

FOOD SAFETY

State and Federal Standards and Regulations

Wyoming

1999

A Project of the

**National Association of State Departments of Agriculture
Research Foundation**

through the

National Center for Agricultural Law Research and Information

This publication was made possible by a financial grant from the National Association of State Departments of Agriculture (NASDA), Washington, D.C., through funds made available from the United States Food and Drug Administration (FDA).

Disclaimer

This book's information is to be used as an educational tool and is not a substitute for individual legal advice. Any person wishing to obtain legal advice should consult a competent attorney and/or food law specialist. The utilization of these materials by any person constitutes an agreement to hold harmless the author, the National Association of State Departments of Agriculture, the National Center for Agricultural Law Research and Information, the University of Arkansas, and the United States Food and Drug Administration for any liability, claims, damages, or expenses that may be incurred by any person as a result of reference to or reliance on the information contained in this book.

The National Association of State
Departments of Agriculture (NASDA)
1156 15th Street, N.W.
Suite 1020
Washington, D.C. 20005-1704
(202)296-9680
FAX: (202)296-9686
nasda@patriot.net

National Center for Agricultural Law Research
and Information
U of A School of Law - 147 Waterman Hall
University of Arkansas, Fayetteville, AR 72701
(501) 575-7646
FAX: (501) 575-5830

WYOMING

Under Wyoming's Food, Drug and Cosmetic Act, "food" is defined as articles used for food or drink for humans; chewing gum; and articles used in components of any such article. (It also includes beverages subject to the Federal Alcohol Administration Act.²⁹¹⁷)

Adulteration

The Act prohibits the introduction or delivery for introduction into commerce of any adulterated food; the knowing receipt in commerce of any food that is adulterated; the adulteration of food; or manufacture of food which is adulterated.²⁹¹⁸ A food is adulterated if it is adulterated under the Federal Food, Drug and Cosmetic Act.²⁹¹⁹

Additives

A "food additive" is defined as "any substance the intended use of which results or may be reasonably expected to result, directly or indirectly, in its becoming a component or otherwise affecting the characteristics of any food under the meaning of the Federal Act."²⁹²⁰ Any added poisonous or deleterious substance, any food additive, any pesticide chemical in or on a raw agricultural commodity or any color additive, is unsafe if it is so deemed under the Federal Act.²⁹²¹

Misbranding

The Act also prohibits the introduction or delivery for introduction into commerce of any

²⁹¹⁷ WYO. STAT. ANN. § 35-7-110(xi) (Michie 1997).

²⁹¹⁸ § 35-7-111(ii), (iv), (vi).

²⁹¹⁹ § 35-7-116.

²⁹²⁰ § 35-7-110(xii).

²⁹²¹ § 35-7-117.

misbranded food. To knowingly receive in commerce any misbranded food is also a violation as is the actual misbranding or manufacture of misbranded food.²⁹²² Food is misbranded if misbranded under the Federal Act.²⁹²³ Labels must conform to the Federal Fair Packaging and Handling Act. If the package label represents the number of servings in the package, it must indicate the net quantity of each serving.²⁹²⁴ Definitions and standards of identity, quality and fill of container are the same as specified in the Federal Act.²⁹²⁵

Enforcement

Inspection

The Department of Agriculture is authorized to inspect facilities at reasonable times where food is manufactured, processed, packed, or held for introduction into commerce and vehicles used to transport food. Upon completion of such inspections, the owner, operator or agent in charge of the premises is to be provided a written report detailing any conditions or practices which indicate food “consists in whole or in part of any filthy, putrid or decomposed substance” or has been prepared or packaged under unsanitary conditions. Samples may be taken for analysis with a copy of the results supplied to the owner, operator or agent in charge of the facility.²⁹²⁶

The Department of Agriculture may embargo food believed to be adulterated or misbranded and, if it is found to be adulterated or misbranded, a petition for condemnation may

²⁹²² § 35-7-111(ii), (iv), (vi).

²⁹²³ § 35-7-116.

²⁹²⁴ § 35-7-119.

²⁹²⁵ § 35-7-115.

