii) Type B Sandwiches which are labeled "keep refrigerated," and which are stored, transported and offered for sale under refrigeration; shall be held after preparation continuously at or below 41°F, and shall be labeled with an EXPIRATION DATE not later than seven (7) days from the date of manufacture.

(iii) The EXPIRATION DATE for sandwiches shall state the last day of sale in terms of the month, or its abbreviation, and numerical day of the month (e.g. 6-6). The expiration day shall be preceded by an explanatory term, such as "Expires", "Sell-By", or similar wording. Other PRODUCT CODES or dating methods are prohibited.

(iv) The date shall be conspicuously located on the front of the wrapper.

(v) When improved packing methods including but not limited to "Nitrogen Flushed" and "Vacuum Packed" are developed and become economically feasible, an extended expiration date may be granted by the Commissioner

upon application by the manufacturer with proof of the safety of such an extended shelf life. The time of such extension will be decided by the Commissioner based upon such proof from the manufacturer.

~~3. Type C Sandwiches are those prepackaged sandwiches which are immediately hard frozen after manufacture and which are kept at zero degrees Fahrenheit until the time of sale to institutions or individual retail firms. A 10 degree rise in temperature will be allowed during delivery of frozen sandwiches from the truck into an individual firm.~~

(i) Type C Sandwiches are those prePACKAGED sandwiches which are immediately hard frozen after manufacture, and which are in a frozen state until the time of sale to institutions or individual retail firms. A 10 degree rise in temperature will be allowed during delivery of frozen sandwiches from the truck into an individual firm.

(ii) Type C Sandwiches when sold by a retail store account for resale to individual CONSUMERS shall be dated when the sandwich is removed from the freezer, labeled as "keep refrigerated," placed under refrigeration at or below 41°F, and made ready for sale to individual CONSUMERS. An EXPIRATION DATE, not to exceed seven (7), days shall be stamped on each individual sandwich label.

(iii) Type C Sandwiches intended to be maintained in a non-refrigerated state after removal from the freezer shall have an EXPIRATION DATE not to exceed two (2) days from the date of such removal stamped on each individual sandwich.

(iv) The EXPIRATION DATE, as required in Subparagraphs (ii) and (iii) of this section, shall meet the criteria as in 40-7-1-.26(2)(b)2.(iii); and be conspicuously displayed on the front of the wrapper.

~~(b) Type A Sandwiches which are stored, transported and offered for sale in a non refrigerated state shall be labeled with a conspicuous expiration date not later than two (2) days from the date of manufacture.~~

~~(c) Type B Sandwiches which are labeled "Keep Refrigerated" and which are stored, transported and offered for sale under refrigeration shall be held after preparation continuously at or below 40 F, and shall be labeled with a conspicuous expiration date not later than seven (7) days from the date of manufacture.~~

~~(d) Type C Sandwiches shall be dated when sold by a retail store account for resale to individual customers, the expiration date, not to exceed seven (7), days shall be stamped on each individual sandwich label when the sandwich is removed from the freezer, placed under refrigeration at or below 40 F, and made ready for sale to individual customers. The shelf life date of the sandwich shall be expressed as stated in 40 7 1 .26(2)(c) Manner of expressing the pull date.~~

~~(e) Type B & C Sandwiches intended to be sold as refrigerated sandwiches shall be labeled "Keep Refrigerated".~~

~~(f) The date shall be conspicuously located on the front of the wrapper.~~

~~(g) The expiration date for sandwiches shall state the last day of the sale in terms of the month or its abbreviation and numerical day of the month (e.g. 6-6). The expiration day shall be preceded by an explanatory term, such as "Expires", "Sell-By", or similar wording. Other codes or dating methods are prohibited.~~

~~(h) When improved packing methods including but not limited to "Nitrogen Flushed" and "Vacuum Packed" are developed and become economically feasible, an extended expiration date may be granted by the Commissioner upon application by the manufacturer with proof of the safety of such an extended shelf life. The time of such extension will be decided by the Commissioner based upon such proof from the manufacturer.~~

