



**APPLICATION FOR
FOOD PROCESSING
PLANT LICENSE
NEW LICENSE**

Washington State Department of Agriculture
Food Safety Program
PO Box 42591
Olympia, WA 98504-2591
(360) 902-1876 • Fax: (360) 902-2087
Email: foodsafety@agr.wa.gov

CASHIER USE ONLY

4104

Please type or print clearly
LICENSE EXPIRATION DATE: JUNE 30

OFFICE USE ONLY
LICENSE NO. _____

FIRM NAME: _____ PHYSICAL PLANT LOCATION: _____
APPLICANT NAME: _____
MAILING ADDRESS: _____

NAME OF: OWNER MANAGER TELEPHONE NUMBER _____ EMAIL ADDRESS _____ COUNTY _____

Firm operates as:

- Individual Partnership Cooperative Corporation LLC

List name and address of all partners and/or officers below:

NAME	TITLE	ADDRESS (Include City, State, Zip Code)

If firm is out of state, provide name and address of individual residing in Washington State who is authorized to receive and accept service of summons and legal notice.

Name: _____

Address: _____

Type of food(s) processed:

APPLICANT STATEMENT

I certify that the above information is correct and that the fee enclosed corresponds to the estimated gross annual sales for the initial license period.

Signature of Applicant: _____

Title: _____

Date: _____

REMITTANCE

The license fee is determined by estimating the gross annual sales for the initial license period.

TOTAL LICENSE FEE REMITTANCE: \$ _____

NO REFUNDS after ten (10) business days

FEE SCHEDULE*

If gross annual sales are:	The license fee is:
\$0 to \$50,000.....	\$ 92.00
\$50,001 to \$500,000.....	\$ 147.00
\$500,001 to \$1,000,000.....	\$ 262.00
\$1,000,001 to \$5,000,000.....	\$ 427.00
\$5,000,001 to \$10,000,000.....	\$ 585.00
Greater than \$10,000,000.....	\$ 862.00

*Fees are based in gross sales of types of food that WSDA inspects and for which the license is required and issued.

Food Processor License Application Final Check List

- _____ 1. Reviewed enclosed rules and regulations
- _____ 2. Completed application form
- _____ 3. Completed Attachment A -- **SANITATION SCHEDULE**
- _____ 4. Completed Attachments B -- **INGREDIENT/PROCESSING INFORMATION**
- _____ 5. Completed Attachment C -- **FLOOR PLAN**
- _____ 6. Completed Attachment D -- **LABEL INFORMATION**
- _____ 7. Completed Attachment E -- **WATER SUPPLY TYPE & TESTING REQUIREMENTS**
- _____ 8. Enclosed documentation verifying potable (fit for drinking) water supply system (if required under Attachment E for your type of food processing operation).
- _____ 9. Documentation attached from a Process Authority if "product testing" is required.
- _____ 10. Proof of registration/certification with the Food & Drug Administration for low-acid and acidified foods. **Low-acid and acidified foods present potential serious health hazards and are subject to regulations specified in Title 21 of the Code of Federal Regulations, Parts 113 & 114.**
- _____ 11. If you checked # 10 for Low-acid foods or for Acidified Foods, do you have a person who has received the appropriate training from an FDA approved processing school in low-acid foods or acidified foods to supervise the processing?
- _____ 12. If handling or processing a seafood product have you reviewed or do you fall under the seafood HACCP requirements as outlined in Title 21 Part 123 – Fish & Fishery Products - Yes No? If yes, do you have a Seafood HACCP (Hazard Analysis & Critical Control Point) Plan completed? Yes No
- _____ 13. Enclosed check or money order.
- _____ 14. Mailed completed application, attachments and check or money order to:
Department of Agriculture
Food Safety Program
P.O. Box 42591
Olympia, WA 98504-2591

Upon receipt of the application and review by the Olympia office, a local Food Safety Officer will contact you at the phone number provided on your application.

Please note that the processing time from the receipt of your application to the time of an inspection can take 4 – 6 weeks. It will take longer if you do not complete and attach all the documentation required for licensing. Include additional sheets as necessary.

If you have any questions that cannot be answered by the information provided in this packet, please call the Olympia Food Safety Office at **360-902-1876**.

ATTACHMENT A Sanitation Schedule

Please list sanitation schedule and procedures for clean up of facilities and equipment.

- **List the *equipment and utensils*** used for processing of food.
- How the ***equipment and utensils*** will be cleaned, sanitized and how often.

Briefly describe how:

- Walls, floors, ceilings and like surfaces will be cleaned and maintained.
- Restrooms, hand washing sinks, equipment-washing facilities will be supplied and used.

ATTACHMENT B: Intended Type of Process

Type of product(s) to be processed:

Type of processing (*circle appropriate processes*)

1. **Acidified - Pickling Foods**

- A. Acidifying
(Adding vinegar, citric acid to a low acid food)
- B. Pickling by Natural Fermentation

2. **Acidified - Condiments, Vinegar's**

- A. Vegetables
- B. Vinegar (only if other products added)
- C. Salsa (shelf stable)
- D. Dressings
- E. Sauces (Bar-B-Q, etc.)

3. **Acidified - Low Acid Canned Foods**

- A. Low Acid Food
(vegetables, mushrooms, fish, etc.)
 - 1) Retortable Pouches
 - 2) Rigid Metal Cans
 - 3) Other (describe)
- B. High Acid Food
(Fruit, tomatoes)

4. **Baking**

5. **Blending, Dry Mixing**

6. **Candy Making**

7. **Coffee/Tea Roaster**

8. **Flour Grinding/Milling**

9. **Fruit Processing**

- A. Freezing
- B. Dehydrating, drying
- C. Cider, juice, processing
- D. Jams, jellies, syrups, sauce

NOTE:

Low-Acid or "Low-acid food" means:

Food with a pH greater than 4.6.(canned fish, vegetables) and water activity greater than 0.85.

Acidified Food - means:

A low-acid food to which acid or acid foods are added to attain a finished pH at or below 4.6.(pickles) Unless an analysis shows otherwise, WSDA considers sauce, dressing, and salsa products low-acid or acidified foods. Low-acid and acidified foods present potential serious health hazards and are subject to regulations specified in Title 21 of the Code of Federal Regulations, Parts 113 and 114.

The Federal Drug Administration (FDA) **requires** processors of Low-acid and acidified foods to:

- Register with the FDA; (no later than 10 days after first engaging in the manufacture, processing or packing of Acidified Foods or Low Acid Canned Foods.)
- File scheduled processes for each product and container size;

Receive appropriate training from an FDA approved processing school;

Maintain specific processing records; and

Use equipment that meets certain requirements.

Contacts:

Regional FDA Office
P.O. Box 3012
22201 23rd Drive SE
Bothell, WA 98021-4421
(425) 486-8788

FDA Center for Food Safety
and Applied Nutrition
Food and Drug Administration
5100 Paint Branch Parkway
College Park, MD 20740
1-888-723-3366

Type of processing (circle appropriate processes) Continued:

10. Ice Maker

11. Pasta Manufacturing

12. Rabbit / Poultry Butchering

13. Refrigerated Products

- A. Salsa
- B. Salad Dressing
- C. Ready to eat products _____
- D. Other: _____

14. Salad Manufacturer

- A. Cut Green
- B. Coleslaw, Potato, Macaroni,
- C. Seafood

15. Sandwich Making

(If there is more than 3% raw or 2% cooked meat by volume in finished product contact USDA)

16. Seafood

- A. Butchering
- B. Freezing
- C. Processing

17. Smoking (fish, seafood)

- A. Hot Smoke
- B. Cold Smoke
- C. Vacuum Packaged (Does your label contain a statement "Keep Refrigerated at 38°F or less")

18. Snack Foods

19. Soft Drink Bottler

20. Soup Making

- 21. Dry Mix
- 21. Liquid

21. Tofu Manufacturing

22. Vegetable Processing

- A. Freezing
- B. Dehydrating, drying
- C. Juice processing

23. Water Bottling

23. Other (explain)

ATTACHMENT B (continued) INGREDIENT/PROCESSING INFORMATION

INSTRUCTIONS: (MUST BE TYPED) Attach additional sheets as needed.

Provide the following information for each type of product you intend to process (for example: Cookies, Bread, Jam, Juice, etc.)

- 1) **A flow diagram of each step of the process and a complete ingredient list for each product.**
- 2) **Include in your flow diagram time and temperatures the product stays at for each step of the process.**

Include process details:

<u>Receiving</u>	List all Ingredients – include the source of supplier. Indicate how they are received such as frozen, refrigerated, or as dry goods.
<u>Storage</u>	Frozen or refrigerated or room temperature
<u>Processing</u>	Describe the basic preparation. Include a general flow chart or diagram.
<u>Packaging</u>	Describe the packaging details such as bulk pack or retail size, and type of packaging.
<u>Distribution</u>	Frozen, refrigerated, dry goods or combination and type of transportation

When processing potentially hazardous food products including Low Acid Canned Food (LACF) or acidified products, you are required to provide written documentation from a "Processing Authority" for each process prior to licensing. For example, pickled vegetables, pickles, barbecue sauce, mustard, condiments, bakery products in a modified atmosphere package (MAP), seafood (canned, glass jars or MAP pouches), jerky products, salsas, sauces, vinegar with added ingredients, oils with added ingredients should all be reviewed for shelf stability. Documentation from a "Processing Authority" is not required if product(s) are "Keep Refrigerated" only products.

**ATTACHMENT C: (USE INK)
Floor Plan**

Please sketch the floor plan of your operation. Include the location of sinks, floor drains (if needed), placement of equipment, doors, and restrooms. Please indicate approximate dimensions of building and rooms.

ATTACHMENT D PROPOSED LABELING

PROVIDE A TYPED PROPOSED LABEL THAT INCLUDES THE FOLLOWING INFORMATION FOR EACH TYPE OF PRODUCT you intend to process. Place below or attach a copy of the TYPED proposed label to this sheet.

1. **Name of Product** – The common or usual name of the product must be prominently displayed such as “Pickled Asparagus”.
2. **Manufacturer and/or Distributor Name & Address** - Full business name and address must appear on the label. Required information must include your business name, address (street or a P. O. Box), City, State and Zip Code. If your business address is listed in the current phone directory then the street or P. O. Box may be omitted from the label. You may include your phone, fax or web information if desired.
3. **Net weight** - Both English and metric values are required. Example: 12 FL oz (355ml).
4. **Ingredients** – Each ingredient and any sub-component of that ingredient must be listed in descending order of predominance by weight. When a processed food ingredient is fabricated from two or more ingredients then the sub-components must be listed in parenthesis after the ingredient. Please be advised that due to their serious nature all allergens must be identified, such as: Wheat, peanuts, milk, eggs, tree nuts, soybeans, fish, crustacea (crab, shrimp, lobster), sulfites, yellow dye #5

Attachment E Water Supply Testing Requirements

Type of water system:

City Municipal Well Spring Other Private Water Supply

Answer the following if you are using well, spring or other private water supply
To determine the water supply testing requirements for your facility, please complete this questionnaire and refer to the requirements on the following pages:

Questions

YES

NO

1. Do you process bottled water or ice at your facility?

If YES, your facility must comply with the Group A Water System requirements (See 2A page 9). If you process bottled water, your facility must also meet specifications outlined in Title 21 CFR, Part 129.

If NO, go to question no. 2.

2. Is any of your facility's water supplied from a well, spring, or other private water system?

If YES, go to question no. 3.

If NO, there are no special testing requirements (See 1 page 8).

3. Does your business employ 25 or more people each day for 60 or more days per year?

If YES, your processing facility meets definition for Group A Water System (See Answer 2A- page 9).

If NO, go to question no. 4.

4. Is your processing facility located at your single-family residence, where you employ only immediate family members?

If YES, you must have your water analyzed before a processing license can be issued (See 2C- page 9).

If NO, does your processing facility meet the definition for a Group B Water System? (See 2B – page 9)

See next page for inorganic chemical and physical characteristic water analysis requirements.

Attachment E cont..

WATER SUPPLY AND TESTING REQUIREMENTS

Your water supply must meet the State Department of Health (DOH) requirements for potable water. If you are on a public water supply (city or municipal water supply or water association), it meets these requirements. If you are using a well or other private water supply you must meet the State Department of Health (DOH) requirements for a Group A or Group B water system, (the A or B type will depend on the number of employees and how many days you operate). A single family food processor using a private water system with no outside employees must meet equivalent water testing requirements required under WSDA. These requirements are further defined below by system type:

1. City, Community, and Other Municipal Water Systems:

Except for bottled water and ice processors, food processors on any of these water supply systems do NOT need to test their water supply. If you process bottled water or ice, see 2A.

2A. Bottled water/ice processors OR food processors with water supplied from a well, spring, or other private water system that employ 25 or more people each day for 60 or more days per year:

These processing facilities must comply with the Washington State Department of Health's **Group A Water System** requirements. Contact the Department of Health Division of Drinking Water for approval of the water system. Written approval from the Department of Health Division of Drinking Water is required before a food processor license can be issued.

Washington State Department of Health Division of Drinking Water Contacts:

Eastern Washington Regional Office
River View corporate Center
16201 East Indiana Avenue, Suite 1500
Spokane Valley, WA 99216
Phone: (509) 329-2100
Fax: (509) 329-2104

Southwest Washington Regional Office
243 Israel Road SE 1st Floor
P.O. Box 47823
Olympia, WA 98504-7823
Phone: (360) 236-3030
Fax: (360) 664-8058

Northwest Washington Regional Office
20435 72nd Ave S, Suite 200, K17-12
Kent, WA 98032-2358
Phone: (253) 395-6750
Fax: (253) 395-6760

Note: Bottled water processors must also meet requirements of the Good Manufacturing Practices for Bottled Water (Title 21 CFR, Part 129).

Attachment E cont..

2B. Food processors with water supplied from a well, spring, or other private water system that employs less than 25 people each day excluding immediate family members and/or operate for less than 60 days per year:

These processing facilities meet the Washington State Department of Health's definition of a **Group B Water System**. Contact the Department of Health Division of Drinking Water or the County Health Department for approval of the water system. Written approval from the Department of Health Division of Drinking Water or the County Health Department is required before a food processor license can be issued.

See "Contacts" listed above or the County Health Department Roster provided in the Application Packet Appendix.

2C. Food processors with water supplied from a well, spring, or other private water system that operate in a single-family residence and only employ immediate family members:

The water systems for these food processing facilities are regulated by the Department of Agriculture and must meet the Department of Health's Group B requirements for a satisfactory bacteriological analysis. These food processors must submit a recent (*within one month*) satisfactory bacterial analysis report for their water supply before a processor license can be issued and every 12 months thereafter. See next page for bacteriological water analysis requirements. If the water is used as an ingredient in the processed product see 2D below.

