



# Georgia Department of Agriculture Food Safety Division

## **Farmers Market Frequently Asked Questions (FAQ)**

### **1. What products are covered by the Georgia Department of Agriculture, and what products are covered by the county health department?**

The Georgia Department of Agriculture licenses and inspects food sales operations in the state of Georgia. Food sales operations are defined as any establishment engaged in the sale of food primarily for consumption off the premises. This includes grocery stores, convenience stores, drug stores, bakeries, warehouses, and processing plants. County health departments permit and inspect food service operations in the state. Food service operations are considered establishments where the sale of food is intended for consumption on the premises. These are primarily restaurants and catering operations.

### **2. What is a Licensed Kitchen, a Commercial Kitchen, or an Inspected Kitchen?**

The Department would define these terms as a facility that is licensed by the Georgia Department of Agriculture's Food Safety Division for the purposes of Food manufacturing or processing.

### **3. What is a Kitchen Incubator?**

The Department would define a kitchen incubator as a facility that leases its space and equipment for 2 or more tenants to prepare food products. The Department licenses kitchen incubators, as well as each tenant that uses the facility in the preparation of food products.

### **4. What is an Agriculture Education Food Processing Center?**

This is a cannery, typically operated by a county or extension office, which allows farmers and consumers to can their products. A list is available on the Cobb County Extension website at <http://www.caes.uga.edu/extension/cobb/fcs/documents/Canneries2010.pdf>. This facility is not licensed by the Department, and foods processed here cannot be entered into commerce.

### **5. What is Better Process Control School?**

Better Process Control School is specifically geared for certification of processing Acidified / Low-Acid foods to which acid or an acidic food has been added – according to the FDA requirements in 21 CFR 114. Companies that manufacture Acidified / Low-Acid foods must operate with a certified supervisor on the premises when processing, as specified in FDA's 21 CFR Part 108.25(f) and 108.35(g) or in USDA's 9 CFR 318.200 and 281.300.

**6. Is a certificate from a Better Process Control School issued for the product, or is it issued to the licensed kitchen?**

The certificate from the Better Process Control School is issued for the individual who attended the class.

**7. What is a Processing Authority?**

A Processing Authority is a person(s) or organization(s) having expert knowledge of thermal processing requirements for foods in hermetically sealed containers, and who also has access to the facility for making such determinations. PAs develop or determine the process schedules for each type of product being produced review and evaluate any changes to process formulations, equipment design or modifications, which may impact the processing of hermetically sealed food products, and review and make determinations on processing deviations and abnormal container evaluations. This is usually performed by an accredited lab that will classify the food as Acid / Low-Acid / or Acidified.

**8. What are the classifications in association with a Processing Authority?**

The processing authority will review the process and perform testing on food products in order to classify the food as Acid (pH of 4.6 or lower), Acidified (foods that have ingredients added so the final pH is 4.6 or lower), or Low-Acid (pH greater than 4.6 so the product is heat treated to ensure it is safe for consumption).

**9. True or False: Acid Foods, Acidified Foods, and Low-Acid Foods all require Better Process Control School, Process Approval, and a Food Sales Establishment License.**

False. Acid Foods are exempt from process approval and Better Process Control School. Acidified and Low-Acid Foods are only exempt from process approval and Better Process Control School if they are labeled as “Keep Refrigerated,” and are stored, distributed and retailed under refrigeration

Acid Food, Acidified Food, and Low-Acid Food manufacturers would require a Food Sales Establishment License from the Food Safety Division.

**10. What is ServSafe?**

ServSafe is a food safety certification accredited by the American National Standards Institute (ANSI). It will satisfy the Demonstration of Knowledge required by the Department’s regulation 40–7–1-.03(1); although, it is not required. Other ANSI accredited food safety certifications are available through Prometric and National Registry of Food Safety Professionals.

**11. When is a Food Sales Establishment License required (and when not)?**

The Georgia Food Act requires anyone in the State of Georgia who engages in food sales operations: retail (including internet sales), wholesale, and manufacturing to obtain a Food Sales Establishment License from the Department. The only exception is provided in O.C.G.A. § 26-2-391, which states:

*A county or municipality shall be authorized to issue permits for the operation of nonprofit food sales and food service at events sponsored by the county, municipality, or an organization. A permit shall be valid for a period of 120 hours or less and another permit shall not be issued to the organization holding such permit until five days have elapsed from the date of the expiration of the permit. No fees shall be charged to an organization for the issuance of any such permit by a county or municipality.*

This law requires the county or municipality sponsoring the event to issue permits for operation of food sales establishments at the event, taking the responsibility from the Department. If the vendor engages in any food sales outside of the non-profit event (for example: personal website, Craigslist, local publications, etc.) then that vendor will require a license from the Food Safety Division, and will have to meet the facility requirements for licensing.