~~(c) EGGS cannot be offered or held for sale after the EXPIRATION DATE, according to Departmental Rules Chapter 40-3-1-.01(e)1.~~

~~(d) POTENTIALLY HAZARDOUS FOOD (TIME/TEMPERATURE CONTROL FOR SAFETY FOOD), or any FOOD that is labeled "keep refrigerated," cannot be offered or held for sale past the stated EXPIRATION DATE. Nor can the EXPIRATION DATE be modified or lengthened by the use of these products as an ingredient in another FOOD product.~~

~~(5) Other Forms of Labeling Information.~~

~~(a) Consumer information, such as nutritional information, and consumer warnings as required, shall be provided.~~

~~(b) Bulk food that is available for consumer self-dispensing shall be prominently labeled with the following information in plain view of the consumer.~~

~~1. The manufacturer's or processor's label that was provided with the food; or~~

~~2. A card, sign, loose leaf booklet, or other method of notification that includes:~~

~~(i) The common name of the food,~~

~~(ii) A list of ingredients in descending order of predominance,~~

~~(iii) A declaration of artificial color or flavor and chemical preservatives, if contained in the food, and~~

~~(iv) Nutritional labeling if health claim is made or if specified in 21 CFR 101 Food Labeling.~~

~~(e) All products labeled as "Keep Refrigerated"; except those covered by other temperature regulations; shall be transported, held, stored, and displayed for sale under refrigeration.~~

40-7-1-.32 Equipment Functionality.

(1) Ventilation Hood Systems, Drip Prevention. Exhaust ventilation hood systems in food preparation and warewashing areas including components such as hoods, fans, guards, and ducting shall be designed to prevent grease or condensation from draining or dripping onto food, equipment, utensils, and single-service and single-use articles.

(2) Ventilation Hood Systems, Filters. Filters or other grease extracting equipment shall be designed to be readily removable for cleaning and replacement if not designed to be cleaned in place.

(3) Equipment Openings, Closures and Deflectors. A cover or lid for equipment shall overlap the opening and be sloped to drain.

(4) Bearings and Gear Boxes, Leakproof. Equipment containing bearings and gears that require lubricants shall be designed and constructed so that the lubricant cannot leak, drip, or forced into food or onto food-contact surfaces.

(5) Ice Units, Separation of Drains. Liquid waste drain lines may not pass through an ice machine or ice storage bin.

(6) Molluscan Shellfish Tanks.

(a) Except as specified under paragraph (b) of this section, molluscan shellfish life support system display tanks may only be used to display shellfish that are not offered for human consumption and shall be conspicuously marked so that it is obvious to the consumer that the shellfish are for display only.

(b) Molluscan shellfish life-support system display tanks that are used to store and display shellfish that are offered for human consumption shall be operated and maintained in accordance with a variance granted by the Department as specified in 40-7-1-.70(2) and a HACCP plan that;

1. Is submitted by the person in charge and approved by the Department as specified in 40-7-1-.72(1) and

2. Ensures that:

(i) Water used with fish other than molluscan shellfish does not flow into the molluscan tank,

(ii) The safety and quality of the shellfish as they were received are not compromised by use of the tank, and

(iii) The identity of the source of the shellstock is retained as specified under 40-7-1-.11(4).

(7) Temperature Measuring Devices.

(a) In a mechanically refrigerated or hot food storage unit, the sensor of a temperature measuring device shall be located to measure the air temperature or a simulated product temperature in the warmest part of a mechanically refrigerated unit and in the coolest part of a hot food storage unit.

(b) Hot or cold holding equipment used for ~~potentially hazardous food~~ POTENTIALLY HAZARDOUS FOOD (TIME/TEMPERATURE CONTROL FOR SAFETY FOOD) shall be designed to include and shall be equipped with at least one integral or permanently affixed temperature measuring device that is located to allow easy viewing of the display.

(c) Paragraph (b) of this section does not apply to equipment such as heat lamps, cold plates, steam tables, salad bars or calrod units, since measuring ambient air temperature in this type of equipment would be impractical due to design, type and use.