2D. Water from a private water system used as an ingredient in processed food:

If a food processor uses water as an ingredient in their food processing, the water supply must also meet the Department of Health's Group B inorganic chemical and physical requirements for potable water. This includes water used in brine and glazing solutions or water used to reconstitute concentrates or dehydrated products. These food processors are required to submit a recent (*within one month*) satisfactory inorganic chemical and physical analysis report for their water supply before a food processor's license can be issued. A satisfactory Nitrate analysis is also required every three years thereafter. See page after questionnaire on water supply for inorganic chemical and physical characteristic water analysis requirements.

Attachment E cont..

Bacteriological

Water samples taken for bacteriological analysis must be sampled from the furthest end of the water distribution system. The Maximum Contaminant Level (MCL) for coliform is the presence of coliform in the water sample (WAC 246-291-320). A satisfactory bacteriological water analysis is required prior to licensing and every 12 months thereafter.

Inorganic Chemical

Water samples taken for inorganic chemical analysis (primary and secondary chemicals) must be collected at the water source or well field before treatment. Review tables below for the Maximum Contaminant Levels (MCLs) allowed for each primary and secondary chemical (WAC 246-291-330). If the water is used as an ingredient in the processed food, a satisfactory inorganic chemical water analysis is required prior to licensing.

Primary Chemicals

Substance	Primary chemical MCLs (mg/L)
Antimony	0.006
Arsenic	0.05
Barium	2.0
Beryllium	0.004
Cadmium	0.005
Chromium	0.1
Cyanide	0.2
Fluoride	4.0
Mercury	0.002
Nickel	0.1
Nitrite	1.0
Selenium	0.05
Sodium	no MCL established
Thallium	0.002

Secondary Chemicals

Substance	Secondary chemical MCLs (mg/L)
Chloride	250.0
Fluoride	2.0
Iron	0.3
Manganese	0.05
Silver	0.1
Sulfate	250.0
Zinc	5.0

Nitrate

The Maximum Contaminant Level for Nitrate is 10.0 mg/L. A satisfactory nitrate water analysis is required prior to licensing and every three years thereafter.

Physical Characteristics

If the water is used as an ingredient in the processed food, a satisfactory physical characteristic analysis is required prior to licensing. After initial satisfactory analysis, the Department of Health determines the monitoring frequency on a case-by-case basis.

Substance	MCL
Turbidity	1-0 NTU
Color	15 color units
Hardness	No MCL established
Specific Conductivity	700 umhos/cm
Total Dissolved Solids	500 mg/L

A satisfactory water analysis is required before licensing and according to the monitoring frequency thereafter, it is as noted above.

Food Processing Handbook

**Information & Resources for
Food Processors in
Washington State**

**A Publication of
the Washington State Department of Agriculture
September 2011**

Food Processing Introduction

Processed foods are subject to health regulations controlling facility construction, sanitation, product standards, and package labeling. "Food processing" means the handling or processing of any food in any manner of preparation for sale for human consumption. This includes dried fruits, herbs, teas, baked goods, cider, and many other food products that are processed for wholesale distribution and food that is custom processed for another party. It does not mean fresh fruit or vegetables merely washed or trimmed while being prepared or packaged for sale in their natural state (69.07.01 RCW).

As a potential food processor, your primary concern should be to provide a safe, wholesome food product with emphasis on maintaining public health. Recent data suggests that at least 250,000 and possibly as many as 1,500,000 cases of food borne illnesses occur in Washington State each year.

Most of us are aware of the past E. coli 0157:H7 food poisoning outbreaks due to improperly cooked, contaminated ground beef and raw apple juice products from out of state, but we also need to be aware of recent Salmonella, Listeria and E. coli outbreaks that have been caused by food produced in this state as well. Listeria continues to be found in some samples of products such as sandwiches, salads, cut melons and cheese in this state.

Other diseases such as food borne hepatitis, which can be spread to several hundred consumers by one food worker not using good personal hygiene continue to be of concern. There are also relatively new organisms on the scene. Campylobacter jejune, not exactly a household word, is rapidly becoming one of the most commonly reported sources of food borne illness outbreaks. Currently it is responsible for almost half the reported food borne illness in the United States. Washington State is not immune from problems caused by this organism.

While the average person has little control over these problems, as a potential food processor you will be in a position to significantly alter some of these rather dismal statistics. If your facility is properly constructed and capable of being properly cleaned and maintained, and when you practice good ongoing sanitation procedures and proper food handling and storage techniques you can play a key role in cutting down the incidence of food born illnesses. New food safety assessment techniques, such as the Hazards Analysis and Critical Control Points (HACCP) approach, can also be of invaluable assistance in ensuring Food Safety. Remember: You have a responsibility — not only to provide your customers with a good, quality product, but also a food product that is safe.

**If you have any questions that are not answered in this packet, please call the
Washington State Department of Agriculture,
Food Safety Program at (360) 902-1876 or email: foodsafety@agr.wa.gov**

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Operating a Business in Washington State

Master License All businesses operating in Washington State are required to register the business with the State of Washington Master License Service. A trade name search is conducted with the State of Washington for the business name listed on the application form to assure not other business operates under the same business name. A nine digit Unified Business Identifier (UBI) number is assigned to the owner of each business that is registered with the Department of Licensing and serves as your tax registration number.
Contact: State of Washington Master License Service
PO Box 9034
Olympia, WA 98507-9034
Phone: (360) 664-1400

Limited Partnership or Corporation To form a limited partnership, you will need to file a Limited Certificate of Formation with the Secretary of State. To form a corporation, file an Articles of Incorporation with the Secretary of State.
Contact: Secretary of State, Corporations Division
Dolliver Building
801 Capitol Way South
Olympia, WA 98504-0234
Mail: PO Box 40234
Olympia, WA 98504-0234
Phone: (360) 753-7115

Employer's Identification Number Businesses that employ personnel need to obtain a federal identification number by filling Form SS-4 with the Internal Revenue Service. A federal identification number assigned to your business will also be registered with the Internal Revenue Service, Social Security Administration and the Department of Labor.
Contact: Internal Revenue Service
Phone: (800) 829-1040

Trademark and Service Marks You may protect your business trademark or service mark by registering with the U.S. Government Department of Commerce.
Contact: United States Department of Commerce
Patent and Trademark Office
Phone: (800) 786-9199 or (703) 308-4357
Internet: www.uspto.gov

Municipal and County Business Licenses Contact your city hall or, if you are located outside city limits, your county courthouse, to determine if a local business license is required and to be sure your business location is properly zoned for your planned business activity.

Business Assistance Center The Department of Commerce Center offers financial and technical assistance to support business development. The Business Finance Program helps eligible businesses obtain

financing. The Business Retention and Expansion program provides problem-solving technical assistance for manufacturing and processing firms. Minority and Women Business Development provide avenues to financial resources and technical assistance for minority and women-owned businesses. The Child Care Advantages program provides businesses financial and technical assistance for employee childcare facilities.

Contacts:

Business Assistance Hotline	(800)237-1233
Kathy Chance, Managing Director	(360)753-4900
Ginger Rich, Program Manager	(206)464-7660

Impact Washington

Impact Washington (formerly Washington Manufacturing Services) is a non-profit organization that strengthens Washington manufacturers to make them more globally competitive. With our manufacturing experts and our network of industry resources, we provide the change that makes the difference between surviving and thriving.

Contact: Impact Washington
8227 44th Ave W
Ste D
Mukilteo, WA 98275
425-438-1146 or 800-637-4634

Waste Water Management

Depending on the amount and type of wastewater produced at your site, the wastewater may be regulated by the county Department of Health, Washington State Department of Health, or the Washington State Department of Ecology. Contact your local county Department of Health office to determine the wastewater regulator for your specific facility.

State & Local Department of Health

Your local County Health Department (District) licenses retail food establishments that sell their food products directly to the consumer. This also includes bakeries that sell less than 25% of their products through wholesale distribution. Contact your local County Health Department (District) in your county for further retail licensing information (see appendix).

The State Department of Health Division of Drinking Water or your County's Department of Health (depending on the size of the system) also monitor water systems to verify that the water you are using in your facility meets the potable water standards (See Water Supply on page 7 and *Do I Need to Test My Water System* on page 7).

WSDA Food Processor Licensing

Do you need a license? All Processors who sell 5% or more of their total processed food products through wholesale distribution networks (unless not licensed and inspected by any other agency).

All bakeries that sell more than 25% of their products wholesale.

All processors who process low acid canned foods (i.e. canned fish, vegetables or retorted pouches of fish, vegetables, etc.) whether retail or wholesale.

Exceptions

Processors who have a current WSDA dairy license are not required to obtain a food processor license. Contact WSDA for more information: (360) 902-1876

Winery and brewery operations obtain their license through the Washington State Liquor Control Board. However, these facilities must maintain the WSDA sanitation standards outlined in the Regulations section listed below. Contact the Liquor Control Board for more information: (360) 664-1721.

Regulations Please review the enclosed regulations before you complete you're application for a Food Processing Plant License:

- Intrastate commerce in Food, Drugs, and Cosmetics (chapter 69.04 RCW);
- Washington Food Processing Act (chapter 69.07 RCW); and
- Current Good Manufacturing Practices in Manufacturing, Packing, or Holding Human Food (21 CFR, chapter 1).

License Application When WSDA receives your complete application and license fee, a Food Safety Officer will contact you and schedule a meeting with you to inspect your food processing facility. If your facility is not approved for licensing within six months of your application or if you decide not to pursue this business, WSDA will refund your licensing fee.

Complete and send the enclosed application and attachments A, B, C, D, and E along with check or money order to:

**Department of Agriculture
Food Safety & Consumer Services
P.O. Box 42591
Olympia, WA 98504-2591**

Inspection Procedures

Once the Food Safety Officer (FSO) has contacted you to meet with you at the facility, the initial inspection normally takes one to two hours. The FSO reviews all food handling and storage areas of your facility and inspects the product packaging and labeling. Before leaving the facility, the FSO will leave a copy of the inspection report with you. The inspection report will note any areas that require correction. At that time the inspector will also inform you of your licensing status (approved or denied). All subsequent inspections are unannounced visits and will occur every six to twelve months.

Licensed Products

Licenses cover only those products, processes, and operations specified in the license application and approved for licensing by the FSO. When a licensed processor wishes to add another type of food product that is different than the products specified on their license, the licensee must submit to the Olympia office, an amendment stating the type of product along with the processing steps, and a copy of the label.

Amending Licenses

Processors must submit a license application amendment for the following situations:

- Processing a new type of food requires a major addition to or modification of the licensee's processing facilities;
- Product has a high potential for food safety hazards; or
- As otherwise required by WSDA.

In such cases, the licensee may engage in processing the new type of food product only after the Washington State Department of Agriculture has approved the amendment. The approval process may require an inspection or require only official review of the license amendment, depending on the circumstance.

License Issuance and renewal

The Food Processor's License is non-transferable. If you sell your business, the new owners must apply for a new license. If you move to a new location you must apply for a new license for the new facility location. Please notify your inspector or the Olympia office if you sell your business or move to a new location.

All licenses expire June 30th of each year, regardless of the date the original license was issued.

The Processing Facility

Home Processor When processed food is intended for resale to the public, the State Board of Health prohibits the processing of such food products in domestic sleeping or living quarters-this includes domestic kitchens. However, a processor may establish a separate facility to process food in their home. The processing area must be a separate area dedicated to the commercial processing operation only.

Bathrooms in Home Processor Facilities If only members of the immediate family work in the processing operation, the home bathroom satisfies the requirements as long as it is adequate (e.g., flush toilet, sink with hot and cold running water, proper plumbing, tight self-closing door, soap, single service towels etc.). When a processor hires persons outside the immediate family, a separate bathroom for the food processing facility is required.

Processing Equipment A Food Safety Officer (FSO) will review your specific equipment at the time of inspection. In general, equipment should be made from materials that are easily cleaned and in good repair. Stoves, refrigerators, dishwashers, and other appliances and motorized processing equipment need NOT be a "commercial" type as long as they are made from materials that are easily cleaned and the equipment is in good repair.

Worktables and Counters Worktables and counters must be in good repair and have surfaces that are easily cleaned and non-corrosive:
Recommended:
Stainless steel and hi-impact, scratch-resistant plastic (Formica, Teflon, and thermal plastic) are recommended for most contact surfaces.
Satisfactory:
Metal or finished wood is satisfactory.
Not Satisfactory:
Unfinished Wood
Except hardwood tables used for bakery make-up tables, unfinished wood frames, counter tops and shelves are **NOT** satisfactory.

Floor Materials The type of flooring material varies with different processing areas and the amount and type of foot traffic. Food processing areas require flooring which can be readily cleaned and in good repair. Materials such as well-sealed hardwood may be suitable for some areas of a bakery where dry clean-up methods are appropriate.

Food processing areas that require flood-type cleaning, such as a fish plant, need well-sealed concrete floors with cove base and adequate drains. Heavy use areas with large, moveable equipment require more durable flooring.

***Unfinished wood floors are NOT suitable
in any plant areas.***

In general, vinyl linoleum or tile floor covering may be satisfactory for very small operations where vacuuming and wet mopping provide sufficient clean up. Larger operations, particularly those processes that are "wet" in nature (e.g., fish, fruit, vegetables, beverages, and tofu) require an easily drained, well-sealed concrete or tile floor.

Lighting

Adequate lighting means an amount of light that allows ease in cleaning and provides a safe, well-lit work place. All light fixtures above equipment or areas where food is exposed must be break-proof. Tuff-skin or plastic coated incandescent bulk sheets that fit around fluorescent tubes are satisfactory for this purpose.

Sinks

Some operations will require a 3-compartment sink. Other processors may use a 2-compartment sink if each compartment is large enough to accommodate washing of the largest utensils (e.g., mixing bowls, sheet pans, trays, etc.) A LARGE 2-compartment sink may be more suitable for the purposes of some processors than a SMALL 3-compartment sink.

Hand Wash Sinks

Food handlers in a food processing establishment must have access to one or more hand washing facilities with hot, cold, or tempered running water and equipped with soap and single service towels and handwash signs; In order to meet this requirement, this means:

- a. There is at least one hand wash facility located in the food processing area in a location convenient to each food handling area when hands come into contact with or manipulate unwrapped or unpackaged ready to eat food. (Hand sanitizing stations may be required if appropriate); or
- b. Hand wash facilities are located in rest rooms or other areas in operations where food is not manipulated by hand and hands do not contact the food; or
- c. Hand wash facilities are located in rest rooms or other areas and hand sanitizing stations are located in food processing areas in operations where food would normally undergo further preparation (for example washing, cleaning, cooking or other processing) either in the plant or by the consumer that would adequately eliminate physical, chemical and microbiological contaminants introduced by handling.

