

FOOD SAFETY

State and Federal Standards and Regulations

Arizona

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ARIZONA

Meat Inspection

Arizona empowers the Department of Agriculture to administer the Arizona Meat Inspection Act.¹⁸⁵ The Department is to cooperate with the USDA and is to adopt rules that conform as far as possible to those of the USDA under the Federal Meat Inspection Act.¹⁸⁶ The programs apply to meat from cattle, sheep, swine, goats or equines.¹⁸⁷

Licensing of businesses that act as slaughterers¹⁸⁸ or are involved in meat processing, wholesaling, storing, distributing, jobbing or brokering other than canned meat or meat products is required.¹⁸⁹ A person who slaughters animals for the purpose of using the meat for food for himself, his immediate family or employees and who refrains from selling it is not required to have a permit or license.¹⁹⁰

Inspections

The statute requires the inspection of animals before they enter a slaughtering establishment and a postmortem examination and inspection of the carcasses or parts to be prepared for intrastate commerce.¹⁹¹ These inspection programs are conducted by a state meat

¹⁸⁵ ARIZ. REV. STAT. § 3-2015 (1995 & SUPP. 1998).

¹⁸⁶ § 3 - 2046 (B).

¹⁸⁷ § 3 - 2001 (16).

¹⁸⁸ § 3 - 2002, 2011 (C), 2122.

¹⁸⁹ § 3 - 2081.

¹⁹⁰ § 3 - 2011(A).

¹⁹¹ § 3 - 2044 (A), (B).

inspection service under the direction of a chief veterinary meat inspector.¹⁹²

Any slaughtering establishment may apply for a state meat inspection service, and the services may be approved upon the sanitary conditions of premises where slaughtering occurs.¹⁹³ Establishments that fail to maintain sanitary standards may not mark products as “inspected and passed,”¹⁹⁴ and the Director may remove inspection services for any such establishment.¹⁹⁵ This is particularly important because meat cannot be sold in the state if not inspected and passed by either the Department or USDA.¹⁹⁶

Some establishments are exempt from the inspection requirements. These include the slaughtering by a person of animals of his own raising exclusively for use by him and members of his household and employees, who are exempt from all regulatory provisions.¹⁹⁷ Custom operators (called “exempt processors” or “exempt slaughterers”) who slaughter animals delivered by the owner for these purposes and not for selling purposes are also exempt from the inspection provisions but not from licensing.¹⁹⁸ The sanitary requirements are, however, applicable, and these establishments are subject to premises inspections.¹⁹⁹

Those slaughtering establishments that are licensed and operate under state inspection

¹⁹² § 3 - 2041.

¹⁹³ § 3 - 2047.

¹⁹⁴ § 3 - 2058.

¹⁹⁵ § 3 - 2048.

¹⁹⁶ § 3 - 2056 (A).

¹⁹⁷ § 3 - 2017 (B).

¹⁹⁸ § 3-2002.

¹⁹⁹ § 3 - 2048 and § 3 - 2050.

services must meet a number of specified minimum requirements related to condition of the premises and equipment, and must be kept free from flies, rats, mice and other vermin. Dogs and cats are to be excluded.²⁰⁰ Meat processors are subject to similar requirements.²⁰¹ Only “inspected and passed meats are to be used in the preparation of all meat and meat food products.”²⁰² Meat or meat food products brought into any slaughtering, meat canning, salting, packing, rendering, or similar establishments are to be inspected for “wholesomeness, cleanliness and markings” before use.²⁰³ All slaughtering, meat-canning, salting, packing, rendering or similar establishments are to subject to sanitary inspections.²⁰⁴

Adulteration

The sale, transport, offer for sale or transport, or receipt in intrastate commerce of adulterated articles is prohibited as is any act that causes or has the effect of causing the articles to be adulterated.²⁰⁵ Adulterated is defined in a manner consistent with the federal law.²⁰⁶ A specific reference is added with regard to margarine containing animal fat which is adulterated if it consists, in any part, of any substance unfit for human food.²⁰⁷ Specific reference is made to storage and handling of carcasses, parts, meat and meat food products. Regulations are

²⁰⁰ § 3 - 2051.

²⁰¹ § 3 - 2054.

²⁰² § 3 - 2054 (D)(3).

²⁰³ § 3 - 2056.

²⁰⁴ § 3 - 2058.

²⁰⁵ §§ 3 - 2057, 2088 (F).

²⁰⁶ § 3 - 2001(1).

