



NEW YORK STATE  
DEPARTMENT OF AGRICULTURE AND MARKETS  
DIVISION OF FOOD SAFETY AND INSPECTION  
10B AIRLINE DRIVE  
ALBANY, NY 12235

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**CIRCULAR 831**

**Rules and Regulations Relating to**

**REFRIGERATED WAREHOUSES**  
**AND**  
**LOCKER PLANTS**

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Article 19 of the Agriculture and Markets Law  
With Rules and Regulations

Revised as of May 2004

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## **ARTICLE 19--REFRIGERATED WAREHOUSES AND LOCKER PLANTS**

### **Section**

- 230. Definitions.**
- 231. Licenses, issuance of.**
- 232. Licenses, suspension or revocation of; review.**
- 233. Licensee to render financial statements.**
- 234. Records to be kept by refrigerated warehouse licensee.**
- 234-a. Records to be kept by locker plant licensee.**
- 235. Marking of food held under refrigeration.**
- 236. Removal of marks.**
- 237. Reports of holdings.**
- 238. Exemptions as to locker plants.**
- [238-a. Renumbered.]**
- 239. Unfit food to be condemned.**
- 240. Length of storage period.**
- 241. Transfer of food held in refrigerated warehouses.**
- 242. Power of Commissioner to investigate.**
- 243. Rules and regulations.**

### **Section 230. Definitions**

As used in this article: 1. The term "refrigeration," shall mean the storage or keeping of articles of food in a refrigerated warehouse at or below a temperature above zero of forty-five degrees Fahrenheit.

2. The term "refrigerated warehouse" shall mean any establishment or structure, or portion thereof, where space is rented or hired for the storage of food at or below the temperature of forty-five degrees Fahrenheit for more than thirty days.

3. The term "temporary storage place" shall mean any establishment or structure, or a separate and distinct portion thereof, artificially cooled to or below a temperature above zero of forty-five degrees Fahrenheit, in which food is stored for periods in no case exceeding thirty days.

4. The term "locker plant" shall mean any building, or portion thereof, under such chemical refrigeration, in which individual compartments or lockers, each of not more than one hundred cubic feet capacity, are rented for the purpose of freezer storage of articles of food.

### **Section 231. Licenses, issuance of**

No person or corporation shall maintain or operate any refrigerated warehouse and/or locker plant unless licensed by the Commissioner. Application, upon a form prescribed by the Commissioner, shall be made on or before September first of every other year for the license period beginning October first following. The applicant shall satisfy the Commissioner of his or its character, financial responsibility, and competency to operate a refrigerated warehouse or locker plant. The Commissioner, if so satisfied, shall, upon receipt

of the license fee or fees, issue to the applicant a license or licenses to operate the refrigerated warehouse or warehouses or locker plant or locker plants described in the application until the first day of October of the year following the year in which such license was issued. The biennial license fee shall be two hundred dollars for each refrigerated warehouse. If a locker plant is operated as part of a refrigerated warehouse and upon the same premises, no additional license fee shall be required.

### **Section 232. Licenses, suspension or revocation of; review**

The Commissioner may suspend a license if any warehouse or locker plant covered by the license shall be found to be conducted in an insanitary manner, such suspension to continue until the unsatisfactory conditions of sanitation are corrected. The Commissioner may, after opportunity be given to the licensee to be heard, revoke a license (a) if it appears that any statement upon which the license was issued is false or misleading, (b) if the licensee violates any of the provisions of this chapter, or (c) if the financial condition of the licensee changes so as to imperil the interests of those who store food in the warehouse or locker plant of the licensee, or of those who extend credit upon the security of goods so stored.

The action of the Commissioner in refusing to grant a license, or in revoking or suspending a license, shall be subject to review by a proceeding under article seventy-eight of the civil practice law and rules, but the decision of the Commissioner shall be final unless within thirty days from the date of the order embodying such action, such proceeding to review has been instituted.

### **Section 233. Licensee to render financial statements**

A licensee shall from time to time, when required by the Commissioner, make and file with the Commissioner a verified statement exhibiting his or its financial condition as of a date to be pre-scribed by the Commissioner. Such statements shall be received by the Commissioner on a confidential basis and shall not be open to public inspection.

### **Section 234. Records to be kept by refrigerated warehouse licensee**

The refrigerated warehouse licensee shall assign to each lot of food, when received for storage in a refrigerated warehouse, a distinguishing bt number for the purpose of identification, and shall keep an accurate record of such lot number, and shall also make and keep a record of the date of the receipt and of the date of removal of each lot of food.