²⁹²⁶ § 35-7-121.

be sought in court. If the court finds it to be adulterated or misbranded, an order for destruction will be issued and the food will be destroyed at the expense of the owner. If it can be corrected by proper processing or labeling, it may be returned to the owner for such correction provided the owner pays all costs and posts a bond.²⁹²⁷

In addition to this authority, the Department of Agriculture may, where there is cause to believe an imminent hazard to the public health exists from a violation of the Act, issue an order to cease the practice believed to be in violation. Also, the Department may seek injunctive relief.²⁹²⁸ A knowing and intentional violation of the Act is a misdemeanor.²⁹²⁹

Wyoming Wholesome Meat Act

The Department of Agriculture is empowered to administer the Wyoming Wholesome Meat Act, which specifically requires that any rules and regulations promulgated be not less restrictive than those under the Federal Meat Inspection Act and the Federal Poultry Products Inspection Act. The Department is authorized to cooperate with the federal government in administering the Act and is to enter into a contract with USDA to operate a state inspection program under the FMIA and the FPPIA.²⁹³⁰

The general prohibitions under the Act include the selling or offering for sale of uninspected carcasses, meat, meat food products or meat by-products.²⁹³¹ “Meat” is broadly defined to include “the edible part of the muscle of animals” and “meat food product” is “any

²⁹²⁷ § 35-7-114.

²⁹²⁸ § 35-7-112.

²⁹²⁹ § 35-7-113.

²⁹³⁰ § 35-7-703.

²⁹³¹ § 35-7-710.

article or food for human consumption” derived or prepared from any portion of any animal. For this purpose, “animal” means cattle, cattalo, beefalo, swine, sheep, goats or poultry.²⁹³² Custom game carcasses, meat and meat food products and meat by-products are also required to be inspected.²⁹³³ “Game animal” means any big game animal, elk, deer, mountain sheep, wild goat, antelope, moose or bear.²⁹³⁴

Licenses are required for every establishment where meat or meat food products are slaughtered or processed or offered for sale.²⁹³⁵ Big game custom meat processors must be licensed as custom meat processors or custom game processors.²⁹³⁶ Before any license is issued, the establishment must be inspected and be found to be clean and sanitary and properly equipped. The license may be refused if the establishment does not meet these standards or upon inspection, it is determined that carcasses, meat, meat food products or meat by-products are held, packaged, transported or otherwise processed in such a manner that they may be unwholesome or adulterated.²⁹³⁷

All animals slaughtered for sale must have both antemortem and postmortem inspections and all establishments where animals are slaughtered or carcasses, meat, meat food products, or meat by-products are processed, handled, stored, transported, distributed or offered into

²⁹³² § 35-7-702.

²⁹³³ § 35-7-707.

²⁹³⁴ § 35-7-702.

²⁹³⁵ §§ 35-7-704(a), 35-7-710.

²⁹³⁶ § 35-7-707.

²⁹³⁷ § 35-7-704.

commerce are subject to inspection, as is any transport conveyance.²⁹³⁸ The official inspections of animals is not required if they are slaughtered for the owner's own use or for use of household members, employees or non-paying guests and are not offered for sale.²⁹³⁹

Adulteration/Unwholesome Products

It is a violation of the Wyoming Statute to knowingly "transport, receive from transport, store, offer to store, or sell or offer to sell" adulterated or unwholesome carcasses, meat, meat food products or meat by-products.²⁹⁴⁰ "Unwholesome" is defined in a manner similar to the federal definition of "adulterated." It includes any animal, carcass, meat, meat food product or meat by-product which:

- (1) is unsound, injurious to health, contains any biological residue not permitted by regulation, or otherwise unfit for human consumption;
- (2) consists of filthy, putrid or decomposed substances; or
- (3) was produced from animals which died other than by slaughter.²⁹⁴¹

"Adulterated" means any animal, carcass, meat, meat food product or meat by-product:

- (A) which bears or contains any poisonous or deleterious substance, whether added or natural, that may render it injurious to health or unfit for human consumption;
- (B) in which a substance has been substituted, wholly or in part;
- (C) which is damaged, or inferiority has been concealed in any manner;

²⁹³⁸ § 35-7-705.

²⁹³⁹ § 35-7-706.

²⁹⁴⁰ § 35-7-710.

²⁹⁴¹ § 35-7-702(xxxix).