Ventilation

Hoods, fans or other measures to exhaust excess steam and condensation to the outside are necessary in processing operations where products are cooked and heated, or where there are otherwise considerable amounts of steam or other vapors released in the processing area. Hoods are required over deep fat fryers, stovetops and ovens. These hoods must be connected to fans and/or vents that exhaust to the outside.

Walls

The kind of wall finish depends on wall location in the plant, the proximity to work counters, sinks, and equipment and the amount of splash and cleaning exposed to the wall. Painted drywall may be suitable in warehouse areas, but it is **NOT suitable** in fish plants and produce processing operations such as potato or apple processors and other plants where wet clean up is necessary.

In general, wall areas in "wet" operations must be covered with a washable, non-porous, non-corrosive, smooth material that will not deteriorate when it gets wet. Wall areas within three feet of work counters, tables, and equipment must be covered with a similar material.

Recommended:

Stainless steel, fiberglass paneling (called glass board or Chemlite in the trade)

Satisfactory:

Galvanized aluminum and Formica. Vinyl covered fiberboard panels (also called Marlite in the trade), commonly used to panel bathrooms, may be used, but are easily scratched and worn from scouring and cleaning.

Water Supply

Your water supply must meet the State Department of Health (DOH) requirements for potable water. If you are on a public water supply (city or municipal water supply or water association) it meets these requirements. If you are on a well or other private supply, depending on the number of employees and how many days you operate, you must meet the State Department of Health (DOH) requirements for a group A or group B water system, or for single family processor with no outside employees, equivalent requirements under WSDA. See attachment E in the licensing packet to determine where you fall.

Note: Bottled water manufacturing operations must also meet specific requirements under Title 21 CFR, Part 129.

Refrigeration

The refrigeration requirements of the product and the need to refrigerate those products must be considered. All hazardous food (those products capable of allowing pathogen growth at temperatures between 38 degrees F and 140 degrees F must be refrigerated, unless they are properly stored as a low acid canned food or acidified food, or are held at temperatures above 145 degrees F. You will also need to determine your ability to adequately refrigerate those products while in storage and in transit. Our laws require foods to be cooled to 45 degrees F in four (4) hours. You need to demonstrate the availability of facilities or provisions for refrigeration of such products (i.e. refrigerators, freezers, coolers, ice chests, insulated boxes with gel ice, etc.) and the efficiency of the equipment prior to license approval.

Packaging and Labeling

Packaging Material

The packaging material must protect the product from contamination and must NOT impart any toxic or deleterious substance to the processed food product.

Labeling

Product labels must include the following information:

- Name and place of business for the manufacturer, packer, or distributor;
- Accurate statement of quantity of contents by weight;
- Product identity (common or usual name of the food);
- Ingredient list (when processed food is fabricated from two or more ingredients) of each ingredient in descending order of predominance. Food products that include spices, flavorings and colorings as ingredients may designate these products as spices, flavorings and coloring on the ingredient list

- ***NOTE: It is particularly important to label those ingredients that cause allergic reactions in certain individuals. The following common food allergens would prompt product recalls if not declared as ingredients: Peanuts, tree nuts, eggs, fish, crab, shrimp, lobster, milk, soybeans, wheat, sulfites, and yellow dye #5.***

Perishable Products

Perishable packaged food products with a projected shelf life of thirty (30) days or less must state the pull date on the package label. The pull date must be stated in day and month and in a style and format that is readily decipherable by consumers. Also, when products require refrigeration either before or after opening, such information must be on the label.

Nutritional Labeling

The Nutritional Education and Labeling Act does require specific information regarding the nutritional value of the processed food product on the product label. Contact the United States Food and Drug Association in Bothell, WA (425) 486-8788 to obtain more information or to learn if you are exempt from this labeling requirement.

Universal Product Code

The Universal Product Code (UPC) is an eleven-digit numeric code that identifies a retail consumer package. The symbol can be read by a computer scanner at check stands and allows for ease in checkout, accurate pricing, and collection of sales data.

Although the UPC program is voluntary, a manufacturer's number assignment can only be obtained through membership in the Uniform Code Council. Sales volume determines cost of the membership.

Contact: Uniform Code Council, Inc.
7887 Washington Village Dr. Suite 300
Dayton, OH 45459

Other Requirements for Various Operations

Fish and Fishery Products HACCP Plan

As required by the Food and Drug Administration (FDA), all processors of fish and fishery products are required to develop and implement a Hazard Analysis Critical Control Point (HACCP) plan. Fish and fishery product processors must conduct an analysis to determine areas where food safety hazards are likely to occur and identify preventive measures for each potential hazard. Food safety hazards can be introduced within and outside the processing facility. A Food Safety Officer reviews the HACCP plan during the GMP inspections.

Contact: WSDA Food Safety Program

PO box 42560

Olympia, WA 98504-2560

Phone: (360) 902-1876

Fax: (360) 902-2087

Email: foodsafety@agr.wa.gov

Organic Certification

"Organic food" means any agriculture product, including meat, dairy and beverage that are marketed using the term organic or any derivative of organic in its labeling or advertising (15.86.020 RCW). In addition to any required food processor license, all producers, handlers, and processors of organic food who represent their products as organic (including listing organic ingredients on the ingredients panel) must obtain organic certification from the WSDA Organic Food Program or a third-party organic certification agency recognized by WSDA.

The organic certification provides independent verification that the product was produced, handled, and processed in accordance with the Washington Organic Food Products Act (chapter 15.86 RCW).

Contact: Washington State Department of Agriculture

Organic Food Program

PO Box 42560

Olympia, WA 98504-2560

Phone: (360) 902-1877

Fax: (360)902-2087

Email: organic@agr.wa.gov

Low-Acid and Acidified Food

"Low-acid food" means food with a pH greater than 4.6 and water activity greater than 0.85 that is meant to be stored unrefrigerated prior to opening. "Acidified food" means a low-acid food to which acid or acid foods are added to attain a finished pH at or below 4.6 and which is meant to be stored unrefrigerated prior to opening.

Unless an analysis shows otherwise, WSDA considers salsa, sauce and dressing products low-acid or acidified foods. Low-acid and acidified foods present potential serious health

hazards and are subject to regulations specified in Title 21 of the Code of Federal Regulations, Parts 113 and 114.

The Federal Drug Administration (FDA) requires processors of Low-acid and acidified foods to

Register with the FDA;

File scheduled processes for each product and container size;

Receive appropriate training from an FDA approved processing school;

Maintain specific processing records; and

Use equipment that meets certain requirements.

Contacts: Regional FDA Office

PO Box 3012

22201 23rd Dr SE

Bothell, WA 98021-4421

(425) 486-8788

FDA Center for Food Safety and Applied Nutrition

Food and Drug Administration

5100 Paint Branch Parkway

College Park, MD 20740

1-888-723-3366

industry@fda.gov

County Health Departments

Adams County Health District

108 W Main St
Ritzville, WA 99169-1408
(509) 659-3315
Fax: (509) 659-4109
www.co.adams.wa.us/departments/health.asp

Asotin County Health District

431 Elm St
Clarkston, WA 99403
(509) 758-3344
Fax: (509) 758-8454
<http://ac-hd.org/>

Benton-Franklin Health District

7102 West Okanogan Place
Kennewick, WA 99336
(509) 460-4200
Fax: (509) 460-4590
<http://www.bfhd.wa.gov/base/index.php>

Chelan-Douglas Health District

200 Valley Mall Parkway
East Wenatchee, WA 98802
(509) 886-6450
Fax: (509) 886-6449
<http://www.cdhd.wa.gov/index.html>

Clallam County Department of Health and Human Services

223 East 4th St, Ste 14
Port Angeles, WA 98362-0149
(360) 417-2274
Fax: (360) 417-2519
<http://www.clallam.net/HHS/>

Clark County Public Health

1601 East 4th Plain Boulevard
PO Box 9825 (98666-8825)
Vancouver, WA 98661
(360) 397-8000
Fax: (360) 397-8424
<http://www.clark.wa.gov/public-health/index.asp>

Columbia County Public Health District

1012 South 3rd
(1010 South 3rd-mailing)
Dayton, WA 99328
(360) 397-8000
Fax: (360) 397-8424
<http://www.columbiaco.com/>

Cowlitz County Health Department

1952 Ninth Ave
Longview, WA 98632-4045
(360) 414-5599
Fax: (360) 425-7531
<http://www.co.cowlitz.wa.us/health/>

Garfield County Health District

121 South 100th
PO Box 130
Pomeroy, WA 99347
(509) 843-3412
Fax: (509) 843-1935
<http://co.garfield.wa.us/health>

Grant County Public Health District

1st & C Street NW
PO box 37
Ephrata, WA 98823
(509) 754-6060
Fax: (509) 843-1935
<http://www.granthealth.org/>

Grays Harbor County Public Health

2109 Sumner Ave
Aberdeen, WA 98520
(360) 532-8665
Fax: (360) 533-1983
<http://www.healthylgh.org/>

Island County Public Health

Courthouse Annex
6th & Main St
PO Box 5000
Coupeville, WA 98239-5000
(360) 679-7350
Fax: (360) 679-7390
<http://www.islandcountyhealth.org/>

Jefferson County Public Health

615 Sheridan St
Port Townsend, WA 98368
(360) 385-9400
Fax: (360) 385-9401
<http://www.jeffersoncountypublichealth.org/>

Kitsap County Health District

345 6th St, Ste 300
Bremerton, WA 98337
(360) 337-5235
Fax: (360) 337-5298
<http://www.kitsapcountyhealth.com/>

County Health Departments con't.

Kittitas County Public Health
507 North Nanum St, Ste 102
Ellensburg, WA 98926
(509) 962-7515
Fax: (509) 962-7581
<http://www.co.kittitas.wa.us/health/>

Klickitat County Public Health
228 West main St
MS CH-14
Goldendale, WA 98620
(509) 773-4565
Fax: (509) 773-5991
<http://www.klickitatcounty.org/health/>

Lewis County Public Health
360 NW North St
MS: HSD03
Chehalis, WA 98532-1900
(360) 740-1223
Fax: (360) 740-1105
<http://lewiscountywa.gov/publichealth>

Lincoln County Health Department
90 Nichols
Davenport, WA 99122
(509) 725-1001
Fax: (509) 725-3501
<http://www.co.lincoln.wa.us/Health%20Department/>

Mason County Public Health
PO Box 1666
Shelton, WA 98584
(360) 427-9670
Fax: (360) 427-7798
<http://www.co.mason.wa.us/>

Northwest Tri-County Health District
240 East Dominion
PO Box 270
Colville, WA 99114-0270
(509) 684-1301
Fax: (509) 684-1002
<http://www.netchd.org/>

Okanogan County Public Health
Public Services Building
1234 South 2nd Ave
PO Box 231
Okanogan, WA 98840
(509) 422-7140
Fax: (509) 422-7142
<http://www.okanogancounty.org/ochd/>

Pacific County Public Health
1216 West Robert Bush Dr
PO box 26
South Bend, WA 98586
(360) 875-9343
Fax: (360) 875-9323
<http://www.co.pacific.wa.us/health/index.htm>

San Juan County Department of Health
145 Phone Street
PO Box 607
Friday Harbor, WA 98250
(360) 378-4474
Fax: (360) 378-7036
<http://www.sanjuanco.com/health/default.aspx>

Seattle & King County Public Health
Chinook Bldg
401 Fifth Ave
Seattle, WA 98104
(360) 296-4600
Fax: (360) 726-2290
<http://www.kingcounty.gov/healthservices/health.aspx>

Skagit County Public Health
700 South 2nd St #301
Mount Vernon, WA 98273-1071
(360) 336-9380
Fax: (360) 336-9401
<http://www.skagitcounty.net/Common/asp/default.asp?d=Health&c=General&P=main.htm>

Skamania County Health Department
683 SW Rock Creek Dr
PO Box 790
Stevenson, WA 98648
(509) 427-3881
Fax: (509) 427-3850
<http://www.skamaniacounty.org/>

Snohomish Health District
3020 Rucker Ave
Everett, WA 98201-3900
(425) 339-5210
Fax: (425) 339-5216
<http://www.snohd.org/Default.aspx?AspxAutoDetectCookieSupport=1>

County Health Departments con't.

Spokane Regional Health District
West 1101 College Ave
Spokane, WA 99201-2095
(509) 324-1500
Fax: (509) 324-1507
<http://www.srhd.org/>

Yakima Health District
1210 Ahtanum Ridge Dr
Union Gap, WA 98903
(509) 575-4040
Fax: (509) 575-7894
<http://www.yakimahealthdistrict.org>

Tacoma Pierce County Health Department
3629 South D Street
Tacoma, WA 98418-6813
(253) 798-6500
Fax: (253) 798-6589
<http://www.tpchd.org/index.php>

Washington State Department of Health
Town Center 1
101 Israel Road SE
Tumwater, WA 98501
(360) 236-4010
Fax: (360) 586-7424
www.doh.wa.gov

Thurston County Public Health
412 Lilly Road NE
Olympia, WA 98506-5132
(360) 754-3355
Fax: (360) 867-2660
<http://www.co.thurston.wa.us/health/>

Wahkiakum County Department of Health
64 Main St
Cathlamet, WA 98612
(360) 795-6207
Fax: (360) 765-6143
<http://www.co.wahkiakum.wa.us/depts/health>

Walla Walla County Health Department
314 W Main
Walla Walla, WA 99362
(509) 524-2650
Fax: (509) 524-2678
<http://www.co.walla-walla.wa.us/departments/phd/index.shtml>

Whatcom County Health Department
509 Girard St
Bellingham, WA 98225-4005
(360) 676-6724
Fax: (360) 676-6771
<http://www.co.whatcom.wa.us/health/index.jsp>

Whitman County Public Health
Public Service Building
North 310 Main St
Colfax, WA 99111-1893
(509) 397-6280
Fax: (509) 397-6239
<http://www.whitmancounty.org/PubHealth/>

General Food Labeling Requirements

October 2009

Guidance for Industry: A Food Labeling Guide

1. Where should label statements be placed on containers and packages?

Answer: There are two ways to label packages and containers:

- a. Place all required label statements on the front label panel (the principal display panel or PDP), or,
- b. Place certain *specified* label statements on the PDP and other labeling on the information panel (the label panel immediately to the right of the PDP, as seen by the consumer facing the product),^{21 CFR 101.1², 21 CFR 101.2³, 21 CFR 101.3⁴, 21 CFR 101.4⁵, 21 CFR 101.9⁶, and 21 CFR 101.105⁷}

2. What are the PDP and the alternate PDP?

Answer: The PDP, is that portion of the package label that is most likely to be seen by the consumer at the time of purchase. Many containers are designed with two or more different surfaces that are suitable for display as the PDP. These are alternate PDPs. [21 CFR 101.1⁸](#)

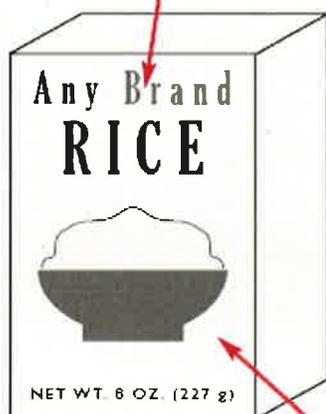
3. What label statements must appear on the PDP?