(d) Temperature measuring devices shall be designed to be easily readable and their numerical scale, printed record, or digital readout in increments no greater than 2 F and shall be accurate to + or - 2 F.

(8) Warewashing Machines,

(a) Data Plate Operating Specifications. A warewashing machine shall be provided with an easily accessible and readable data plate affixed to the machine by the manufacturer that indicates the machine's design and operation specifications including the:

1. Temperatures required for washing, rinsing, and sanitizing;
2. Pressure required for the fresh water sanitizing rinse unless the machine is designed to use only a pumped sanitizing rinse; and
3. Conveyor speed for conveyor machines or cycle time for stationary rack machines.
4. It shall be the responsibility of the person-in-charge to see that such equipment is operated as specifications require.

(b) Warewashing Machines, Internal Baffles.

Warewashing machine wash and rinse tanks shall be equipped with baffles, curtains, or other means to minimize internal cross contamination of the solutions in wash and rinse tanks.

(c) Warewashing Machines, Temperature Measuring Devices.

A warewashing machine shall be equipped with a temperature measuring device that indicates the temperature of the water:

1. In each wash and rinse tank; and
2. As the water enters the hot water sanitizing final rinse manifold or in the chemical sanitizing solution tank.

(d) Warewashing Machines, Automatic Dispensing of Detergents and Sanitizers.

A warewashing machine shall be designed and equipped to:

1. Automatically dispense detergents and sanitizers; and
2. Incorporate a visual means to verify that detergents and sanitizers are delivered or a visual or audible alarm to signal if the detergents and sanitizers are not delivered to the respective washing and sanitizing cycles.

(e) Warewashing Machines, Flow Pressure Device.

1. warewashing machines that provide a fresh hot water sanitizing rinse shall be equipped with a pressure gauge or similar device such as a transducer that measures and displays the water pressure in the supply line immediately before entering the warewashing machine; and
2. If the flow pressure measuring device is upstream of the fresh hot water sanitizing rinse control valve, the device shall be mounted in a 6.4 millimeter or one-fourth inch Iron Pipe Size (IPS) valve.
3. Paragraphs 1 and 2 of this section do not apply to a machine that uses only a pumped or recirculated sanitizing rinse.

(9) Case Lot Handling Equipment, Moveability. Equipment, such as dollies, pallets, racks, and skids used to store and transport large quantities of packaged foods received from a supplier in a cased or overwrapped lot, shall be designed to be moved by hand or by conveniently available equipment such as hand trucks and forklifts.

(10) Dispensing Equipment, Protection of Equipment and Food.

In equipment that dispenses or vends liquid food or ice in unpackaged form:

- (a) The delivery tube, chute, orifice, and splash surfaces directly above the container receiving the food shall be designed in a manner, such as with barriers, baffles, or drip aprons, so that drips from condensation and splash are diverted from the opening of the container receiving the food;
- (b) The delivery tube, chute, and orifice shall be protected from manual contact such as by being recessed;
- (c) The delivery tube or chute and orifice of equipment used to vend liquid food or ice in unpackaged form to self-service consumers shall be designed so that the delivery tube or chute and orifice are protected from dust, insects, rodents, and other contamination by a self-closing door if the equipment is:
 1. Located in an outside area that does not otherwise afford the protection of an enclosure against the rain, windblown debris, insects, rodents, and other contaminants that are present in the environment, or
 2. Available for self-service during hours when it is not under the full-time supervision of a food employee;and
- (d) The dispensing equipment actuating lever or mechanism and filling device of consumer self-service beverage dispensing equipment shall be designed to prevent contact with the lip-contact surface of glasses or cups that are refilled.

(11) Beverage Tubing, Separation.

(a) Beverage tubing and cold-plate beverage cooling devices may not be installed in contact with stored ice. This section does not apply to cold plates that are constructed integrally with an ice storage bin.

(12) Condenser Unit, Separation.

(a) If a condenser unit is an integral component of equipment, the condenser unit shall be separated from the food and food storage space by a dustproof barrier.