**12. Is a license required if a farmers market is sponsored by a non-profit?**

If the farmers market meets the criteria as listed in O.C.G.A. § 26-2-391 (sponsored by a county or municipality and lasts less than 120 hours) then licensing requirements are waived for foods that have been deemed to be low-risk. Other foods governed by additional laws will supersede the exemption from licensing that O.C.G.A. § 26-2-391 provides. These low-risk foods include:

- 1) Jams
- 2) Jellies
- 3) Preserves
- 4) Fruit Spreads and Fruit Butters
- 5) Foods with a Water Activity ( $A_w$ ) of .85 or Less (Typically baked goods that do not require refrigeration – Ex.: breads, cookies)

**13. At a non-profit event, does a permit from the county health department negate the need for a Food Service Establishment License?**

The issue to be determined is whether the operation is food sales or food service. Food sales fall under the jurisdiction of the Department of Agriculture. A Food Sales Establishment License may or may not be required based on the risk of the food or additional regulations that govern that commodity. Food intended for immediate consumption is deemed food service and inspectional responsibility falls to the county health department.

**14. In the Food Safety Division document *Guidelines for Food Processing Safety*, it states exempt foods include jellies, preserves, acid foods, fermented foods, foods with water activity ( $A_w$ ) of 0.85 or less, and foods that are stored, distributed and retailed under refrigeration. What are these foods exempt from?**

These products are exempt from the requirements of 21 CFR 114, which the Department has adopted by reference. Specifically, these products are exempt from product classification, process approval, and the manufacturer does not have to attend Better Process Control School.

**15. Do these exempted foods require a Food Sales Establishment License?**

Certain foods listed in the *Guidelines for Food Processing Safety* as exempt will require a Food Sales Establishment License from the Food Safety Division due to the risk associated with that product. These include:

- 1) Carbonated Beverages
- 2) Acid Foods
- 3) Standardized and Non-Standardized Food Dressing
- 4) Condiment Sauces
- 5) Fermented Foods
- 6) Alcoholic Beverages
- 7) Foods Stored, Distributed and Retailed Under Refrigeration

These products do not qualify for the licensing exemption as described in the answer for question #11. Manufacturers of these types of products must obtain a Food Sales Establishment License from the Department.

**16. At what point does a manufacturer of bottled salsa, BBQ sauce, chow-chow, and/or relishes have to attend Better Process Control School?**

If their product has been classified as an “Acid Food,” then the manufacturer does not have to attend Better Process Control School. If the product is classified as an “Acidified, or Low-Acid Food;” and the product(s) are going to be stored, distributed and retailed as a shelf stable product (no refrigeration required), then the manufacturer will have to attend Better Process Control School. If the product is labeled as “Keep Refrigerated,” and is stored, distributed, and retailed under refrigeration; then the requirement for Better Process Control School is exempted according to the Code of Federal Regulations (CFR) as stated in 21 CFR 114.3.

**17. Which agencies would regulate the sale of tamales?**

If the tamales are being sold for immediate consumption on the premises, the county health department would have jurisdiction (food service as opposed to food sales).

If the tamales have been packaged for consumption off the premises, and the sale is to the end consumer, then the Department’s Food Safety Division would have jurisdiction.

If the tamales are packaged, do not contain meat, and are not sold to the end consumer (for institutional use, restaurant, or distribution to other retail stores) then the Department’s Manufactured Foods Section would have jurisdiction; as long as the product is not crossing state lines.

If the tamales are packaged, contain meat, and are not sold to the end consumer (for institutional use, restaurant, or distribution to other retail stores) then the Department’s Meat Inspection Division would have jurisdiction; as long as the product is not crossing state lines.

If the tamales are crossing state lines, then it would either be a USDA or FDA jurisdiction†. USDA if there is meat involved, or FDA for non-meat tamales. The tamales would have to come from a facility inspected by one of these agencies.

†Products subject to FDA jurisdiction will also require a Food Sales License from the Manufactured Food Section of the Georgia Department of Agriculture.

**18. Can the tamales be prepared in a licensed kitchen?**

If the tamales are regulated by the Food Safety Division’s Retail or Manufactured Foods Section (sold to the end consumer, or distributed but do not contain meat), they can be prepared in a licensed kitchen. Tamales regulated by the Department’s Meat Inspection Division (containing meat and are going to be distributed) are subject to additional facility requirements. The licensed kitchen would have to be inspected prior to production to ensure compliance with Meat Inspection Division’s regulations.