Answer: Place the statement of identity, or name of the food, and the net quantity statement, or amount of product, on the PDP and on the alternate PDP. The required type size and prominence are discussed in Chapters [IV⁹](#) and [V¹⁰](#) of this guidance and [21 CFR 101.3\(a\)¹¹](#) and [21 CFR 101.105\(a\)¹²](#).

4. Which label panel is the information panel?

Answer: The information panel is the label panel immediately to the right of the PDP, as displayed to the consumer. If this panel is not usable, due to package design and construction, (e.g., folded flaps),

STATEMENT OF IDENTITY

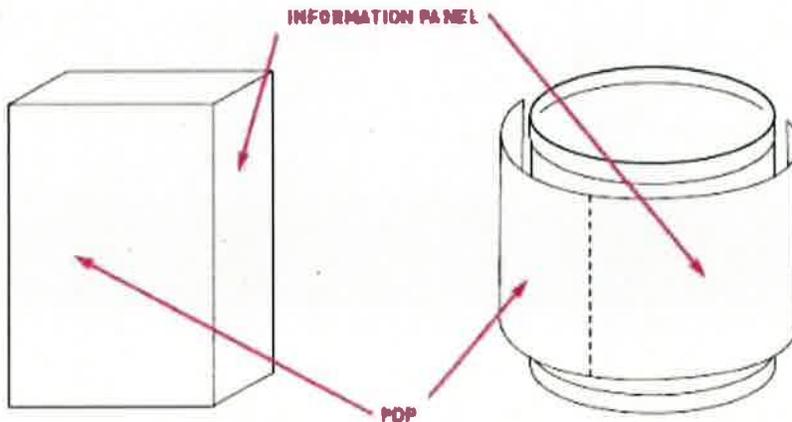


PDP



NET QUANTITY STATEMENT

then the information panel is the next label panel immediately to the right. [21 CFR 101.2\(a\)](#)¹³



5. What is information panel labeling?

Answer: The phrase "information panel labeling" refers to the label statements that are generally required to be placed together, without any intervening material, on the information panel, if such labeling does not appear on the PDP. These label statements include the name and address of the manufacturer, packer or distributor, the ingredient list, nutrition labeling and any required allergy labeling. [21 CFR 101.2\(b\) and \(d\)](#),¹⁴ Section 403 (w) of the FDA Act

6. What type size, prominence and conspicuousness is required?

Answer: For information panel labeling, use a print or type size that is prominent, conspicuous and easy to read. Use letters that are at least one-sixteenth (1/16) inch in height based on the lower case letter "o". The letters must not be more than three times as high as they are wide, and the lettering must contrast sufficiently with the background so as to be easy to read. Do not crowd required labeling with artwork or non-required labeling.

Smaller type sizes may be used for information panel labeling on very small food packages as discussed in [21 CFR 101.2\(c\)](#)¹⁵ & (f)

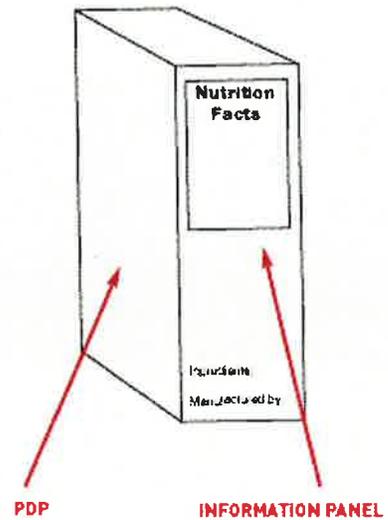
Different type sizes are specified for the Nutrition Facts Label. (see section 7)

The type size requirements for the statement of identity and the net quantity statement are discussed in sections 4 and 5 of this guidance.

21 CFR 101.2(c) and 21 CFR 101.9(d)(1)&(2)

7. What is the prohibition against intervening material?

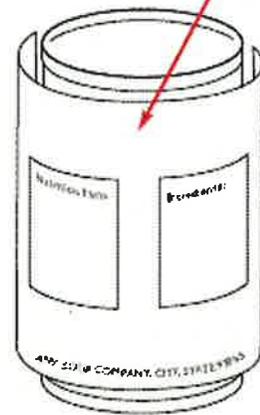
Answer: Information that is not required by FDA is considered intervening material and is not permitted to be placed between the required labeling on the information panel (e.g., the UPC bar code is not FDA required labeling). 21 CFR 101.2(e)¹⁶



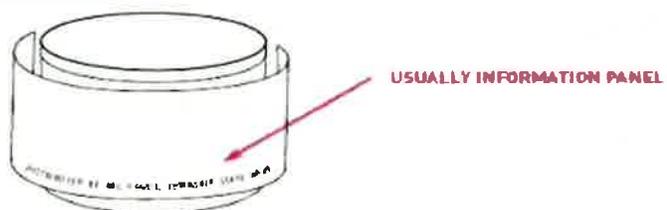
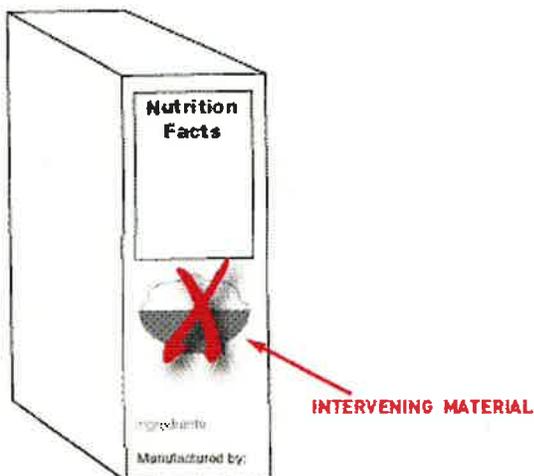
8. What name and address must be listed on the label?

Answer: Food labels must list:

- Name and address of the manufacturer, packer or distributor. Unless the name given is the actual manufacturer, it must be accompanied by a qualifying phrase which states the firm's relation to the product (e.g., "manufactured for " or "distributed by").
- Street address if the firm name and address are not listed in a current city directory or telephone book;
- City or town;
- State (or country, if outside the United States); and
- ZIP code (or mailing code used in countries other than the United States).



21 CFR 101.5¹⁷



If you are interested in labeling requirements for Juice, please go to:

<http://www.fda.gov/food/guidancecomplianceregulatoryinformation/guidancedocuments/foodlabelingnutrition/foodlabelingguide/ucm064872.htm> and scroll down the page to "Juice".

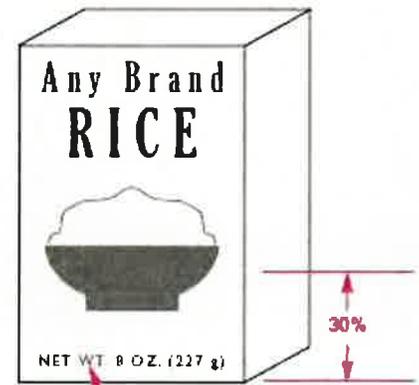
5. Net Quantity of Contents Statements

October 2009

Guidance for Industry: A Food Labeling Guide

Este documento en [Español \(Spanish\)](#) ¹

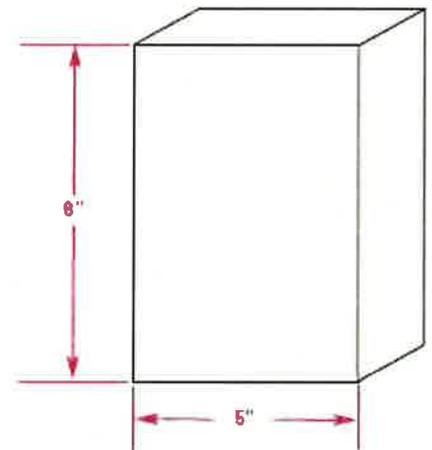
Contains Nonbinding Recommendations



NET QUANTITY STATEMENT

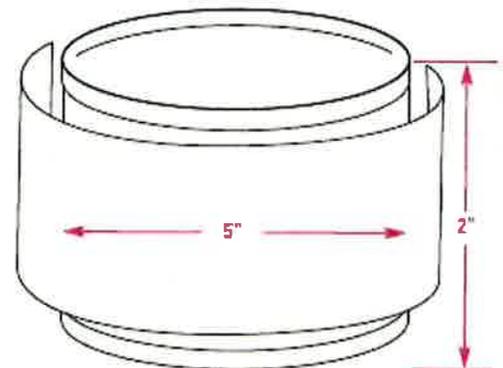
1. What is the net quantity of contents and how is it expressed?

Answer: The net quantity of contents (net quantity statement) is the statement on the label which provides the amount of food in the container or package. It must be expressed in weight, measure or numeric count. Generally, if the food is solid, semi solid or viscous, it should be expressed in fluid measure (eg. fl oz). [21 CFR 101.105\(a\)\(b\)\(c\)](#)³



2. Where is the net quantity of contents statement placed on the label?

Answer: The net quantity statement (net quantity of contents) is placed as a distinct item in the bottom 30 percent of the principal display panel, in lines generally parallel with the base of the container. [21 CFR 101.105\(e\)](#)⁴; [21 CFR 101.105\(f\)](#)⁵



3. Should the net quantity of contents be stated in both grams and ounces?

Answer: Food labels printed must show the net contents in both metric (grams, kilograms, milliliters, liters) and U.S. Customary

$$\begin{aligned} 10'' \times 2'' &= 20 \text{ SQ. IN.} \\ \text{AREA OF PDP} &= 20 \text{ SQ. IN.} \times 40\% \\ &= 8 \text{ SQ. IN.} \end{aligned}$$

System (ounces, pounds, fluid ounces) terms. The metric statement may be placed either before or after the U. S. Customary statement, or above or below it. Each of the following examples is correct (additional examples appear in the regulations):

Net wt 1 lb 8 oz (680g)

Net wt 1 lb 8 oz 680 g

500 ml (1 pt 0.9 fl oz)

Net contents 1 gal (3.79 L)

P.L. 102-329, August 3, 1992; 21 CFR 101.105⁶

4. Why is it necessary to calculate the area of the PDP?

Answer: The area of the PDP (calculated in square inches or square centimeters) determines the minimum type size that is permitted for the net quantity statement (see next question).

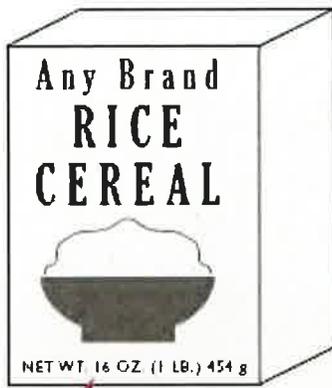
Calculate the area of the PDP as follows. The area of a rectangular or square PDP on a carton is the height multiplied by the width (both in inches or both in centimeters).

To calculate the area of the PDP for a cylindrical container, use 40% of the product of the height by the circumference. 21 CFR 101.1⁷

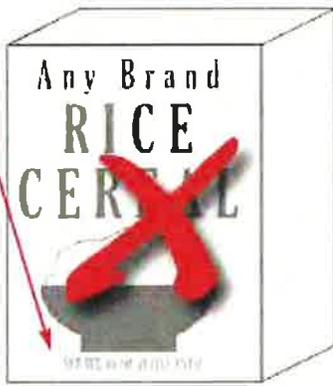
5. What is the minimum type size?

Answer: For the net quantity statements, the minimum type size is the smallest type size that is permitted based on the space available for labeling on the PDP. Determine the height of the type by measuring the height of the lower case letter "o" or its equivalent when mixed upper and lower case letters are used, or the height of the upper case letters when only upper case letters are used. 21 CFR 101.105(h) and (i)⁸

Minimum Type Size	Area of Principal Display Panel
1/16 in. (1.6 mm)	5 sq. in. (32 sq. cm.) or less
1/8 in. (3.2 mm)	More than 5 sq. in. (32 sq. cm.) but not more than 25 sq. in. (161 sq. cm.)
3/16 in. (4.8 mm)	More than 25 sq. in. (161 sq. cm.) but not more than 100 sq. in. (645 sq. cm.)
1/4 in. (6.4 mm)	More than 100 sq. in. (645 sq. cm.) but not more than 400 sq. in. (2580 sq. cm.)
1/2 in. (12.7 mm)	Over 400 sq. in. (2580 sq. cm.)



NET QUANTITY STATEMENT



6. What are the conspicuousness and prominence requirements for net quantity statements?

Answer: Choose a print style that is prominent, conspicuous and easy to read. The letters must not be more than three times as high as they are wide, and lettering must contrast sufficiently with the background to be easy to read. Do not crowd the net quantity statement with artwork or other labeling (minimum separation requirements are specified in the regulation). [21 CFR 101.105](#)⁹ and [101.15](#)¹⁰

7. What is included in the net quantity of contents statement?

Answer: Only the quantity of food in the container or package is stated in the net quantity statement. Do not include the weight of the container, or wrappers and packing materials. To determine the net weight, subtract the average weight of the empty container, lid and any wrappers and packing materials from the average weight of the container when filled with food. [21 CFR 101.105\(g\)](#)¹¹

Filled container weighs	18 oz.
Empty container weighs	2 oz.
Wrapper weighs	1 oz.
Net Weight	15 oz. (425 g)

8. Is water or other packing medium included in determining the net quantity of contents in a food container?

Answer: The water or other liquid added to food in a container is usually included in the net quantity declared on a label.

In some cases where the packing medium is normally discarded, the drained weight is given (e.g., olives and mushrooms). [21 CFR 101.105\(a\)](#)¹²

Beans weigh	9 oz.
Water weighs	4 oz.
Sugar weighs	1 oz.
Net Weight	14 oz. (396 g)

9. What is the net quantity of contents for a pressurized can?

Answer: The net quantity is the weight or volume of the product that will be delivered from the pressurized container together with the weight or volume of the propellant.

Whipped cream	11.95 oz.
Propellant	.05 oz.
Net Weight	12 oz. (340 g)

21 CFR 101.105(g)¹³

10. What is the policy on using qualifying phrases in net quantity statements?

Answer: Do not use qualifying phrases or terms that exaggerate the amount of food.
21 CFR 101.105(o)¹⁴

INCORRECT Net Wt. = 2 Large oz. (5 g)

CORRECT Net Wt. = 2 oz. (5 g)

CURRENT GOOD MANUFACTURING PRACTICE IN MANUFACTURING, PACKING, OR HOLDING HUMAN FOOD

Authority: 21 U.S.C. 342, 371, 374; 42 U.S.C. 264.