(13) Food Equipment, Certification and Classification: FOOD EQUIPMENT that is certified or classified for sanitation by an American National Standards Institute (ANSI)-accredited certification program will be deemed to comply with this section.

40-7-1-.34 Utensils, Temperature Measuring Devices, and Testing Devices.

(1) Utensils, Consumer Self-Service. A food dispensing utensil shall be available for each container displayed at a consumer self-service unit such as a buffet or salad bar.

(2) Food Temperature Measuring Devices.

(a) Temperature measuring devices such as stem thermometers shall be provided and readily accessible for use in assuring attainment and maintenance of food temperatures where ~~potentially hazardous food~~ POTENTIALLY HAZARDOUS FOOD (TIME/TEMPERATURE CONTROL FOR SAFETY FOOD) is prepared and /or held. Their accuracy shall be as specified in 40-7-1-.32(7) (c)

(b) A TEMPERATURE MEASURING DEVICE with a suitable small-diameter probe that is designed to measure the temperature of thin masses shall be provided and readily accessible to accurately measure the temperature in thin FOODS such as MEAT patties and FISH filets.

(3) Temperature Measuring Devices, Manual Warewashing. In manual warewashing operations, a temperature measuring device shall be provided and readily accessible for frequently measuring the washing and sanitizing temperatures.

(4) Sanitizing Solutions, Testing Devices. A test kit or other device that accurately measures the concentration in mg/L of sanitizing solutions shall be provided.

40-7-1-.40 Cleaning Frequency.

(1) Equipment Food-Contact Surfaces and Utensils.*

(a) Equipment food-contact surfaces and utensils shall be cleaned.

1. Before each use with a different type of raw animal food such as beef, fish, lamb, pork, or poultry.

2. Each time there is a change from working with raw foods to working with ready-to-eat foods.

3. Between uses with raw fruits or vegetables and with ~~potentially hazardous food~~ POTENTIALLY HAZARDOUS FOOD (TIME/TEMPERATURE CONTROL FOR SAFETY FOOD);

4. Before using or storing a food temperature measuring device; and

5. At any time during the operation when contamination may have occurred.

(b) Subparagraph (a) 1 of this section does not apply if the food-contact surface or utensil is in contact with a succession of different raw animal foods each requiring a higher cooking temperature as specified under § 40-7-1-.17 than the previous food, such as preparing raw fish followed by cutting raw poultry on the same cutting board.

(c) Except as specified in ¶ (d) of this section, if used with ~~potentially hazardous food~~ POTENTIALLY HAZARDOUS FOOD (TIME/TEMPERATURE CONTROL FOR SAFETY FOOD), equipment food-contact surfaces and utensils shall be cleaned throughout the day at least every 4 hours.

(d) Surfaces of utensils and equipment contacting ~~potentially hazardous food~~ POTENTIALLY HAZARDOUS FOOD (TIME/TEMPERATURE CONTROL FOR SAFETY FOOD) may be cleaned less frequently than every 4 hours if:

1. In storage, containers of ~~potentially hazardous food~~ POTENTIALLY HAZARDOUS FOOD (TIME/TEMPERATURE CONTROL FOR SAFETY FOOD) and their contents are maintained at temperatures specified under 40-7-1-.20 and the containers are cleaned when they are empty;

2. utensils and equipment are used to prepare food in a refrigerated room or area that is maintained at one of the temperatures in the following chart and:

a. The utensils and equipment are cleaned at the frequency in the following chart that corresponds to the temperature:

Temperature	Cleaning Frequency
5.0°C (41°F) or less	24 hours
>5.0°C - 7.2°C (>41°F - 45°F)	20 hours
>7.2°C - 10.0°C (>45°F - 50°F)	16 hours
>10.0°C - 12.8°C (>50°F - 55°F)	10 hours

b. The cleaning frequency based on the ambient temperature of the refrigerated room or area is documented in the food establishment.