### **Section 234-a. Records to be kept by the locker plant licensee**

The locker plant licensee shall assign a designating number to each locker and keep an accurate record of the name and address of lessee of each locker, by its designated number.

### **Section 235. Marking of food held under refrigeration**

No person or corporation shall place, receive or keep in a refrigerated warehouse any article of food, except fruits and vegetables, unless plainly marked or tagged, either upon the container in which it is stored or upon the article of food itself, with the identification lot number assigned and recorded pursuant to the foregoing section.

### **Section 236. Removal of marks**

It shall be unlawful for any person to alter, mutilate, destroy, obscure, obliterate, or remove any mark or tag required by this article to be placed on any article of food or the container thereof while the same is stored in a refrigerated warehouse.

### **Section 237. Reports of holdings**

Licensed refrigerated warehouses shall submit monthly reports to the Commissioner, upon a form to be prescribed by him setting forth the quantity of each and every food product stored in the refrigerated warehouse of the licensee, except holdings in break-up rooms, processing rooms and ice cream hardening rooms. Such reports shall be filed on or before the fifth business day of each month and shall show the holdings on the last day of the preceding month.

### **Section 238. Exemptions as to locker plants**

Sections two hundred thirty-four, two hundred thirty-five, two hundred thirty-six, and two hundred thirty-seven of this chapter shall apply to locker plants, only, when, in addition to their locker operations, such plants conduct a refrigerated warehouse business within the meaning of the law.

### **[Section 238-a. Renumbered 238]**

### **Section 239. Unfit food to be condemned**

No article of food shall be placed, received, or kept in any refrigerated warehouse or locker plant unless the same is in an apparently pure and wholesome condition. The Commissioner may seize and condemn any articles of food in any refrigerated warehouse or locker plant which are found to be unfit for consumption; and such articles of food shall be destroyed or otherwise disposed of so as to prevent their being used for food.

### **Section 240. Length of storage period**

1. No person or corporation shall keep or permit to remain in any refrigerated warehouse or locker plant any article of food beyond the time when it is sound and wholesome and fit to remain in storage. If any article of food is found to be fit for immediate consumption, but unfit for further storage, such article of food shall at once be re-moved from storage and not again stored. No article of food shall be kept or permitted to remain in any refrigerated warehouse for a longer aggregate period than twenty-four calendar months, except by order of the Commissioner. Upon evidence satisfactory to him that the food is sound and wholesome and fit for further storage, the Commissioner may, in his discretion, grant an extension of the storage period. He may, in his discretion, cause any articles of food to be examined to ascertain if the food is sound and wholesome and fit for further storage.

2. In the event that any article of food is held in a refrigerated warehouse for a period of longer than twenty-four calendar months without extension having been applied for and granted by the Commissioner, and that neither the operator of the refrigerated warehouse nor the Commissioner can locate the owner of the said article of food, after ten days' notice by registered mail directed to the last known address of such owner, then, and in that event, the Commissioner shall have the power to order the disposition and sale of the said article of food for the purpose of payment of charges for storage or other valid liens against same. If a sale as herein provided is ordered by the Commissioner, the proceeds of such sale shall be applied, first, to the payment of any and all charges for storage and service in connection with said property, and second, for any other valid liens against the said property. Any balance then remaining from the proceeds of the sale shall be paid to the owner of the said property, if such owner can be located; and, in the event the owner cannot be located within one year of date of notification, then any balance shall be paid into the treasury of the state of New York.

3. If through non-use of any locker or lockers by the lessee there-of during a period of twelve calendar months, or if for any reason it becomes apparent to the operator of a locker plant that articles of food are possibly being held in any locker or lockers for a period beyond the time when such articles of food may be sound and wholesome or fit to remain in storage, he shall notify the lessee to immediately inspect the contents of his locker or lockers; and, if any article of food is found unfit for further storage, the operator shall require its prompt removal.