Source: 51 FR 24475, June 19, 1986, unless otherwise noted.

Subpart A—General Provisions

21 CFR Part 110.3 Definitions.

The definitions and interpretations of terms in section 201 of the Federal Food, Drug, and Cosmetic Act (the act) are applicable to such terms when used in this part. The following definitions shall also apply:

- (a) *Acid foods or acidified foods* mean foods that have an equilibrium pH of 4.6 or below.
- (b) *Adequate* means that which is needed to accomplish the intended purpose in keeping with good public health practice.
- (c) *Batter* means a semifluid substance, usually composed of flour and other ingredients, into which principal components of food are dipped or with which they are coated, or which may be used directly to form bakery foods.
- (d) *Blanching*, except for tree nuts and peanuts, means a prepackaging heat treatment of foodstuffs for a sufficient time and at a sufficient temperature to partially or completely inactivate the naturally occurring enzymes and to effect other physical or biochemical changes in the food.
- (e) *Critical control point* means a point in a food process where there is a high probability that improper control may cause, allow, or contribute to a hazard or to filth in the final food or decomposition of the final food.
- (f) *Food* means food as defined in section 201(f) of the act and includes raw materials and ingredients.
- (g) *Food-contact surfaces* are those surfaces that contact human food and those surfaces from which drainage onto the food or onto surfaces that contact the food ordinarily occurs during the normal course of operations. "Food-contact surfaces" includes utensils and food-contact surfaces of equipment.
- (h) *Lot* means the food produced during a period of time indicated by a specific code.
- (i) *Microorganisms* mean yeasts, molds, bacteria, and viruses and includes, but is not limited to, species having public health significance. The term "undesirable microorganisms" includes those microorganisms that are of public health significance, that subject food to decomposition, that indicate that food is contaminated with filth, or that otherwise may cause food to be adulterated within the meaning of the act. Occasionally in these regulations, FDA used the adjective "microbial" instead of using an adjectival phrase containing the word microorganism.
- (j) *Pest* refers to any objectionable animals or insects including, but not limited to, birds, rodents, flies, and larvae.
- (k) *Plant* means the building or facility or parts thereof, used for or in connection with the manufacturing, packaging, labeling, or holding of human food.
- (l) *Quality control operation* means a planned and systematic procedure for taking all actions necessary to prevent food from being adulterated within the meaning of the act.
- (m) *Rework* means clean, unadulterated food that has been removed from processing for reasons other than insanitary conditions or that has been successfully reconditioned by reprocessing and that is suitable for use as food.
- (n) *Safe-moisture level* is a level of moisture low enough to prevent the growth of undesirable microorganisms in the finished product under the intended conditions of manufacturing, storage, and distribution. The maximum safe moisture level for a food is based on its water activity (a_w). An a_w will be considered safe for a food if adequate data are available that demonstrate that the food at or below the given a_w will not support the growth of undesirable microorganisms.
- (o) *Sanitize* means to adequately treat food-contact surfaces by a process that is effective in destroying vegetative cells of microorganisms of public health significance, and in substantially reducing numbers of other undesirable microorganisms, but without adversely affecting the product or its safety for the consumer.
- (p) *Shall* is used to state mandatory requirements.
- (q) *Should* is used to state recommended or advisory procedures or identify recommended equipment.
- (r) *Water activity* (a_w) is a measure of the free moisture in a food and is the quotient of the water vapor pressure of the substance divided by the vapor pressure of pure water at the same temperature.

21 CFR Part 110.5 Current good manufacturing practice.

(a) The criteria and definitions in this part shall apply in determining whether a food is adulterated (1) within the meaning of section 402(a)(3) of the act in that the food has been manufactured under such conditions that it is unfit for food; or (2) within the meaning of section 402(a)(4) of the act in that the food has been prepared, packed, or held under insanitary conditions whereby it may have become contaminated with filth, or whereby it may have been rendered injurious to health. The criteria and definitions in this part also apply in determining whether a food is in violation of section 361 of the Public Health Service Act (42 U.S.C. 264).

(b) Food covered by specific current good manufacturing practice regulations also is subject to the requirements of those regulations.

21 CFR Part 110.10 Personnel.

The plant management shall take all reasonable measures and precautions to ensure the following:

(a) *Disease control.* Any person who, by medical examination or supervisory observation, is shown to have, or appears to have, an illness, open lesion, including boils, sores, or infected wounds, or any other abnormal source of microbial contamination by which there is a reasonable possibility of food, food-contact surfaces, or food-packaging materials becoming contaminated, shall be excluded from any operations which may be expected to result in such contamination until the condition is corrected. Personnel shall be instructed to report such health conditions to their supervisors.

(b) *Cleanliness.* All persons working in direct contact with food, food-contact surfaces, and food-packaging materials shall conform to hygienic practices while on duty to the extent necessary to protect against contamination of food. The methods for maintaining cleanliness include, but are not limited to:

(1) Wearing outer garments suitable to the operation in a manner that protects against the contamination of food, food-contact surfaces, or food-packaging materials.

(2) Maintaining adequate personal cleanliness.

(3) Washing hands thoroughly (and sanitizing if necessary to protect against contamination with undesirable microorganisms) in an adequate hand-washing facility before starting work, after each absence from the work station, and at any other time

when the hands may have become soiled or contaminated.

(4) Removing all unsecured jewelry and other objects that might fall into food, equipment, or containers, and removing hand jewelry that cannot be adequately sanitized during periods in which food is manipulated by hand. If such hand jewelry cannot be removed, it may be covered by material which can be maintained in an intact, clean, and sanitary condition and which effectively protects against the contamination by these objects of the food, food-contact surfaces, or food-packaging materials.

(5) Maintaining gloves, if they are used in food handling, in an intact, clean, and sanitary condition. The gloves should be of an impermeable material.

(6) Wearing, where appropriate, in an effective manner, hair nets, headbands, caps, beard covers, or other effective hair restraints.

(7) Storing clothing or other personal belongings in areas other than where food is exposed or where equipment or utensils are washed.

(8) Confining the following to areas other than where food may be exposed or where equipment or utensils are washed: eating food, chewing gum, drinking beverages, or using tobacco.

(9) Taking any other necessary precautions to protect against contamination of food, food-contact surfaces, or food-packaging materials with microorganisms or foreign substances including, but not limited to, perspiration, hair, cosmetics, tobacco, chemicals, and medicines applied to the skin.

(c) *Education and training.* Personnel responsible for identifying sanitation failures or food contamination should have a background of education or experience, or a combination thereof, to provide a level of competency necessary for production of clean and safe food. Food handlers and supervisors should receive appropriate training in proper food handling techniques and food-protection principles and should be informed of the danger of poor personal hygiene and insanitary practices.

(d) *Supervision.* Responsibility for assuring compliance by all personnel with all requirements of this part shall be clearly assigned to competent supervisory personnel.

[51 FR 24475, June 19, 1986, as amended at 54 FR 24892, June 12, 1989]

21 CFR Part 110.19 Exclusions.

(a) The following operations are not subject to this part: Establishments engaged solely in the harvesting, storage, or distribution of one or more "raw agricultural commodities," as defined in section 201(r) of the act, which are ordinarily cleaned, prepared, treated, or otherwise processed before being marketed to the consuming public.

(b) FDA, however, will issue special regulations if it is necessary to cover these excluded operations.

Subpart B—Buildings and Facilities

21 CFR Part 110.20 Plant and grounds.

(a) *Grounds.* The grounds about a food plant under the control of the operator shall be kept in a condition that will protect against the contamination of food. The methods for adequate maintenance of grounds include, but are not limited to:

(1) Properly storing equipment, removing litter and waste, and cutting weeds or grass within the immediate vicinity of the plant buildings or structures that may constitute an attractant, breeding place, or harborage for pests.

(2) Maintaining roads, yards, and parking lots so that they do not constitute a source of contamination in areas where food is exposed.

(3) Adequately draining areas that may contribute contamination to food by seepage, foot-borne filth, or providing a breeding place for pests.

(4) Operating systems for waste treatment and disposal in an adequate manner so that they do not constitute a source of contamination in areas where food is exposed.

If the plant grounds are bordered by grounds not under the operator's control and not maintained in the manner described in paragraph (a) (1) through (3) of this section, care shall be exercised in the plant by inspection, extermination, or other means to exclude pests, dirt, and filth that may be a source of food contamination.

(b) *Plant construction and design.* Plant buildings and structures shall be suitable in size, construction, and design to facilitate maintenance and sanitary operations for food-manufacturing purposes. The plant and facilities shall:

(1) Provide sufficient space for such placement of equipment and storage of materials as is necessary for the maintenance of sanitary operations and the production of safe food.

(2) Permit the taking of proper precautions to reduce the potential for contamination of food, food-contact surfaces, or food-packaging materials with microorganisms, chemicals, filth, or other extraneous material. The potential for contamination may be reduced by adequate food safety controls and operating practices or effective design, including the separation of operations in which contamination is likely to occur, by one or more of the following means: location, time, partition, air flow, enclosed systems, or other effective means.

(3) Permit the taking of proper precautions to protect food in outdoor bulk fermentation vessels by any effective means, including:

(i) Using protective coverings.

(ii) Controlling areas over and around the vessels to eliminate harborages for pests.

(iii) Checking on a regular basis for pests and pest infestation.

(iv) Skimming the fermentation vessels, as necessary.

(4) Be constructed in such a manner that floors, walls, and ceilings may be adequately cleaned and kept clean and kept in good repair; that drip or condensate from fixtures, ducts and pipes does not contaminate food, food-contact surfaces, or food-packaging materials; and that aisles or working spaces are provided between equipment and walls and are adequately unobstructed and of adequate width to permit employees to perform their duties and to protect against contaminating food or food-contact surfaces with clothing or personal contact.

(5) Provide adequate lighting in hand-washing areas, dressing and locker rooms, and toilet rooms and in all areas where food is examined, processed, or stored and where equipment or utensils are cleaned; and provide safety-type light bulbs, fixtures, skylights, or other glass suspended over exposed food in any step of preparation or otherwise protect against food contamination in case of glass breakage.

(6) Provide adequate ventilation or control equipment to minimize odors and vapors (including steam and noxious fumes) in areas where they may contaminate food; and locate and operate fans and other air-blowing equipment in a manner that minimizes the potential for contaminating food, food-packaging materials, and food-contact surfaces.

(7) Provide, where necessary, adequate screening or other protection against pests.

21 CFR Part 110.35 Sanitary operations.

(a) *General maintenance.* Buildings, fixtures, and other physical facilities of the plant shall be maintained in a sanitary condition and shall be kept in repair sufficient to prevent food from becoming adulterated within the meaning of the act. Cleaning and sanitizing of utensils and equipment shall be conducted in a manner that protects against contamination of food, food-contact surfaces, or food-packaging materials.

(b) *Substances used in cleaning and sanitizing; storage of toxic materials.* (1) Cleaning compounds and sanitizing agents used in cleaning and sanitizing procedures shall be free from undesirable microorganisms and shall be safe and adequate under the conditions of use. Compliance with this requirement may be verified by any effective means including purchase of these substances under a supplier's guarantee or certification, or examination of these substances for contamination. Only the following toxic materials may be used or stored in a plant where food is processed or exposed:

(i) Those required to maintain clean and sanitary conditions;

(ii) Those necessary for use in laboratory testing procedures;

(iii) Those necessary for plant and equipment maintenance and operation; and

(iv) Those necessary for use in the plant's operations.

(2) Toxic cleaning compounds, sanitizing agents, and pesticide chemicals shall be identified, held, and stored in a manner that protects against contamination of food, food-contact surfaces, or food-packaging materials. All relevant regulations promulgated by other Federal, State, and local government agencies for the application, use, or holding of these products should be followed.

(c) *Pest control.* No pests shall be allowed in any area of a food plant. Guard or guide dogs may be allowed in some areas of a plant if the presence of the dogs is unlikely to result in contamination of food, food-contact surfaces, or food-packaging materials. Effective measures shall be taken to exclude pests from the processing areas and to protect against the contamination of food on the premises by pests. The use of insecticides or rodenticides is permitted only under precautions and restrictions that will protect against the contamination of food, food-contact surfaces, and food-packaging materials.

(d) *Sanitation of food-contact surfaces.* All food-contact surfaces, including utensils and food-contact surfaces of equipment, shall be cleaned as frequently as necessary to protect against contamination of food.

(1) Food-contact surfaces used for manufacturing or holding low-moisture food shall be in a dry, sanitary condition at the time of use. When the surfaces are wet-cleaned, they shall, when necessary, be sanitized and thoroughly dried before subsequent use.

(2) In wet processing, when cleaning is necessary to protect against the introduction of microorganisms into food, all food-contact surfaces shall be cleaned and sanitized before use and after any interruption during which the food-contact surfaces may have become contaminated. Where equipment and utensils are used in a continuous production operation, the utensils and food-contact surfaces of the equipment shall be cleaned and sanitized as necessary.

(3) Non-food-contact surfaces of equipment used in the operation of food plants should be cleaned as frequently as necessary to protect against contamination of food.

(4) Single-service articles (such as utensils intended for one-time use, paper cups, and paper towels) should be stored in appropriate containers and shall be handled, dispensed, used, and disposed of in a manner that protects against contamination of food or food-contact surfaces.

(5) Sanitizing agents shall be adequate and safe under conditions of use. Any facility, procedure, or machine is acceptable for cleaning and sanitizing equipment and utensils if it is established that the facility, procedure, or machine will routinely render equipment and utensils clean and provide adequate cleaning and sanitizing treatment.

(e) *Storage and handling of cleaned portable equipment and utensils.* Cleaned and sanitized portable equipment with food-contact surfaces and utensils should be stored in a location and manner that protects food-contact surfaces from contamination.

[51 FR 24475, June 19, 1986, as amended at 54 FR 24892, June 12, 1989]

21 CFR Part 110.37 Sanitary facilities and controls.

Each plant shall be equipped with adequate sanitary facilities and accommodations including, but not limited to:

(a) *Water supply.* The water supply shall be sufficient for the operations intended and shall be derived from an adequate source. Any water that contacts food or food-contact surfaces shall be safe and of adequate sanitary quality. Running water at a suitable temperature, and under pressure as needed, shall be provided in all areas where required for the processing of food, for the cleaning of equipment, utensils, and food-packaging materials, or for employee sanitary facilities.

(b) *Plumbing.* Plumbing shall be of adequate size and design and adequately installed and maintained to:

(1) Carry sufficient quantities of water to required locations throughout the plant.

(2) Properly convey sewage and liquid disposable waste from the plant.

(3) Avoid constituting a source of contamination to food, water supplies, equipment, or utensils or creating an unsanitary condition.