²⁰⁷ § 3 - 2001(1)(j).

authorized to assure that such articles will not be adulterated in handling and storage. Rules are also authorized fixing the contents of processed meats and meat food products. Restrictions are included on the use of preservatives in meat and meat food products unless approved by USDA. Sulfates and sulfites are prohibited, and any artificial coloring must be USDA approved. Meat or meat food products that have not been inspected are not to be mixed with any inspected meat or meat food product.²⁰⁸

Misbranding and Labeling

The sale, transport, offering for sale or transportation or receipt in intrastate commerce of misbranded articles is prohibited as is any act which may cause or have the effect of causing misbranding.²⁰⁹ Misbranding is defined in a manner consistent with the federal law.²¹⁰

Labeling as “Inspected and Passed” is required of all meat and meat food products that are not adulterated.²¹¹ In addition, prepared meat and meat food products placed or packed in cans, pots, tins, boxes, canvas or other receptacle must be labeled as “Inspected and Passed.” The labels must also meet other specific requirements, such as the true name, ingredients, statement of content and name as place of business of the manufacturer.²¹²

Specific labeling requirements apply to horse meat which must be plainly and conspicuously marked or identified.²¹³ The meat from these animals must be prepared in

²⁰⁸ §§ 3 - 2088 (A), (B), (D), (E).

²⁰⁹ §§ 3 - 2057, 2088 (F).

²¹⁰ § 3 - 2001 (21).

²¹¹ § 3 - 2042.

²¹² § 3 - 2088 (C).

²¹³ § 3 - 2125.

establishments separate from those of other types of meat animals.²¹⁴

Enforcement

In addition to the licensing and inspection requirements outlined above, the Department is empowered to detain any carcass, meat or meat food products believed to be adulterated or misbranded or that has not been inspected.²¹⁵ A court proceeding may be filed for the purpose of seizure and condemnation. If condemned, the article must be destroyed unless the owner pays all costs and expenses and posts a bond to assure proper destruction of the condemned article.²¹⁶ Violations are ordinarily misdemeanors.²¹⁷ The Board may use suitable notices and warnings for minor violations rather than the institution of court proceedings, and is to give any notice of any alleged violation before the institution of criminal proceedings.²¹⁸ License suspension or revocation, and the revocation of meat inspection services may be sought for violations under the act or for connection of other offenses involving fraud or misrepresentation or certain conditions involving food transactions. These actions may only be taken following a hearing.²¹⁹

Poultry Products Inspection Act

The Department of Agriculture is authorized to cooperate with USDA in developing and administering a poultry products inspection program.²²⁰

²¹⁴ § 3 - 2123.

²¹⁵ § 3 - 2084.

²¹⁶ § 3 - 2085.

²¹⁷ § 3 - 2092.

²¹⁸ § 3 - 2093.

²¹⁹ § 3 - 2096.

²²⁰ § 3 - 2152.

Inspection

Antemortem inspection of poultry is authorized, and postmortem inspection of the carcass of each bird processed is mandated by the Act. Poultry carcasses and products found, upon inspection, to be adulterated are to be condemned, and unless they can be reprocessed they are to be destroyed.²²¹

Sanitary practices specified in regulations must be followed. Inspection services may be withdrawn for failure to meet these requirements.²²² The sale, transport, offering for sale or receipt for transportation of any poultry products which are not inspected as required is prohibited.²²³ Carriers who receive or deliver poultry or poultry products in the usual course of business owned by another person are not subject to penalties for violation of this provision unless the carrier has knowledge or is in possession of parts which would cause a reasonable person to believe the poultry or poultry products were not inspected in accordance with this Act.²²⁴

Exempt from the inspection requirements is the slaughtering by a person of poultry of his own raising and processing and transportation of poultry products for use by him, members of his household and nonpaying guests and employees. Custom slaughtering for these purposes is also exempt. Operations at retail stores and restaurants are generally exempt. The inspection requirements do not apply to poultry producers with respect to poultry raised on their own farms

²²¹ § 3 - 2153.

²²² § 3 - 2154.

²²³ § 3 - 2156(A)(2).

²²⁴ § 3 - 2159(B).

if they do not slaughter more than 250 turkeys each year (or equivalent number of other birds with four birds considered the equivalent of one turkey) and who do not buy or sell products other than those produced on their own farms. Exemptions also apply for poultry producers who distribute poultry products raised and slaughtered on their own premises directly to household consumers, restaurants, hotels or boarding houses for preparation of meals or for sales direct to consumers identified with the name and address of the processor, not otherwise misbranded and are sound, clean and fit for human food. In fact, such producers may distribute the poultry products derived from such operations use these conditions in any event.²²⁵

Adulteration

The sale, transport, offering for sale or transport or receipt for transport in intrastate commerce of any adulterated poultry or poultry products is prohibited. An act which would intend to cause or have the effect of causing such products to be adulterated is also prohibited.²²⁶ Adulteration is defined in a manner consistent with the federal law.²²⁷ The adulteration provisions in many instances apply to articles otherwise exempted from inspection.²²⁸ Special provisions require those engaged in buying, selling, freezing, storing, and transporting poultry or poultry products to abide by any regulations necessary to assure that these articles will not be adulterated.²²⁹

Misbranding and Labeling

²²⁵ § 3 - 2162.