4. If the operator of the locker plant, after ten days' notice by registered mail directed to the last known address of such lessee, if unable to locate the lessee of the said locker or lockers, then, and in that event, he shall so notify the Commissioner. The Commissioner shall therein cause the articles of food to be examined, and, if found fit for immediate consumption, he shall have the power to order the disposition and sale of the said article or articles of food for the purpose of payment of the locker charges or other valid liens against same. If a sale as herein provided is ordered by the Commissioner, the proceeds of such sale shall be applied, first, to the payment of any and all charges due the locker plant operator for rental and service, and, second, for any other valid liens against the said property. Any balance then remaining from the proceeds of the sale shall be paid to the owner of the said property if such owner can be located; and, in the event that the owner cannot be located within one year of date of notification, then any balance shall be paid into the treasury of the state of New York.

5. In carrying out any order of the Commissioner for sale or disposition of any property under the provisions of sections two hundred and thirty-nine or two hundred and forty of this chapter, the owner or operators of the refrigerated warehouse or locker plant are hereby relieved from any liability to the original owner or any other person or persons for the custody of said property, and from any legal liability under any warehouse receipt issued and outstanding covering the said property.

#### **Section 241. Transfer of food held in refrigerated warehouse**

The transfer of any food from one refrigerated warehouse or locker plant to another for the purpose of evading any provisions of this article is hereby prohibited.

**Section 242. Power of Commissioner to investigate**

The Commissioner shall have power to investigate any transaction in connection with the operation of any refrigerated warehouse or locker plant, and may examine the records of any person or corporation applying for or holding a license; but information relating to the general business of the applicant or licensee which may be disclosed by such investigation, and which is not related to the immediate purpose thereof, shall be deemed of a confidential nature by the Commissioner.

**Section 243. Rules and regulations**

The Commissioner shall adopt and promulgate such rules and regulations to supplement and give full effect to the provisions of this article as he may deem necessary. Such rules and regulations shall be filed and open for public inspection at the principal office of the department, and shall have the force of law.

**RULES AND REGULATIONS RELATING TO  
REFRIGERATED WAREHOUSES AND LOCKER PLANTS**

**(1 NYCRR Part 246)**

**Section**

- 246.1 Definitions**
- 246.2 Containers**
- 246.3 Record of licensee**
- 246.4 Markings**
- 246.5 Bulk food**
- 246.6 Unfit food**
- 246.7 Notice to storers of expiration of storage period**
- 246.8 Application for extension of storage period**
- 246.9 Notice of unfitness**
- 246.10 Seizure and destruction of unfit food**
- 246.11 Leased rooms, record, markings, reports**
- 246.12 Sanitation**
- 246.13 Meats intended for feeding fur-bearing animals, dogs and cats**
- 246.14 Treatment of pork or pork products to destroy trichinae**

**Section 246.1 Definitions.** (a) **Room** as used herein means a definite refrigerated space within and a portion of a refrigerated warehouse and which room is used separately and exclusively as a processing room, breakup room or ice cream hardening room, as hereinafter defined.

(b) A **processing room** shall be deemed to be a refrigerated room used exclusively for the processing of food and which is not otherwise used for the storage of food.

(c) A **breakup room** shall be deemed to be a refrigerated room used exclusively for reassembling and/or repacking frozen foods for distribution to the trade, and which is not otherwise used for the storage of food.

(d) An **ice cream hardening room** shall be deemed to be a refrigerated room where only frozen desserts manufactured pursuant to article 4A of the Agriculture and Markets Law are placed for freezing after manufacture and which is used exclusively for such purpose, and which is not otherwise used for the storage of food.

**Section 246.2 Containers.** Articles of food placed in a refrigerated warehouse and/or locker plant shall be securely packed, wrapped or enclosed in suitable boxes, cartons, crates or other packages, unless the articles are of a character impracticable to pack in containers, in which event they may be stored in bulk.

**Section 246.3 Record of licensee.** The records required under section 234 of the Agriculture and Markets Law shall be kept in such form as readily to show the order, in point of time, in which the lots were stored.

**Section 246.4 Markings.** The marking of each lot of food in a refrigerated warehouse with the required identification lot number shall be by means of a stamp or other suitable marking on the container in which the food is packed, or on a tag securely attached to the container or to the food itself.

**Section 246.5 Bulk food.** When articles of food of a character impracticable to pack in containers are placed in a refrigerated warehouse, each unit of such food shall be stamped or tagged as above provided; or, if such individual marking is not practicable, the bulk mass of such food shall be so stamped or tagged, and food from no other lot shall be commingled with such bulk mass.

**Section 246.6 Unfit food.** No article of food shall be placed, received, or kept in any refrigerated warehouse or locker plant unless such food is in an apparently pure and wholesome condition.