3. Containers in serving situations such as salad bars, delis, and cafeteria lines hold ready-to-eat ~~potentially hazardous food~~ POTENTIALLY HAZARDOUS FOOD (TIME/TEMPERATURE CONTROL FOR SAFETY FOOD) that is maintained at the temperatures specified under 40-7-1-.20, are intermittently combined with additional supplies of the same food that is at the required temperature, and the containers are cleaned at least every 24 hours;

4. Temperature measuring devices are maintained in contact with food, such as when left in a container of deli food or in a roast, held at temperatures specified under 40-7-1-.20;

5. Equipment is used for storage of packaged or unpackaged food such as a reach-in refrigerator and the equipment is cleaned at a frequency necessary to preclude accumulation of soil residues;

6. The cleaning schedule is approved based on consideration of:

- a. Characteristics of the equipment and its use,
- b. The type of food involved,
- c. The amount of food residue accumulation, and
- d. The temperature at which the food is maintained during the operation and the potential for the rapid and progressive multiplication of pathogenic or toxigenic microorganisms that are capable of causing foodborne disease; or

7. In-use utensils are intermittently stored in a container of water in which the water is maintained at 57°C (135°F) or more and the utensils and container are cleaned at least every 24 hours or at a frequency necessary to preclude accumulation of soil residues.

(e) Except when dry cleaning methods are used as specified under 40-7-1-.40(4), surfaces of utensils and equipment contacting food that is not potentially hazardous shall be cleaned:

1. At any time when contamination may have occurred;
2. At least every 24 hours for iced tea dispensers and consumer self-service utensils such as tongs, scoops, or ladles;
3. Before restocking consumer self-service equipment and utensils such as condiment dispensers and display containers; and
4. In equipment such as ice bins and beverage dispensing nozzles and enclosed components of equipment such as ice makers, cooking oil storage tanks and distribution lines, beverage and syrup dispensing lines or tubes, coffee bean grinders, and water vending equipment:
 - a. At a frequency specified by the manufacturer, or
 - b. Absent manufacturer specifications, at a frequency necessary to preclude accumulation of soil or mold.

(2) Cooking and Baking Equipment. The food-contact surfaces of cooking and baking equipment shall be cleaned at least every 24 hours. This section does not apply to hot oil cooking and filtering equipment if it is cleaned as specified under 40-7-1-.40(1) (c) 4.

(3) Nonfood-Contact Surfaces. Nonfood-contact surfaces of equipment shall be cleaned at a frequency necessary to preclude accumulation of soil residues.

(4) Returnables, Cleaning for Refilling.*

(a) Except as specified in ¶¶ (b) and (c) of this section, returned empty containers intended for cleaning and refilling with food shall be cleaned and refilled in a regulated food processing plant.

(b) A food-specific container for beverages may be refilled at a food establishment if:

1. Only a beverage that is not a ~~potentially hazardous food~~ POTENTIALLY HAZARDOUS FOOD (TIME/TEMPERATURE CONTROL FOR SAFETY FOOD) is used as specified under ¶ 40-7-1-.14(5);
2. The design of the container and of the rinsing equipment and the nature of the beverage, when considered together, allow effective cleaning at home or in the food establishment;
3. Facilities for rinsing before refilling returned containers with fresh, hot water that is under pressure and not recirculated are provided as part of the dispensing system;
4. The consumer-owned container returned to the food establishment for refilling is refilled for sale or service only to the same consumer; and
5. The container is refilled by:
 - a. An employee of the food establishment, or
 - b. The owner of the container if the beverage system includes a contamination-free transfer process that can not be bypassed by the container owner.
 - c. Consumer-owned containers that are not food-specific may be filled at a water vending machine or system.

40-7-1-.66 Numbers and Capacities - Facilities.

(1) Lighting.

(a) Intensity - The light intensity shall be:

1. In walk-in refrigeration units and dry food storage areas and in other areas and rooms during periods of cleaning, at least 110 lux (10 foot candles) at a distance of 75 cm (30 inches) above the floor;
2. In areas where fresh produce or packaged foods are sold or offered for consumption; areas used for handwashing, ware- washing, and equipment and utensil storage; and in toilet rooms, at least 220 lux (20 foot candles) at a distance of 75 cm (30 inches) above the floor; and
3. At a surface where a food employee is working with unpackaged ~~potentially hazardous food~~ POTENTIALLY HAZARDOUS FOOD (TIME/TEMPERATURE CONTROL FOR SAFETY FOOD) or with food, utensils, and equipment such as knives, slicers, grinders, or saws where employee safety is a factor, at least 540 lux (50 foot candles).