- (D) in which any casing has been used which contains any dye or artificial coloring not authorized by rules and regulations promulgated by the director;
- (E) from which a valuable constituent has been in whole or in part omitted or abstracted;
- (F) to or in which any substance has been added, mixed or packed for the purpose of increasing its bulk or weight, or so as to reduce its quality or strength, or to make it appear better or of greater value than it is, unless authorized by rules and regulations promulgated by the director;
- (G) which has been intentionally subjected to radiation, unless the use of the radiation was in conformity with a regulation or exemption in effect pursuant to section 409 of the Federal Food, Drug and Cosmetic Act [21 U.S.C. § 348]; or
- (H) in which any substance, including metabolites, remaining in the animal at time of slaughter or in any of its tissues after slaughter, as the result of treatment or exposure of the animal to a pesticide, metallic or other inorganic compound, hormone, hormone-like substance, growth promoter, antibiotic, anthelmintic, tranquilizer, or other therapeutic or prophylactic agent.²⁹⁴²

Enforcement

As mentioned above, the Department of Agriculture contracts with USDA in operating the state inspection program.²⁹⁴³ In addition to the inspection authority, the Department is authorized to seize and destroy, or petition a court for an order to seize, any carcass, meat, meat

²⁹⁴² § 35-7-702(x1).

²⁹⁴³ § 35-7-703.

food product or meat by-product that has not been inspected and passed under federal inspection or that is not properly labeled or does not bear an inspection legend. Likewise, if it is unwholesome or adulterated, cannot be made fit for human consumption or is slaughtered or processed in violation of any of the provisions of the Act, it may be seized.²⁹⁴⁴ The seize and destroy provisions apply to carcasses, meat, meat food products or meat by-products sold or offered for sale through commercial outlets. Violations may be restrained or enjoined by court order. Violations are also misdemeanors subject to a fine of \$200 to \$1000.²⁹⁴⁵

Eggs

The Department of Agriculture is also charged with the responsibility of regulating the sale of eggs in Wyoming. The general approach is to require candling and grading of eggs to be transported or sold in the state and to prevent inedible eggs from being sold for human consumption. Labeling, packaging and advertising of eggs must meet specified standards. As an initial step in achieving the purpose of the Act, all non-residents and all resident wholesalers engaged in the buying and selling of eggs must obtain a license. Egg candlers must also be licensed.²⁹⁴⁶ Non-commercial producers (Wyoming producers having less than 200 hens) are not covered.²⁹⁴⁷

Pullet and hen eggs must be candled before transport in the state (except when going from a producer to a first receiver who will candle and grade the eggs) and must be edible.²⁹⁴⁸ To be

²⁹⁴⁴ § 35-7-705(p).

²⁹⁴⁵ § 35-7-709.

²⁹⁴⁶ §§ 35-7-802, 35-7-805.

²⁹⁴⁷ § 35-7-807(e).

²⁹⁴⁸ § 35-7-802(a).

considered “edible” they must be free of “mold, blood ring, blood spot, bloody white, filth, stuck yolk, black rot, white rot, mixed rot or any other inedible quality including adhering fecal or other extraneous matter covering more than one-fourth of the shell surface.”²⁹⁴⁹

Before being sold, eggs must be graded (except for retailers who buy from noncommercial producers and label the eggs “Wyoming Ungraded Eggs”).²⁹⁵⁰ Cartons or containers of eggs offered for sale must be labeled showing candling and grading, and the cartons or containers must be free from adhering filth or contamination.²⁹⁵¹ Advertising must reflect the correct grade and weight. Weight classifications and terms are based on USDA standards.²⁹⁵²

Eggs must be kept under refrigeration from packaging to sell and vehicles used in transport must be maintained in sanitary condition.²⁹⁵³

The Department may enforce the provisions of the Act by stop sale notices and by seizure of any eggs “received, packed, stored, delivered for shipment, loaded, or in transport” in violation of the Act.²⁹⁵⁴ License revocation or suspension may result from violations in addition to fines and imprisonment for up to 30 days or both for each day of violation.²⁹⁵⁵

Enrichment of Flour and Bread

Flour sold for human consumption (except that sold to bakers or other commercial

²⁹⁴⁹ § 35-7-801(a)(xviii).

²⁹⁵⁰ § 35-7-802(b).

²⁹⁵¹ § 35-7-803.

²⁹⁵² §§ 35-7-804, 35-7-802.

²⁹⁵³ § 35-7-803(b), (c).

²⁹⁵⁴ § 35-7-807.

²⁹⁵⁵ § 35-7-808.

secondary processors) must be enriched—that is, to have added to it vitamins and other nutritional ingredients must be added to make it conform to federal standards of identity.²⁹⁵⁶ Likewise, white bread or rolls manufactured, baked for sale, sold or offered for sale, must conform to federal standards and identity.²⁹⁵⁷ Labeling must also conform to the federal requirements.²⁹⁵⁸

²⁹⁵⁶ § 35-7-902.

²⁹⁵⁷ § 35-7-903.

²⁹⁵⁸ § 35-7-904.