**Section 246.7 Notice to storers of expiration of storage period.** Thirty days prior to the expiration of the 24-month period of storage, the warehouse operator shall give notice to the owner of any lot of food that such food must be removed, unless the Commissioner of Agriculture and Markets shall have issued an order extending the time of storage. When an extension of the storage period has been granted, the operator shall again give notice to the owner 30 days before the expiration of the extended period. A copy of each notice required by this rule shall be promptly mailed to the Commissioner of Agriculture and Markets.

**Section 246.8 Application for extension of storage period.** An application for an extension of the storage period beyond 24 months must be submitted at least 20 days before the expiration of such 24-month period. The application shall state:

- (a) the lot numbers;
- (b) the date when the food was first placed in cold storage;
- (c) the condition of the food at the time of application;
- (d) the length of time for which an extension is asked; and
- (e) the reasons for requesting extension.

**Section 246.9 Notice of unfitness.** Whenever any food is found to be no longer fit to remain in storage, the operator of the refrigerated warehouse or locker plant shall notify the owner of the food of such fact, and a copy of the notice shall be promptly mailed to the Commissioner of Agriculture and Markets.

**Section 246.10 Seizure and destruction of unfit food.** Whenever any food is found to be unfit for consumption as food, the Commissioner of Agriculture and Markets, or his representative shall seize such food by placing same under quarantine requiring the food to be held intact until disposed of as provided by law. Before any such food shall be destroyed, the Commissioner shall cause a 10 days' notice to be mailed to the owner at his address as it appears on the records of the ware-house, giving him an opportunity to show cause why the food should not be destroyed.

**Section 246.11 Leased rooms, record, markings, reports.** The operator of any leased room or rooms other than processing rooms, breakup rooms or ice cream hardening rooms in any refrigerated warehouse or locker plant where foods are stored for over 30 days and who has sole jurisdiction and supervision over such leased room or rooms, is required to secure a license as provided for in section 231 of the Agriculture and Markets Law, and shall at all times be responsible for the observance of the statute and of these rules. The operator of any warehouse or locker plant who shall lease any part thereof for the storage of food for over 30 days, and who has access to and supervision over the storage of foods in such leased room or rooms, shall at all times be responsible for the observance of the statute and of the rules requiring the keeping of records.

**Section 246.12 Sanitation.** (a) Every refrigerated warehouse and/or locker plant, including equipment, shall be kept in a clean, whole-some, and sanitary condition; and all food stored therein must be securely protected from dust, dirt, flies, insects, rodents and from contamination of every kind.

(b) Suitable toilet facilities, conveniently located, shall be provided. They shall be air conditioned or otherwise ventilated to the outer air, well lighted, kept clean and sanitary. Adequate hand-washing facilities, in or nearby, shall be provided at all times with soap, running hot and cold water, mechanical hand dryer or single service towels. Toilets shall not open directly into any room where food is handled, packed or stored. Openings to the outer air shall be screened with 12-gauge or smaller mesh screen or by other acceptable modern device. Notices shall be posted conspicuously in toilets, at washrooms and throughout the plant directing all employees to the importance of washing their hands before commencing work and after visiting toilet rooms.

(c) No operator or lessee shall require or permit any person to work, nor shall any person work in a refrigerated warehouse or locker plant who is known to be affected with an infectious or contagious disease.

**Section 246.13 Meats intended for feeding fur-bearing animals, dogs and cats.** No refrigerated warehouse operator shall accept for storage meats intended for use in the feeding of fur-bearing animals, dogs and cats, unless same have been inspected and stamped by the United States Department of Agriculture, or inspected by other governmental agency approved by the Commissioner or are accompanied by a certificate executed by an approved veterinarian, certifying that the meat being presented for storage was from an animal or animals healthy at the time of slaughter.

**Section 246.14 Treatment of pork or pork products to destroy trichinae.** (a) Refrigerated warehouse operators accepting pork and pork products for treatment to destroy trichinae by refrigeration shall keep the following records:

- (1) type of product frozen;
- (2) amount of product frozen;
- (3) date of entry into freezer;
- (4) recorded temperature at which held;
- (5) date of release from freezer; and
- (6) lot number.

(b) At the time of release of the lot of treated product or of any part thereof, a warehouse or delivery receipt properly numbered and containing like data shall be issued by said refrigerated warehouse operator to the storer or owner of the food.