(4) Provide adequate floor drainage in all areas where floors are subject to flooding-type cleaning or where normal operations release or discharge water or other liquid waste on the floor.

(5) Provide that there is not backflow from, or cross-connection between, piping systems that discharge waste water or sewage and piping systems that carry water for food or food manufacturing.

(c) *Sewage disposal.* Sewage disposal shall be made into an adequate sewerage system or disposed of through other adequate means.

(d) *Toilet facilities.* Each plant shall provide its employees with adequate, readily accessible toilet facilities. Compliance with this requirement may be accomplished by:

(1) Maintaining the facilities in a sanitary condition.

(2) Keeping the facilities in good repair at all times.

(3) Providing self-closing doors.

(4) Providing doors that do not open into areas where food is exposed to airborne contamination, except where alternate means have been taken to protect against such contamination (such as double doors or positive air-flow systems).

(e) *Hand-washing facilities.* Hand-washing facilities shall be adequate and convenient and be furnished with running water at a suitable temperature. Compliance with this requirement may be accomplished by providing:

(1) Hand-washing and, where appropriate, hand-sanitizing facilities at each location in the plant where good sanitary practices require employees to wash and/or sanitize their hands.

(2) Effective hand-cleaning and sanitizing preparations.

(3) Sanitary towel service or suitable drying devices.

(4) Devices or fixtures, such as water control valves, so designed and constructed to protect against recontamination of clean, sanitized hands.

(5) Readily understandable signs directing employees handling unprotected food, unprotected food-packaging materials, of food-contact surfaces to wash and, where appropriate, sanitize their hands before they start work, after each absence from post of duty, and when their hands may have become soiled or contaminated. These signs may be posted in the processing room(s) and in all other areas where employees may handle such food, materials, or surfaces.

(6) Refuse receptacles that are constructed and maintained in a manner that protects against contamination of food.

(f) *Rubbish and offal disposal.* Rubbish and any offal shall be so conveyed, stored, and disposed of as to minimize the development of odor, minimize the potential for the waste becoming an attractant and harborage or breeding place for pests, and protect against contamination of food, food-contact surfaces, water supplies, and ground surfaces.

Subpart C—Equipment

21 CFR Part 21 CFR Part 110.40 Equipment and utensils.

(a) All plant equipment and utensils shall be so designed and of such material and workmanship as to be adequately cleanable, and shall be properly maintained. The design, construction, and use of equipment and utensils shall preclude the adulteration of food with lubricants, fuel, metal fragments, contaminated water, or any other contaminants. All equipment should be so installed and maintained as to facilitate the cleaning of the equipment and of all adjacent spaces. Food-contact surfaces shall be

corrosion-resistant when in contact with food. They shall be made of nontoxic materials and designed to withstand the environment of their intended use and the action of food, and, if applicable, cleaning compounds and sanitizing agents. Food-contact surfaces shall be maintained to protect food from being contaminated by any source, including unlawful indirect food additives.

(b) Seams on food-contact surfaces shall be smoothly bonded or maintained so as to minimize accumulation of food particles, dirt, and organic matter and thus minimize the opportunity for growth of microorganisms.

(c) Equipment that is in the manufacturing or food-handling area and that does not come into contact with food shall be so constructed that it can be kept in a clean condition.

(d) Holding, conveying, and manufacturing systems, including gravimetric, pneumatic, closed, and automated systems, shall be of a design and construction that enables them to be maintained in an appropriate sanitary condition.

(e) Each freezer and cold storage compartment used to store and hold food capable of supporting growth of microorganisms shall be fitted with an indicating thermometer, temperature-measuring device, or temperature-recording device so installed as to show the temperature accurately within the compartment, and should be fitted with an automatic control for regulating temperature or with an automatic alarm system to indicate a significant temperature change in a manual operation.

(f) Instruments and controls used for measuring, regulating, or recording temperatures, pH, acidity, water activity, or other conditions that control or prevent the growth of undesirable microorganisms in food shall be accurate and adequately maintained, and adequate in number for their designated uses.

(g) Compressed air or other gases mechanically introduced into food or used to clean food-contact surfaces or equipment shall be treated in such a way that food is not contaminated with unlawful indirect food additives.

Subpart D [Reserved]

Subpart E—Production and Process Controls

21 CFR Part 110.80 Processes and controls.

All operations in the receiving, inspecting, transporting, segregating, preparing, manufacturing, packaging, and storing of food shall be conducted in accordance with adequate sanitation principles. Appropriate quality control operations shall be employed to ensure that food is suitable for human consumption and that food-packaging materials are safe and suitable. Overall sanitation of the plant shall be under the supervision of one or more competent individuals assigned responsibility for this function. All reasonable precautions shall be taken to ensure that production procedures do not contribute contamination from any source. Chemical, microbial, or extraneous-material testing procedures shall be used where necessary to identify sanitation failures or possible food contamination. All food that has become contaminated to the extent that it is adulterated within the meaning of the act shall be rejected, or if permissible, treated or processed to eliminate the contamination.

(a) *Raw materials and other ingredients.* (1) Raw materials and other ingredients shall be inspected and segregated or otherwise handled as necessary to ascertain that they are clean and suitable for processing into food and shall be stored under conditions that will protect against contamination and minimize deterioration. Raw materials shall be washed or cleaned as necessary to remove soil or other contamination. Water used for washing, rinsing, or conveying food shall be safe and of adequate sanitary quality. Water may be reused for washing, rinsing, or conveying food if it does not increase the level of contamination of the food. Containers and carriers of raw materials should be inspected on receipt to ensure that their condition has not contributed to the contamination or deterioration of food.

(2) Raw materials and other ingredients shall either not contain levels of microorganisms that may produce food poisoning or other disease in humans, or they shall be pasteurized or otherwise treated during manufacturing operations so that they no longer contain levels that would cause the product to be adulterated within the meaning of the act. Compliance with this requirement may be verified by any effective means, including purchasing raw materials and other ingredients under a supplier's guarantee or certification.

(3) Raw materials and other ingredients susceptible to contamination with aflatoxin or other natural toxins shall comply with current Food and Drug Administration regulations and action levels for poisonous or deleterious substances before these materials or ingredients are incorporated into finished food. Compliance with this requirement may be accomplished by purchasing raw materials and other ingredients under a supplier's guarantee or certification, or may be verified by analyzing these

materials and ingredients for aflatoxins and other natural toxins.

(4) Raw materials, other ingredients, and rework susceptible to contamination with pests, undesirable microorganisms, or extraneous material shall comply with applicable Food and Drug Administration regulations and defect action levels for natural or unavoidable defects if a manufacturer wishes to use the materials in manufacturing food. Compliance with this requirement may be verified by any effective means, including purchasing the materials under a supplier's guarantee or certification, or examination of these materials for contamination.

(5) Raw materials, other ingredients, and rework shall be held in bulk, or in containers designed and constructed so as to protect against contamination and shall be held at such temperature and relative humidity and in such a manner as to prevent the food from becoming adulterated within the meaning of the act. Material scheduled for rework shall be identified as such.

(6) Frozen raw materials and other ingredients shall be kept frozen. If thawing is required prior to use, it shall be done in a manner that prevents the raw materials and other ingredients from becoming adulterated within the meaning of the act.

(7) Liquid or dry raw materials and other ingredients received and stored in bulk form shall be held in a manner that protects against contamination.

(b) *Manufacturing operations.* (1) Equipment and utensils and finished food containers shall be maintained in an acceptable condition through appropriate cleaning and sanitizing, as necessary. Insofar as necessary, equipment shall be taken apart for thorough cleaning.

(2) All food manufacturing, including packaging and storage, shall be conducted under such conditions and controls as are necessary to minimize the potential for the growth of microorganisms, or for the contamination of food. One way to comply with this requirement is careful monitoring of physical factors such as time, temperature, humidity, a_w , pH, pressure, flow rate, and manufacturing operations such as freezing, dehydration, heat processing, acidification, and refrigeration to ensure that mechanical breakdowns, time delays, temperature fluctuations, and other factors do not contribute to the decomposition or contamination of food.

(3) Food that can support the rapid growth of undesirable microorganisms, particularly those of public health significance, shall be held in a manner that prevents the food from becoming adulterated within the meaning of the act. Compliance with this

requirement may be accomplished by any effective means, including:

(i) Maintaining refrigerated foods at 45 °F (7.2 °C) or below as appropriate for the particular food involved.

(ii) Maintaining frozen foods in a frozen state.

(iii) Maintaining hot foods at 140 °F (60 °C) or above.

(iv) Heat treating acid or acidified foods to destroy mesophilic microorganisms when those foods are to be held in hermetically sealed containers at ambient temperatures.

(4) Measures such as sterilizing, irradiating, pasteurizing, freezing, refrigerating, controlling pH or controlling a_w that are taken to destroy or prevent the growth of undesirable microorganisms, particularly those of public health significance, shall be adequate under the conditions of manufacture, handling, and distribution to prevent food from being adulterated within the meaning of the act.

(5) Work-in-process shall be handled in a manner that protects against contamination.

(6) Effective measures shall be taken to protect finished food from contamination by raw materials, other ingredients, or refuse. When raw materials, other ingredients, or refuse are unprotected, they shall not be handled simultaneously in a receiving, loading, or shipping area if that handling could result in contaminated food. Food transported by conveyor shall be protected against contamination as necessary.

(7) Equipment, containers, and utensils used to convey, hold, or store raw materials, work-in-process, rework, or food shall be constructed, handled, and maintained during manufacturing or storage in a manner that protects against contamination.

(8) Effective measures shall be taken to protect against the inclusion of metal or other extraneous material in food. Compliance with this requirement may be accomplished by using sieves, traps, magnets, electronic metal detectors, or other suitable effective means.

(9) Food, raw materials, and other ingredients that are adulterated within the meaning of the act shall be disposed of in a manner that protects against the contamination of other food. If the adulterated food is capable of being reconditioned, it shall be reconditioned using a method that has been proven to be effective or it shall be reexamined and found not to be adulterated within the meaning of the act before being incorporated into other food.

(10) Mechanical manufacturing steps such as washing, peeling, trimming, cutting, sorting and inspecting, mashing, dewatering, cooling, shredding, extruding, drying, whipping, defatting, and forming shall be performed so as to protect food against contamination. Compliance with this requirement may be accomplished by providing adequate physical protection of food from contaminants that may drip, drain, or be drawn into the food. Protection may be provided by adequate cleaning and sanitizing of all food-contact surfaces, and by using time and temperature controls at and between each manufacturing step.

(11) Heat blanching, when required in the preparation of food, should be effected by heating the food to the required temperature, holding it at this temperature for the required time, and then either rapidly cooling the food or passing it to subsequent manufacturing without delay. Thermophilic growth and contamination in blanchers should be minimized by the use of adequate operating temperatures and by periodic cleaning. Where the blanched food is washed prior to filling, water used shall be safe and of adequate sanitary quality.

(12) Batters, breading, sauces, gravies, dressings, and other similar preparations shall be treated or maintained in such a manner that they are protected against contamination. Compliance with this requirement may be accomplished by any effective means, including one or more of the following:

(i) Using ingredients free of contamination.

(ii) Employing adequate heat processes where applicable.

(iii) Using adequate time and temperature controls.

(iv) Providing adequate physical protection of components from contaminants that may drip, drain, or be drawn into them.

(v) Cooling to an adequate temperature during manufacturing.

(vi) Disposing of batters at appropriate intervals to protect against the growth of microorganisms.

(13) Filling, assembling, packaging, and other operations shall be performed in such a way that the food is protected against contamination. Compliance with this requirement may be accomplished by any effective means, including:

(i) Use of a quality control operation in which the critical control points are identified and controlled during manufacturing.

(ii) Adequate cleaning and sanitizing of all food-contact surfaces and food containers.

(iii) Using materials for food containers and food-packaging materials that are safe and suitable, as defined in §130.3(d) of this chapter.

(iv) Providing physical protection from contamination, particularly airborne contamination.

(v) Using sanitary handling procedures.

(14) Food such as, but not limited to, dry mixes, nuts, intermediate moisture food, and dehydrated food, that relies on the control of aw for preventing the growth of undesirable microorganisms shall be processed to and maintained at a safe moisture level. Compliance with this requirement may be accomplished by any effective means, including employment of one or more of the following practices:

(i) Monitoring the aw of food.

(ii) Controlling the soluble solids-water ratio in finished food.

(iii) Protecting finished food from moisture pickup, by use of a moisture barrier or by other means, so that the aw of the food does not increase to an unsafe level.

(15) Food such as, but not limited to, acid and acidified food, that relies principally on the control of pH for preventing the growth of undesirable microorganisms shall be monitored and maintained at a pH of 4.6 or below. Compliance with this requirement may be accomplished by any effective means, including employment of one or more of the following practices:

(i) Monitoring the pH of raw materials, food in process, and finished food.

(ii) Controlling the amount of acid or acidified food added to low-acid food.

(16) When ice is used in contact with food, it shall be made from water that is safe and of adequate sanitary quality, and shall be used only if it has been manufactured in accordance with current good manufacturing practice as outlined in this part.

(17) Food-manufacturing areas and equipment used for manufacturing human food should not be used to manufacture nonhuman food-grade animal feed or inedible products, unless there is no reasonable possibility for the contamination of the human food.

[51 FR 24475, June 19, 1986, as amended at 65 FR 56479, Sept. 19, 2000]

21 CFR Part 110.93 Warehousing and distribution.

Storage and transportation of finished food shall be under conditions that will protect food against physical, chemical, and microbial contamination as well as against deterioration of the food and the container.

Subpart F [Reserved]

Subpart G—Defect Action Levels

21 CFR Part 110.110 Natural or unavoidable defects in food for human use that present no health hazard.

- (a) Some foods, even when produced under current good manufacturing practice, contain natural or unavoidable defects that at low levels are not hazardous to health. The Food and Drug Administration establishes maximum levels for these defects in foods produced under current good manufacturing practice and uses these levels in deciding whether to recommend regulatory action.
- (b) Defect action levels are established for foods whenever it is necessary and feasible to do so. These levels are subject to change upon the development of new technology or the availability of new information.
- (c) Compliance with defect action levels does not excuse violation of the requirement in section 402(a)(4) of the act that food not be prepared, packed, or held under unsanitary conditions or the requirements in this part that food manufacturers, distributors, and holders shall observe current good manufacturing practice. Evidence indicating that such a violation exists causes the food to be adulterated within the meaning of the act, even though the amounts of natural or unavoidable defects are lower than the currently established defect action levels. The manufacturer, distributor, and holder of food shall at all times utilize quality control operations that reduce natural or unavoidable defects to the lowest level currently feasible.
- (d) The mixing of a food containing defects above the current defect action level with another lot of food is not permitted and renders the final food adulterated within the meaning of the act, regardless of the defect level of the final food.
- (e) A compilation of the current defect action levels for natural or unavoidable defects in food for human use

that present no health hazard may be obtained upon request from the Center for Food Safety and Applied Nutrition (HFS-565), Food and Drug Administration, 5100 Paint Branch Pkwy., College Park, MD 20740.