²²⁶ §§ 3 - 2156 (A)(2)-(3).

²²⁷ § 3 - 2151(1).

²²⁸ § 3 - 2162(F).

²²⁹ § 3 - 2161.

The sale, transport, offering for sale or transport or receipt for transport in intrastate commerce of any misbranded poultry or poultry products is prohibited.²³⁰ Misbranding is defined in a manner consistent with the federal law.²³¹ All poultry products inspected that are found to be not adulterated are to be appropriately marked and labeled and no labeling may be false or misleading.²³²

The misbranding prohibitions in many instances apply to poultry and products otherwise exempt from the inspection requirements.²³³

Enforcement

In addition to the inspection provisions outlined above, the Department has a variety of powers to use in enforcement of the Act. Among these is the authority to detain any poultry products believed to be adulterated or misbranded or not properly inspected.²³⁴ Articles found to be adulterated, misbranded, or otherwise in violation may be seized, and following a court proceeding, condemned. Condemned articles for human food purposes must be destroyed.²³⁵ Violations are misdemeanors except for violations which involve intent to defraud or the distribution or attempted distribution of adulterated articles. Those violations are felonies.²³⁶ Carriers are not subject to penalties if in the usual course of business they act as carriers of

²³⁰ § 3 - 2156(A)(2).

²³¹ § 3 - 2151(13).

²³² § 3 - 2155.

²³³ § 3 - 2162(F).

²³⁴ § 3 - 2165.

²³⁵ § 3 - 2166.

²³⁶ § 3 - 2159(A).

products of others and have no knowledge nor are in possession of facts which would cause a reasonable person to believe that the products were not inspected or marked as required.²³⁷

The Department is authorized to use suitable notices and warnings rather than to institute criminal proceedings for violations and must give reasonable notice of alleged violations before the institution of criminal proceedings.²³⁸ Since all slaughterers of poultry and all establishments that process poultry or poultry products are to be provided inspection services by the Department, these services may be withdrawn if the applicant or recipient is found to be unfit to engage in business due to a felony conviction or more than one misdemeanor based upon the acquiring, handling or distributing of adulterated, mislabeled or deceptively packaged food or fraud in connection with transactions in food. Inspection services may also be withdrawn for failure to comply with sanitation requirements.²³⁹

Food Regulation

The Department of Health Services carries out the administrative responsibilities relative to food regulation. The Department adopts appropriate regulations that are to conform to the rules, definitions and standards of the federal law if practicable.²⁴⁰

Inspections

The Department of Health Services is authorized to inspect any factory, warehouse or

²³⁷ § 3 - 2159(B).

²³⁸ § 3 - 2160.

²³⁹ § 3 - 2164(B).

²⁴⁰ § 36-911.

establishment where goods are manufactured, processed, packed or held for introduction into commerce, as well as vehicles being used to transport foods. Upon refusal of entry for inspection, purposes, the Department may obtain a special inspection warrant for inspection of private, real or personal properties.²⁴¹ The Department may obtain samples or specimens for the purpose of pure food control.²⁴²

Adulteration

The manufacture, sale, delivery, holding or offering for sale, receipt or proffered delivery or adulterated food is prohibited. The adulteration of food is likewise a violation.²⁴³

Adulteration is defined consistently with the federal law.²⁴⁴ The Arizona statute does make special reference to tolerances for pesticide chemicals and authorizing the Department to limit the quantity of added poisonous or deleterious substances, food additives and pesticide chemicals.²⁴⁵ Any such limits would have to take into account the provisions of the Federal Food Quality Protection Act with regard to pesticide residues.

The adulteration definition makes special reference to confectionery and limits certain nonnutritive substances.²⁴⁶

Misbranding and Labeling

The manufacture, sale, delivery, holding or offering for sale, receipt or proffered delivery

²⁴¹ § 36-908.

²⁴² § 36-909.

²⁴³ § 36-902(1) - (3)

²⁴⁴ § 36-904.

²⁴⁵ § 36-905.