(2) Ventilation. Mechanical Ventilation - If necessary to keep rooms free of excessive heat, steam, condensation, vapors, obnoxious odors, smoke, and fumes, mechanical ventilation of sufficient capacity shall be provided.

(3) Dressing Areas and Lockers.

(a) Designation.

1. Dressing rooms or dressing areas shall be designated if employees routinely change their clothes in the establishment.

2. Lockers or other suitable facilities shall be provided for the orderly storage of employees' clothing and other possessions.

(4) Service Sinks - Availability. A service sink or curbed cleaning facility shall be provided as specified under 40-7-1-.58(3).

40-7-1-.75 License to Operate.

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

(2) Form of Submission. A person desiring to operate a food sales establishment shall submit to the Department a written application for a ~~permit~~ 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 sales establishment. 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
264	Syrup Processing (Seasonal)	1
271	Honey Processing (Seasonal)	1
272	Bulk Honey Producer	4
304	Retail/ Convenience Store	1
309	Shrimp Dock	1
349	Raw Agricultural Commodities (unprocessed)	1
<u>503</u>	<u>Drug Store</u>	<u>1</u>
504	Food Sales Area (with Potentially Hazardous Foods)	1
525	Food Banks	1
564	Wholesale Produce Dealer	1
590	Alcoholic Beverage Warehouse	1
604	Health Food Store	1
641	Small Egg Producer	1
701	Prepackaged Food Only (Nonpotentially Hazardous)	1
801	Roadside Fresh Vegetable/Fruit Stand	1
862	Rolling Stores/Mobile Vending	1
867	Out of State Rolling Stores/Mobile Vending	1
904	Retail Ice Manufacturing/Processing	1

Firm Code	Firm Type	Tier
101	Retail Store with Meat Market	2
108	Retail Seafood	2
140	Bottling Plants - Warehouse	2
154	Bulk Water Supplier	2
214	Retail Bakery	2
216	Bakery Outlet/Distribution Center	2
Firm Code	Firm Type	Tier
220	Flour Mill/Cornmeal Mill	2
242	Retail Candy Processing	2
260	Syrup Processing	2
270	Honey Processing	2
301	Retail Beverage Dispensary	2
305	Retail/ Convenience Store with Deli	2
306	Retail/ Convenience Store with Bakery	2
307	Retail/ Convenience Store with Deli, Bakery	2
330	Frozen Fruit / Vegetable Processing	2
354	Pecan Processing - Seasonal	2
403	Shared Time/ Community Kitchen	2
500	Food Storage Warehouse	2
505	Food Sales Area with Deli	2
510	Pub Food Storage Warehouse- Not Refrigerated	2
550	Coffee/Tea Processing	2
552	Retail Coffee/Tea Processing	2
565	Wholesale Produce Dealer	2
591	Alcoholic Beverage Warehouse	2
605	Health Food Store with Deli	2
900	Water and Ice vending Machine	2
901	Ice vending Machine	2
902	Ice Manufacturing	2

Firm Code	Firm Type	Tier
102	Retail Store with Seafood, Deli, Bakery, Meat Market	3
103	Retail Store with Seafood, Deli, Meat Market	3
104	Retail Store with Seafood, Meat Market	3