[51 FR 24475, June 19, 1986, as amended at 61 FR 14480, Apr. 2, 1996; 66 FR 56035, Nov. 6, 2001]

Chapter 69.04 RCW

Intrastate Commerce in Food, Drugs and Cosmetics

(formerly food, drug, and cosmetic act)

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Notes:

Chapter 69.07 RCW does not impair authority of director or department under this chapter: RCW 69.07.160.
 Dairies and dairy products: Chapter 15.36 RCW.
 Food processing inspection account: RCW 69.07.120.
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69.04.001 Statement of purpose. This chapter is intended to enact state legislation (1) which safeguards the public health and promotes the public welfare by protecting the consuming public from (a) potential injury by product use; (b) products that are adulterated; or (c) products that have been produced under unsanitary conditions, and the purchasing public from injury by merchandising deceit flowing from intrastate commerce in food, drugs, devices, and cosmetics; and (2) which is uniform, as provided in this chapter, with the federal food, drug, and cosmetic act; and with the federal trade commission act, to the extent it expressly outlaws the false advertisement of food, drugs, devices, and cosmetics; and (3) which thus promotes uniformity of such law and its administration and enforcement, in and throughout the United States. [1991 c 162 § 1; 1945 c 257 § 2; Rem. Supp. 1945 § 6163-51.] *Notes: Conformity with federal regulations: RCW 69.04.190 and 69.04.200.*

69.04.002 Introductory. For the purposes of this chapter, terms shall apply as herein defined unless the

context clearly indicates otherwise. [1945 c 257 § 3; Rem. Supp. 1945 § 6163-52.]

69.04.003 "Federal act" defined. The term "federal act" means the federal food, drug, and cosmetic act, approved on June 25, 1938. (Title 21 U.S.C. 301 et seq.; 52 Stat. 1040 et seq.) [1945 c 257 § 4; Rem. Supp. 1945 § 6163-53.]

69.04.004 "Intrastate commerce." The term "intrastate commerce" means any and all commerce within the state of Washington and subject to the jurisdiction thereof; and includes the operation of any business or service establishment. [1945 c 257 § 5; Rem. Supp. 1945 § 6163-54.]

69.04.005 "Sale." The term "sale" means any and every sale and includes (1) manufacture, processing, packing, canning, bottling, or any other production, preparation, or putting up; (2) exposure, offer, or any other proffer; (3) holding, storing, or any other possessing; (4) dispensing, giving, delivering, serving, or any other supplying; and (5) applying, administering, or any other using. [1945 c 257 § 6; Rem. Supp. 1945 § 6163-55.]

69.04.006 "Director." The term "director" means the director of the department of agriculture of the state of Washington and his duly authorized representatives. [1945 c 257 § 7; Rem. Supp. 1945 § 6163-56.]
Director of agriculture, general duties: Chapter 43.23 RCW.

69.04.007 "Person." The term "person" includes individual, partnership, corporation, and association. [1945 c 257 § 8; Rem. Supp. 1945 § 6163-57.]

69.04.008 "Food." The term "food" means (1) articles used for food or drink for people or other animals, (2) bottled water, (3) chewing gum, and (4) articles used for components of any such article. [1992 c 34 § 2; 1945 c 257 § 9; Rem. Supp. 1945 § 6163-58.]
Severability -- 1992 c 34: See note following RCW 69.07.170.

69.04.009 "Drugs." The term "drug" means (1) articles recognized in the official United States pharmacopoeia, official homeopathic pharmacopoeia of the United States, or official national formulary, or any supplement to any of them; and (2) articles intended for use in the diagnosis, cure, mitigation, treatment, or prevention of disease in human beings or other animals; and (3) articles (other than food) intended to affect the structure or any function of the body of human beings or other animals; and (4) articles intended for use as a component of any article specified in clause (1), (2), or (3); but does not include devices or their components, parts, or

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accessories. [2009 c 549 § 1018; 1945 c 257 § 10; Rem. Supp. 1945 § 6163-59. Prior: 1907 c 211 § 2.]

69.04.010 "Device." The term "device" (except when used in RCW [69.04.016](#) and in RCW [69.04.040](#)(10), [69.04.270](#),[69.04.690](#) , and in RCW [69.04.470](#) as used in the sentence "(as compared with other words, statements, designs, or devices, in the labeling)") means instruments, apparatus, and contrivances, including their components, parts and accessories, intended (1) for use in the diagnosis, cure, mitigation, treatment, or prevention of disease in human beings or other animals; or (2) to affect the structure or any function of the body of human beings or other animals. [2009 c 549 § 1019; 1945 c 257 § 11; Rem. Supp. 1945 § 6163-60.]

69.04.011 "Cosmetic." The term "cosmetic" means (1) articles intended to be rubbed, poured, sprinkled, or sprayed on, introduced into, or otherwise applied to the human body or any part thereof for cleansing, beautifying, promoting attractiveness, or altering the appearance, and (2) articles intended for use as a component of any such article; except that such term shall not include soap. [1945 c 257 § 12; Rem. Supp. 1945 § 6163-61.]

69.04.012 "Official compendium." The term "official compendium" mean the official United States pharmacopoeia, official homeopathic pharmacopoeia of the United States, official national formulary, or any supplement to any of them. [1945 c 257 § 13; Rem. Supp. 1945 § 6163-62.]

69.04.013 "Label." The term "label" means a display of written, printed, or graphic matter upon the immediate container of any article; and a requirement made by or under authority of this chapter that any word, statement, or other information appear on the label shall not be considered to be complied with unless such word, statement, or other information also appears on the outside container or wrapper, if any there be, of the retail package of such article, or is easily legible through the outside container or wrapper. [1945 c 257 § 14; Rem. Supp. 1945 § 6163-63.]

69.04.014 "Immediate container." The term "immediate container" does not include package liners. [1945 c 257 § 15; Rem. Supp. 1945 § 6163-64.]

69.04.015 "Labeling." The term "labeling" means all labels and other written, printed, or graphic matter (1) upon any article or any of its containers or wrappers, or (2) accompanying such article. [1945 c 257 § 16; Rem. Supp. 1945 § 6163-65.]Crimes relating to labeling: Chapter [216 RCW](#), RCW [69.40.055](#).

69.04.016 "Misleading labeling or advertisement," how determined. If any article is alleged to be misbranded because the labeling is misleading, or if an

advertisement is alleged to be false because it is misleading, then in determining whether the labeling or advertisement is misleading there shall be taken into account (among other things) not only representations made or suggested by statement, word, design, device, sound, or any combination thereof, but also the extent to which the labeling or advertisement fails to reveal facts material in the light of such representations or material with respect to consequences which may result from the use of the article to which the labeling or advertisement relates under the conditions of use prescribed in the labeling or advertisement thereof or under such conditions of use as are customary or usual. [1945 c 257 § 17; Rem. Supp. 1945 § 6163-66.]Crimes relating to advertising: Chapter [204 RCW](#).

69.04.017 "Antiseptic" as germicide. The representation of a drug, in its labeling or advertisement, as an antiseptic shall be considered to be a representation that it is a germicide, except in the case of a drug purporting to be, or represented as, an antiseptic for inhibitory use as a wet dressing, ointment, dusting powder, or such other use as involves prolonged contact with the body. [1945 c 257 § 18; Rem. Supp. 1945 § 6163-67.]

69.04.018 "New drug" defined. The term "new drug" means (1) any drug the composition of which is such that such drug is not generally recognized, among experts qualified by scientific training and experience to evaluate the safety of drugs, as safe for use under the conditions prescribed, recommended, or suggested in the labeling thereof; or (2) any drug the composition of which is such that such drug, as a result of investigations to determine its safety for use under such conditions, has become so recognized, but which has not, otherwise than in such investigations, been used to a material extent or for a material time under such conditions: PROVIDED, That no drug in use on the *effective date of this chapter shall be regarded as a new drug. [1945 c 257 § 19; Rem. Supp. 1945 § 6163-68.] *Effective date -- 1945 c 257: See RCW [69.04.860](#).

69.04.019 "Advertisement." The term "advertisement" means all representations, other than by labeling, for the purpose of inducing, or which are likely to induce, directly or indirectly, the purchase of food, drugs, devices, or cosmetics. [1945 c 257 § 20; Rem. Supp. 1945 § 6163-69.]

69.04.020 "Contaminated with filth." The term "contaminated with filth" applies to any food, drug, device, or cosmetic not securely protected from dust, dirt, and as far as may be necessary by all reasonable means, from all foreign or injurious contaminations.[1945 c 257 § 21; Rem. Supp. 1945 § 6163-70.]

69.04.021 "Package." The word "package" shall include, and be construed to include, wrapped meats

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enclosed in papers or other materials as prepared by the manufacturers thereof for sale. [1963 c 198 § 8.]

69.04.022 "Pesticide chemical." The term "pesticide chemical" means any substance defined as an economic poison and/or agricultural pesticide in Title 15 RCW as now enacted or hereafter amended. [1963 c 198 § 9.]

69.04.023 "Raw agricultural commodity." The term "raw agricultural commodity" means any food in its raw or natural state, including all fruits that are washed, colored or otherwise treated in their unpeeled natural form prior to marketing. [1963 c 198 § 10.]

69.04.024 "Food additive," "safe." (1) The term "food additive" means any substance the intended use of which results or may reasonably be expected to result, directly or indirectly, in its becoming a component or otherwise affecting the characteristics of any food (including any substance intended for use in producing, manufacturing, packing, processing, preparing, treating, packaging, transporting, or holding food; and including any source of radiation intended for any such use), if such substance generally is recognized, among experts qualified by scientific training and experience to evaluate its safety, as having been adequately shown through scientific procedures (or, in the case of a substance used in food prior to January 1, 1958; through either scientific procedures or experience based on common use in food) to be unsafe under the conditions of its intended use; except that such term does not include; (a) a pesticide chemical in or on a raw agricultural commodity; or (b) a pesticide chemical to the extent that it is intended for use or is used in the production, storage, or transportation of any raw agricultural commodity; or (c) a color additive.

(2) The term "safe" as used in the food additive definition has reference to the health of human beings or animals. [2009 c 549 § 1020; 1963 c 198 § 11.]

69.04.025 "Color additive," "color." (1) The term "color additive" means a material which (a) is a dye, pigment, or other substance made by a process of synthesis or similar artifice, or extracted, isolated, or otherwise derived, with or without intermediate or final change of identity, from a vegetable, animal, mineral, or other source, and (b) when added or applied to a food is capable (alone or through reaction with other substance) of imparting color thereto; except that such term does not include any material which the director, by regulation, determines is used (or intended to be used) solely for a purpose or purposes other than coloring.

(2) The term "color" includes black, white, and intermediate grays.

(3) Nothing in subsection (1) hereof shall be construed to apply to any pesticide chemical, soil or plant nutrient, or other agricultural chemical solely because of its effect in aiding, retarding, or otherwise affecting, directly or indirectly, the growth or other natural physiological processes of produce of the soil and

thereby affecting its color, whether before or after harvest. [1963 c 198 § 12.]

69.04.040 Prohibited acts. The following acts and the causing thereof are hereby prohibited:

(1) The sale in intrastate commerce of any food, drug, device, or cosmetic that is adulterated or misbranded.

(2) The adulteration or misbranding of any food, drug, device, or cosmetic in intrastate commerce.

(3) The receipt in intrastate commerce of any food, drug, device, or cosmetic that is adulterated or misbranded, and the sale thereof in such commerce for pay or otherwise.

(4) The introduction or delivery for introduction into intrastate commerce of (a) any food in violation of RCW [69.04.350](#); or (b) any new drug in violation of RCW [69.04.570](#).

(5) The dissemination within this state, in any manner or by any means or through any medium, of any false advertisement.

(6) The refusal to permit (a) entry and the taking of a sample or specimen or the making of any investigation or examination as authorized by RCW [69.04.780](#); or (b) access to or copying of any record as authorized by RCW [69.04.810](#).

(7) The refusal to permit entry or inspection as authorized by RCW [69.04.820](#).

(8) The removal, mutilation, or violation of an embargo notice as authorized by RCW [69.04.110](#).

(9) The giving of a guaranty or undertaking in intrastate commerce, referred to in RCW [69.04.080](#), that is false.

(10) The forging, counterfeiting, simulating, or falsely representing, or without proper authority, using any mark, stamp, tag, label, or other identification device authorized or required by regulations promulgated under RCW [69.04.350](#).

(11) The alteration, mutilation, destruction, obliteration, or removal of the whole or any part of the labeling of a food, drug, device, or cosmetic, or the doing of any other act with respect to a food, drug, device, or cosmetic, or the labeling or advertisement thereof, which results in a violation of this chapter.

(12) The using in intrastate commerce, in the labeling or advertisement of any drug, of any representation or suggestion that an application with respect to such drug is effective under section 505 of the federal act or under RCW [69.04.570](#), or that such drug complies with the provisions of either such section. [1945 c 257 § 22; Rem. Supp. 1945 § 6163-71. Prior: 1917 c 168 § 1; 1907 c 211 § 1; 1901 c 94 § 1.]

69.04.050 Remedy by injunction. (1) In addition to the remedies hereinafter provided the director is hereby authorized to apply to the superior court of Thurston county for, and such court shall have jurisdiction upon prompt hearing and for cause shown to grant, a temporary or permanent injunction restraining any person from violating any provision of RCW [69.04.040](#);

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without proof that an adequate remedy at law does not exist

(2) Whenever it appears to the satisfaction of the court in the case of a newspaper, magazine, periodical, or other publication, published at regular intervals (a) that restraining the dissemination of a false advertisement in any particular issue of such publication would delay the delivery of such issue after the regular time therefor, and (b) that such delay would be due to the method by which the manufacture and distribution of such publication is customarily conducted by the publisher in accordance with sound business practice, and not to any method or device adopted for the evasion of this section or to prevent or delay the issuance of an injunction or restraining order with respect to such false advertisement or any other advertisement, the court shall exclude such issue from the operation of the restraining order or injunction. [1945 c 257 § 23; Rem. Supp. 1945 § 6163-72.] Injunctions, generally: Chapter 7.40 RCW.

69.04.060 Criminal penalty for violations. Any person who violates any provision of RCW 69.04.040 is guilty of a misdemeanor and shall on conviction thereof be subject to the following penalties:

(1) A fine of not more than two hundred dollars; or

(2) If the violation is committed after a conviction of such person under this section has become final, imprisonment for not more than thirty days, or a fine of not more than five hundred dollars, or both such imprisonment and fine. [2003 c 53 § 314; 1945 c 257 § 24; Rem. Supp. 1945 § 6163-73. Prior: 1907 c 211 § 12; 1901 c 94 § 11.] **Intent -- Effective date -- 2003 c 53:** See notes following RCW 2.48.180.