²⁴⁶ § 36-904(A)(12)

of misbranded food is prohibited. The misbranding of food is likewise prohibited.²⁴⁷ The Department may establish reasonable definitions and standards of identity for any class of food that shall conform as far as practicable to the federal law. Any optional ingredients must be named on the label.²⁴⁸

Misbranding is defined in a manner consistent with the federal law.²⁴⁹ In addition, the specific reference is made to articles that contain vegetable fat or oil which must be prominently and conspicuously specified on the label.²⁵⁰ If a food is alleged to be misbranded because the labeling is misleading, or an advertisement of a food is alleged to be false because it is misleading, consideration must be given not only to representations made or suggested on the label or advertising, but the extent to which the labeling or advertising fails to reveal relevant facts.²⁵¹

Enforcement

In addition to the inspection programs outlined above, the Department has broad powers to deal with violations of the Act. Articles believed to be adulterated or so misbranded may be embargoed by the Department and a petition filed in Superior Court for condemnation. If condemned, the article must be destroyed unless the adulteration or misbranding can be corrected. In such cases, the owner may take possession upon posting of a bond and payment of expenses. If the Department finds meat, seafood, poultry, vegetable, fruit or other perishable

²⁴⁷ § 36-902(1)-(3).

²⁴⁸ § 36-903.

²⁴⁹ § 36-906.

²⁵⁰ § 36-906(14).

²⁵¹ § 36-907.

articles which are unsound or contain filthy, decomposed or putrid substances or which may be poisonous or present an imminent endangerment to health, these may be condemned and destroyed within five days, unless a written protest is filed by the owner.²⁵²

The Department is authorized to seek injunctions in the Superior Court to restrain violations.²⁵³ The Attorney General and county attorneys are authorized to institute appropriate proceedings at the request of the Department.²⁵⁴ Violations are generally considered misdemeanors.²⁵⁵

Special Provisions

Enrichment of Flour and Related Products

The Department is to adopt standards governing the identity and quantity of vitamins and minerals to be added to flour or for food products containing 25 percent or more of flour for the protection of public health and safety. It is unlawful to sell flour or related products that are not enriched as required and not properly labeled.²⁵⁶

Kosher Food

Special rules apply to the sale of meat, meat products, food or food products represented or held out to be kosher. They must not be falsely represented, and must be clearly distinguished from non-kosher food.²⁵⁷

²⁵² § 36-910.

²⁵³ § 36-913.

²⁵⁴ § 36-912.

²⁵⁵ § 36-914.

²⁵⁶ § 36-915.

²⁵⁷ § 36-942.

Bulk Food Sales

“Bulk food” is defined as unpackaged or unwrapped food in containers in which consumers withdraw quantities (not including fresh fruits, vegetables, nuts in the shell, rice, beans, food in salad bars and potentially hazardous food such as milk and milk food products, eggs, meat, poultry, fish, shellfish, edible crustacea).²⁵⁸ Such food must be conspicuously labeled and protected from contamination during display.²⁵⁹ Sanitation standards for dispensing utensils and other equipment are specified.²⁶⁰ Consumers are to be informed by signs to use the utensils provided and not handle food directly.²⁶¹

Milk and Milk Products

The Arizona Department of Agriculture, Animal Services Division, acting through a state dairy supervisor, is to administer provisions related to milk and milk products²⁶² and “trade products.” That is, those products that bear a resemblance to, or is an imitation of, a real milk product.²⁶³ The production, transportation, handling and sale of milk products under the inspection programs are to be regulated in accordance with the Federal Milk Ordinance.²⁶⁴ Federal standards of identity and definitions adopted under the Federal Food, Drug and Cosmetic

²⁵⁸ § 36-971.

²⁵⁹ §§ 36-973, 36-974.

²⁶⁰ § 36-977.

²⁶¹ § 36-978.

²⁶² § 3-603.

²⁶³ § 3-667.

²⁶⁴ § 3-605.

Act are also applicable.²⁶⁵ The production, processing, manufacturing, labeling, storing, transporting, handling and sale of manufactured milk products are regulated in accordance with general specifications for dairy plants published by USDA.²⁶⁶ Federal law controls any conflicts with the state regulation of trade and real milk products.²⁶⁷

One major regulatory approach is to require a license or permit for establishments involved in the industry, milk distributing plants, manufacturing milk processing plants, producer-distributors, producer-manufacturers and wholesale sellers of milk or dairy products.²⁶⁸ Manufacturers of trade products must also be licensed.²⁶⁹

Inspections

Special dairy inspectors are to supervise, weigh and test dairy products.²⁷⁰ Regulations are to provide for inspection of premises and vehicles used in the production, processing, labeling, storing, handling and transporting of milk and milk products.²⁷¹ Periodic inspections are to be made of food establishments, retail food stores and trade product manufacturing plants to determine compliance.²⁷²

Adulteration

²⁶⁵ § 3-601.01.