105	Retail Store with Deli, Meat Market	3
106	Retail Store with Bakery, Meat Market	3
107	Retail Store with Deli, Bakery, Meat Market	3
Firm Code	Firm Type	Tier
109	Retail Seafood with Deli	3
110	Fresh/Frozen Seafood Distributor/Warehouse	3
114	Retail/Wholesale Seafood	3
115	Retail/Wholesale Seafood	3
130	Bottling Plants - Non-Alcohol	3
150	Bottling Water - Warehouse	3
151	Bottling Water - Plant	3
198	Sushi - Corporate Owned	3
199	Sushi Franchisee	3
201	Chain Store with Meat Market	3
208	Retail/Wholesale Bakery	3
210	Wholesale Bakery	3
215	Retail Bakery	3
217	Retail Bakery with Deli	3
218	Rice / Noodle Manufacturing - Processing	3
219	Tortillas Manufacturing / Processing	3
221	Flour Mill/Cornmeal Mill	3
240	Candy Processing	3
251	Sugar Processing	3
261	Syrup Processing	3
320	Seafood / Fishery Processing	3
331	Frozen Fruit / Vegetable Processing	3
334	Retail Fresh Fruit / Vegetable Processing	3
335	Fresh Fruit / Vegetable Processing - Seasonal	3
344	Acid Foods Processing	3
347	Jams, Jellies, Preserves, Spreads Processing	3
348	Retail Acidified/ Acid Foods Processing	3
350	Pecan Processing	3
360	Peanut Processing	3
380	Vegetable Oil / Shortening/Oleo Margarine Processing	3
384	Retail Juice Processors	3
Firm Code	Firm Type	Tier

399	Condiments Processing	3
402	Retail Multi-Product & Misc. Food Processing	3
501	Food Storage Warehouse	3
511	Pub Food Storage Warehouse- Not Refrigerated	3
520	Pub Food Storage Warehouse - Refrigerated	3
526	Reclaim Center	3
530	Salvage Food Dealer	3
551	Coffee/Tea Processing	3
600	Alcoholic Beverage Processing	3
640	Egg Producer	3
650	Egg Processing	3
859	Rolling Stores Commissary Store for Provisions	3
903	Ice Manufacturing	3
905	Sandwich Manufacturing/Processing	3
907	Retail Sandwich Manufacturing/Processing	3

Firm Code	Firm Type	Tier
111	Fresh/Frozen Seafood Distributor/Warehouse	4
116	Retail/Wholesale Seafood with Deli	4
131	Bottling Plants – Non-Alcohol	4
152	Bottling Water – Plant	4
200	Chain Store with Sushi	4
202	Chain Store with Seafood, Deli, Bakery, Meat Market	4
203	Chain Store with Seafood, Deli, Meat Market	4
204	Chain Store with Seafood, Meat Market	4
205	Chain Store with Deli, Meat Market	4
206	Chain Store with Bakery, Meat Market	4
207	Chain Store with Deli, Bakery, Meat Market	4
209	Retail/Wholesale Bakery	4
211	Wholesale Bakery	4
Firm Code	Firm Type	Tier
213	Wholesale / Retail Bakery with Deli	4
241	Candy Processing	4
321	Seafood / Fishery Processing	4
332	Fresh Fruit / Vegetable Processing	4
340	Canned Fruit / Vegetable Processing	4

342	Acidified/ Acid Foods Processing	4
345	Acidified Foods Processing	4
351	Pecan Processing	4
361	Peanut Processing	4
370	Peanut Butter Processing	4
381	Vegetable Oil / Shortening/Oleo Margarine Processing	4
382	Juice Processors	4
385	Baby Food Processors	4
400	Multi Product & Mise Food Processing	4
410	Imitation Dairy Product Processing	4
502	Food Storage Warehouse (Repacker)	4
521	Pub Food Storage Warehouse - Refrigerated	4
531	Salvage Food Dealer	4
601	Alcoholic Beverage Processing	4
906	Sandwich Manufacturing/Processing	4
908	Snack Food Manufacturing/Processing	4

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

(3) 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 establishment 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 establishment'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 establishment

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.

(4) License Not Transferable. A license may not be transferred from one person to another person, from one food establishment to another, or from one type of operation to another.

(5) 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 ~~permit~~ 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 establishment; and

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

(6) 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 ~~permit~~ LICENSE holder need not discontinue operations in an area of an establishment that is unaffected by the imminent health hazard.

(7) Resumption of Operations.

(a) If operations are discontinued as specified under 40-7-1-.75(6) or otherwise according to law, the ~~permit~~ LICENSE 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.