**19. When is an Egg Candling Certificate required?**

All eggs offered for sale in Georgia must be graded by a certified grader.

**20. How do you get an Egg Candling Certificate?**

You must complete an egg candling certification course. The Georgia Department of Agriculture offers the course free of charge. To inquire about course availability, contact:

North GA:  
North District Office  
770-535-5955

South GA:  
South District Office:  
229-386-3489

**21. Is an out-of-state candling certificate for eggs acceptable?**

The Department would accept an out of state candling certificate.

**22. Which licenses must be renewed yearly?**

Food Sales Establishment, Mobile Meat, and Wholesale Seafood Licenses are renewed annually.

**23. How does a farmer’s market manager know if licenses issued by the Georgia Department of Agriculture are valid or have been revoked?**

Licenses must be displayed for the consumers to observe. Ensure that the vendor has a license. Locate the license number, as well as the firm name, owner’s name, and address printed on the license. Contact the Food Safety Division at 404-656-3627 to inquire if the firm’s license is active. If the vendor does not have a license to inspect, but claims that he is licensed by the Department, obtain his name and the location where he processes or stores his food, and call the Food Safety Division number and check that the vendor is licensed and that his license is active.

**24. Which divisions of the Georgia Department of Agriculture conduct inspections at farmers markets?**

Food Safety Division inspects food sales and certifies scales up to 35 lbs. Plant Industry Division would check live plants offered for sale. Livestock Poultry Division checks sellers of live chickens. Animal Protection Division would check people selling pets and companion animals. Meat Inspection Division inspects meat and poultry products to ensure they came from approved sources. We continue to cross-train our inspectors to optimize our resources, and maintain the most efficient workforce possible.

**25. What are the requirements for selling fresh shrimp?**

Pre-packaged shrimp which are weighed, packaged, and labeled in a licensed facility can be sold with a Mobile Vehicle License from the Department. The shrimp have to be maintained below 40 degrees Fahrenheit. Storage on ice is permissible.

**26. Can fresh salmon and other fin fish be sold?**

Salmon and other fin fish intended to be sold fresh to the customer can be sold after obtaining a Mobile Vehicle License from the Department. Sales must be made from an enclosed trailer. The trailer must meet the requirements as specified in the Department's rules and regulations Chapter 40-7-5-.02.

**27. What are the rules for shelling and packing peas?**

Shelling and packing peas by an unlicensed vendor can only be performed as a service to the customer at the time of sale. If the product is shelled ahead of time and stored, the vendor will require a Food Sales Establishment License from the Food Safety Division. The packages of peas must be labeled according to the Department's rules and regulations, and stored or displayed for sale under refrigeration.

**28. Can fresh meat and poultry be sold at farmers markets?**

Fresh meat and poultry can be sold after obtaining a Mobile Vehicle License from the Department. Sales must be made from an enclosed trailer. The trailer must meet the requirements as specified in the Department's rules and regulations Chapter 40-7-5-.02. All meat and poultry must be from an approved source.

**29. Are there different rules for selling frozen meat and poultry?**

Frozen meat and poultry sales require a Mobile Vehicle License from the Department. An enclosed trailer is not required, but the product should be handled according to the regulations in Chapter 40-7-5-.03. All meat and poultry must be from an approved source.

**30. Is the Mobile Vehicle License good for the whole state of Georgia?**

The Mobile Vehicle License covers food sales across the state of Georgia; however, additional licenses or permits may be required by local counties or municipalities.

**31. What is the stamp that is required on meat products?**

The stamp, or legend, indicates that the product has been processed at an inspected plant, and is considered to be from an approved source. USDA regulates meat and poultry that pass from state-to-state (interstate commerce). These products shall have a USDA inspection legend. They should look like this:



Inspection mark on carcass beef, pork, lamb, and goat



Inspection mark on processed beef, pork, lamb, and goat



Inspection mark on raw and processed poultry

The Department's Meat Inspection Division regulates products that travel within the state of Georgia (intrastate commerce) only. These products shall have a Georgia Department of Agriculture inspection legend. It looks like this:



**32. When is a label review required?**

A label review is required for firms that are, or are going to be, licensed by the Department. The Department reviews labels for formatting only. The obligation of keeping the label consistent with all current FDA labeling requirements rests solely on the manufacturer, processor, and/or distributor. A label is submitted, a checklist is performed, and a reviewal letter is generated from the Atlanta Office. Food labels are also reviewed as a normal part of routine inspections of firms licensed by the Department. All food products sold at non-profit events, even those from a vendor who does not require a Food Sales Establishment License due to the Non-Profit Exemption, shall meet the minimum standards of identity for labels.