²⁶⁶ § 3 -622.

²⁶⁷ § 3-671.

²⁶⁸ § 3-607.

²⁶⁹ § 3-665.

²⁷⁰ § 3-604.

²⁷¹ § 3-605(C).

²⁷² § 3-666.

Generally, all milk and milk products sold to the food consumer are to be Grade A pasteurized or certified pasteurized milk or milk products. Manufactured milk products may be made from manufacturing milk. Grade A raw milk, and products made therefrom may be produced, manufactured and bottled for final sale within the state.²⁷³ Sale of milk or milk products from deceased animals is prohibited.²⁷⁴ No person may produce, provide, sell, offer or expose for sale or have in possession with intent to sell any adulterated real or trade products.²⁷⁵ Adulteration is defined by specific reference to the Federal Food, Drug and Cosmetic Act.²⁷⁶ Trade products are not prohibited so long as they comply with the Act. Real products may be flavored with chocolate or cocoa so long as the amount of cocoa fat does not exceed that naturally present in chocolate or cocoa. The vitamin content of real products may be increased with food oil as a carrier of vitamins if the food and content does not exceed .01 percent.²⁷⁷ Special standards are detailed for cheese²⁷⁸, frozen desserts²⁷⁹ and oleomargarine.²⁸⁰

Misbranding and Labeling

It is a violation of the Act to produce, provide, sell, offer or expose for sale, or have in

²⁷³ § 3-606(A).

²⁷⁴ § 3-614.

²⁷⁵ § 3-630(A).

²⁷⁶ § 3-601.

²⁷⁷ § 3-662(4).

²⁷⁸ § 3-624.

²⁷⁹ § 3-625.

²⁸⁰ § 3-629.

possession with intent to sell any products that are misbranded.²⁸¹ Misbranded is defined by incorporation of the definition from the Federal Food, Drug and Cosmetic Act, and by reference to failure to comply with the Federal Fair Packaging and Labeling Act.²⁸² A product not having a label as prescribed by the Act, which displays information that it is of a grade, class, quality or composition other than its true grade, class, quality or composition is misbranded.²⁸³ The Department's primary enforcement tool is the suspension or revocation of the license for violation of the Act or the regulations.²⁸⁴ In addition, the Department has embargo authority with regard to milk or milk products (real or trade products) failing to meet the requirements of the Act or the regulations. A condemnation procedure is detailed.²⁸⁵ Violations may also be prosecuted as misdemeanors.²⁸⁶

Eggs and Egg Products

The Department of Agriculture, acting through the Supervisor of Egg Inspection, is empowered to administer programs related to the regulation of eggs and egg products for human consumption.²⁸⁷ This is primarily enforced through a licensing requirement for all persons in the business of buying, candling, grading, peddling, distributing, breaking, or dealing in or trading in

²⁸¹ § 3-630(8).

²⁸² § 3-601(16).

²⁸³ §§ 3-628, -663.

²⁸⁴ §§ 3-607(C), -634(B), -665.

²⁸⁵ §§ 3-630 (B), (D).

²⁸⁶ §§ 3-634, 670.

²⁸⁷ § 3-701 *et seq.*

eggs or egg products for resale in the state.²⁸⁸ In addition, the Supervisor of Egg Inspection is to oversee inspectors who inspect, weigh and examine dried eggs, frozen eggs and eggs in the shell being advertised or offered for sale to determine condition, quality, grade and weight.²⁸⁹

The statute sets out detailed prohibitions related to the sale of unclassified eggs, representation of chicken eggs as eggs from other species, eggs that do not meet standards or that are sold after expiration dates.²⁹⁰ Correct labeling as to size, grade, name of producer, dealer, retailer, or agent by or for whom the eggs were graded or marked, and correct expiration dates are required.²⁹¹

Eggs that violate the provisions of the Act may be detained as a public nuisance. A civil action may be maintained in Superior Court by the county attorney to abate the nuisance that can result in an order to destroy or denature the eggs.²⁹² Injunctive relief to restrain violations is also possible.²⁹³ Violations are generally classified as misdemeanors,²⁹⁴ although civil penalties may also be enforced.²⁹⁵

²⁸⁸ § 3-714(A).

²⁸⁹ § 3-709.

²⁹⁰ §§ 3-715, -724.

²⁹¹ §§ 3-715 (H) - (K).

²⁹² § 3-730.

²⁹³ § 3-731.

²⁹⁴ § 3-737.

²⁹⁵ § 3-739.