69.04.070 Additional penalty. Notwithstanding the provisions of RCW 69.04.060, a person who violates RCW 69.04.040 with intent to defraud or mislead is guilty of a misdemeanor and the penalty shall be imprisonment for not more than ninety days, or a fine of not more than one thousand dollars, or both such imprisonment and fine. [2003 c 53 § 315; 1945 c 257 § 25; Rem. Supp. 1945 § 6163-74.] **Intent -- Effective date -- 2003 c 53:** See notes following RCW 2.48.180.

69.04.080 Avoidance of penalty. No person shall be subject to the penalties of RCW 69.04.060:

(1) For having violated RCW 69.04.040(3), if he establishes that he received and sold such article in good faith, unless he refuses on request of the director to furnish the name and address of the person in the state of Washington from whom he received such article and copies of all available documents pertaining to his receipt thereof; or

(2) For having violated RCW 69.04.040 (1), (3), or (4), if he establishes a guaranty or undertaking signed by, and containing the name and address of, the person in the state of Washington from whom he received such article in good faith, to the effect that such article

complies with this chapter; or

(3) For having violated RCW 69.04.040(5), if he establishes a guaranty or undertaking signed by, and containing the name and address of, the person in the state of Washington from whom he received such advertisement in good faith, to the effect that such advertisement complies with this chapter; or

(4) For having violated RCW 69.04.040(9), if he establishes that he gave such guaranty or undertaking in good faith and in reliance on a guaranty or undertaking to him, which guaranty or undertaking was to the same effect and was signed by, and contained the name and address of, a person in the state of Washington. [1945 c 257 § 26; Rem. Supp. 1945 § 6163-75.]

69.04.090 Liability of disseminator of advertisement.

No publisher, radio broadcast licensee, advertising agency, or agency or medium for the dissemination of an advertisement, except the manufacturer, packer, distributor, or seller of the article to which the advertisement relates, shall be subject to the penalties of RCW 69.04.060 by reason of his dissemination of any false advertisement, unless he has refused on the request of the director to furnish the name and address of the manufacturer, packer, distributor, seller, or advertising agency in the state of Washington, who caused him to disseminate such false advertisement. [1945 c 257 § 27; Rem. Supp. 1945 § 6163-76.]

69.04.100 Condemnation of adulterated or misbranded article.

Whenever the director shall find in intrastate commerce an article subject to this chapter which is so adulterated or misbranded that it is unfit or unsafe for human use and its immediate condemnation is required to protect the public health, such article is hereby declared to be a nuisance and the director is hereby authorized forthwith to destroy such article or to render it unsalable for human use. [1945 c 257 § 28; Rem. Supp. 1945 § 6163-77.]

69.04.110 Embargo of articles.

Whenever the director shall find, or shall have probable cause to believe, that an article subject to this chapter is in intrastate commerce in violation of this chapter, and that its embargo under this section is required to protect the consuming or purchasing public, due to its being adulterated or misbranded, or to otherwise protect the public from injury, or possible injury, he or she is hereby authorized to affix to such article a notice of its embargo and against its sale in intrastate commerce, without permission given under this chapter. But if, after such article has been so embargoed, the director shall find that such article does not involve a violation of this chapter, such embargo shall be forthwith removed. [1991 c 162 § 3; 1975 1st ex.s. c 7 § 25; 1945 c 257 § 29; Rem. Supp. 1945 § 6163-78.] **Purpose of section:** See RCW 69.04.398.

69.04.120 Procedure on embargo. When the director has embargoed an article, he or she shall, forthwith and

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without delay and in no event later than thirty days after the affixing of notice of its embargo, petition the superior court for an order affirming the embargo. The court then has jurisdiction, for cause shown and after prompt hearing to any claimant of the embargoed article, to issue an order which directs the removal of the embargo or the destruction or the correction and release of the article. An order for destruction or correction and release shall contain such provision for the payment of pertinent court costs and fees and administrative expenses as is equitable and which the court deems appropriate in the circumstances. An order for correction and release may contain such provision for a bond as the court finds indicated in the circumstances. [1991 c 162 § 4; 1983 c 95 § 8; 1945 c 257 § 30; Rem. Supp. 1945 § 6163-79.]

69.04.123 Exception to petition requirement under RCW 69.04.120. The director need not petition the superior court as provided for in RCW 69.04.120 if the owner or claimant of such food or food products agrees in writing to the disposition of such food or food products as the director may order. [1995 c 374 § 20.] **Effective date -- 1995 c 374 §§ 1-47, 50-53, and 59-68:** See note following RCW 15.36.012.

69.04.130 Petitions may be consolidated. Two or more petitions under RCW 69.04.120, which pend at the same time and which present the same issue and claimant hereunder, shall be consolidated for simultaneous determination by one court of jurisdiction, upon application to any court of jurisdiction by the director or by such claimant. [1945 c 257 § 31; Rem. Supp. 1945 § 6163-80.]

69.04.140 Claimant entitled to sample. The claimant in any proceeding by petition under RCW 69.04.120 shall be entitled to receive a representative sample of the article subject to such proceeding, upon application to the court of jurisdiction made at any time after such petition and prior to the hearing thereon. [1945 c 257 § 32; Rem. Supp. 1945 § 6163-81.]

69.04.150 Damages not recoverable if probable cause existed. No state court shall allow the recovery of damages from administrative action for condemnation under RCW 69.04.100 or for embargo under RCW 69.04.110, if the court finds that there was probable cause for such action. [1945 c 257 § 33; Rem. Supp. 1945 § 6163-82.]

69.04.160 Prosecutions. (1) It shall be the duty of each state attorney, county attorney, or city attorney to whom the director reports any violation of this chapter, or regulations promulgated under it, to cause appropriate proceedings to be instituted in the proper courts, without delay, and to be duly prosecuted as prescribed by law.

(2) Before any violation of this chapter is reported by the director to any such attorney for the institution of a

criminal proceeding, the person against whom such proceeding is contemplated shall be given appropriate notice and an opportunity to present his views to the director, either orally or in writing, with regard to such contemplated proceeding. [1945 c 257 § 34; Rem. Supp. 1945 § 6163-83.]

69.04.170 Minor infractions. Nothing in this chapter shall be construed as requiring the director to report for the institution of proceedings under this chapter, minor violations of this chapter, whenever he believes that the public interest will be adequately served in the circumstances by a suitable written notice or warning. [1945 c 257 § 35; Rem. Supp. 1945 § 6163-84.]

69.04.180 Proceedings to be in name of state. All such proceedings for the enforcement, or to restrain violations, of this chapter shall be by and in the name of the state of Washington. [1945 c 257 § 36; Rem. Supp. 1945 § 6163-85.]

69.04.190 Standards may be prescribed by regulations. Whenever in the judgment of the director such action will promote honesty and fair dealing in the interest of consumers, he shall promulgate regulations fixing and establishing for any food, under its common or usual name so far as practicable, a reasonable definition and standard of identity, a reasonable standard of quality, and/or reasonable standards of fill of container. In prescribing any standard of fill of container, consideration shall be given to and due allowance shall be made for product or volume shrinkage or expansion unavoidable in good commercial practice, and need for packing and protective material. In prescribing any standard of quality for any canned fruit or canned vegetable, consideration shall be given to and due allowance shall be made for the differing characteristics of the several varieties thereof. In prescribing a definition and standard of identity for any food or class of food in which optional ingredients are permitted, the director shall, for the purpose of promoting honesty and fair dealing in the interest of consumers, designate the optional ingredients which shall be named on the label. [1945 c 257 § 37; Rem. Supp. 1945 § 6163-86. Prior: 1917 c 168 § 2.]

69.04.200 Conformance with federal standards. The definitions and standards of identity, the standards of quality and fill of container, and the label requirements prescribed by regulations promulgated under *this section shall conform, insofar as practicable, with those prescribed by regulations promulgated under section 401 of the federal act and to the definitions and standards promulgated under the meat inspection act approved March 4, 1907, as amended. [1945 c 257 § 38; Rem. Supp. 1945 § 6163-87.]***Reviser's note:** The language "this section" appears in 1945 c 257 § 38 but apparently refers to 1945 c 257 § 37 codified as RCW 69.04.190.

69.04.205 Bacon — Packaging at retail to reveal quality and leanness. All packaged bacon other than

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that packaged in cans shall be offered and exposed for sale and sold, within the state of Washington only at retail in packages which permit the buyer to readily view the quality and degree of leanness of the product. [1971 c 49 § 1.]

69.04.206 Bacon — Rules, regulations and standards — Withholding packaging use — Hearing — Final determination — Appeal. The director of the department of agriculture is hereby authorized to promulgate rules, regulations, and standards for the implementation of RCW 69.04.205 through 69.04.207. If the director has reason to believe that any packaging method, package, or container in use or proposed for use with respect to the marketing of bacon is false or misleading in any particular, or does not meet the requirements of RCW 69.04.205, he may direct that such use be withheld unless the packaging method, package, or container is modified in such manner as he may prescribe so that it will not be false or misleading. If the person, firm, or corporation using or proposing to use the packaging method, package, or container does not accept the determination of the director such person, firm, or corporation may request a hearing, but the use of the packaging method, package, or container shall, if the director so directs, be withheld pending hearing and final determination by the director. Any such determination by the director shall be conclusive unless, within thirty days after receipt of notice of such final determination, the person, firm, or corporation adversely affected thereby appeals to a court of proper jurisdiction. [1971 c 49 § 2.]

69.04.207 Bacon — Effective date. RCW 69.04.205 through 69.04.207 shall take effect on January 1, 1972. [1971 c 49 § 3.]

69.04.210 Food — Adulteration by poisonous or deleterious substance. A food shall be deemed to be adulterated:

(1) If it bears or contains any poisonous or deleterious substance which may render it injurious to health; but in case the substance is not an added substance such food shall not be considered adulterated under this clause if the quantity of such substance in such food does not ordinarily render it injurious to health; or

(2)(a) If it bears or contains any added poisonous or added deleterious substance (other than one which is (i) a pesticide chemical in or on a raw agricultural commodity; (ii) a food additive, or (iii) a color additive) which is unsafe within the meaning of RCW 69.04.390, or (b) if it is a raw agricultural commodity and it bears or contains a pesticide chemical which is unsafe within the meaning of RCW 69.04.392, or (c) if it is, or it bears or contains, any food additive which is unsafe within the meaning of RCW 69.04.394: PROVIDED, That where a pesticide chemical has been used in or on a raw agricultural commodity in conformity with an exemption

granted or a tolerance prescribed under RCW 69.04.392 and such raw agricultural commodity has been subjected to processing such as canning, cooking, freezing, dehydrating, or milling, the residue of such pesticide chemical remaining in or on such processed food shall, notwithstanding the provisions of RCW 69.04.390 and 69.04.394, not be deemed unsafe if such residue in or on the raw agricultural commodity has been removed to the extent possible in good manufacturing practice and the concentration of such residue in the processed food when ready to eat is not greater than the tolerance prescribed for the raw agricultural commodity; or

(3) If it consists in whole or in part of any diseased, contaminated, filthy, putrid, or decomposed substance, or if it is otherwise unfit for food; or

(4) If it has been produced, prepared, packed, or held under insanitary conditions whereby it may have become contaminated with filth, or whereby it may have been rendered diseased, unwholesome, or injurious to health; or

(5) If it is in whole or in part the product of a diseased animal or of an animal which has died otherwise than by slaughter or which has been fed on the uncooked offal from a slaughterhouse; or

(6) If its container is composed in whole or in part of any poisonous or deleterious substance which may render the contents injurious to health; or

(7) If it has been intentionally subjected to radiation, unless the use of the radiation was in conformity with a regulation or exemption in effect pursuant to RCW 69.04.394. [1963 c 198 § 1; 1945 c 257 § 39; Rem. Supp. 1945 § 6163-88. Prior: 1923 c 36 § 1; 1907 c 211 § 3; 1901 c 94 § 3.]

69.04.220 Food — Adulteration by abstraction, addition, substitution, etc. A food shall be deemed to be adulterated (1) if any valuable constituent has been in whole or in part omitted or abstracted therefrom; or (2) if any substance has been substituted wholly or in part therefor; or (3) if damage or inferiority has been concealed in any manner; or (4) if any substance has been added thereto or mixed or packed therewith so as to increase its bulk or weight, or reduce its quality or strength, or make it appear better or of greater value than it is. [1945 c 257 § 40; Rem. Supp. 1945 § 6163-89.]

69.04.231 Food — Adulteration by color additive. A food shall be deemed to be adulterated if it is, or it bears or contains a color additive which is unsafe within the meaning of RCW 69.04.396. [1963 c 198 § 5.]

69.04.240 Confectionery — Adulteration. A food shall be deemed to be adulterated if it is confectionery and it bears or contains any alcohol from natural or artificial alcohol flavoring in excess of one percent of the weight of the confection or any nonnutritive article or substance except harmless coloring, harmless flavoring, harmless resinous glaze not in excess of four-tenths of one percent,

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natural gum, and pectin. This section shall not apply to any chewing gum by reason of its containing harmless nonnutritive masticatory substances, or to any confection permitted to be sold by an endorsement from the liquor control board under RCW 66.24.360. [2007 c 226 § 3; 1984 c 78 § 2; 1945 c 257 § 42; Rem. Supp. 1945 § 6163-91. Prior: 1923 c 36 § 1, part; 1907 c 211 § 3, part.] **Finding and declaration -- Severability -- 1984 c 78:** See notes following RCW 66.12.160.

69.04.245 Poultry — Improper use of state's geographic outline. Uncooked poultry is deemed to be misbranded if it is produced outside of this state but the label for the poultry contains the geographic outline of this state. [1989 c 257 § 2.] **Legislative findings -- 1989 c 257:** "The legislature finds that: Poultry produced in this state is known throughout the state for its high quality; and one of the sources of that quality is the proximity of production centers to retail outlets in the state. The legislature also finds that labeling which misrepresents poultry produced elsewhere as being a product of this state may lead consumers to purchase products which they would not otherwise purchase. The legislature further finds that the presence of the geographic outline of this state on a label for poultry produced outside of the state misrepresents the product as having been produced in this state." [1989 c 257 § 1.]

69.04.250 Food — Misbranding by false label, etc. A food shall be deemed to be misbranded (1) if its labeling is false or misleading in any particular; or (2) if it is offered for sale under the name of another food; or (3) if it is an imitation of another food, unless its label bears, in type of uniform size and prominence, the word "imitation" and, immediately thereafter, the name of the food imitated; or (4) if its container is so made, formed or filled as to be misleading. [1945 c 257 § 43; Rem. Supp. 1945 § 6163-92. Prior: 1923 c 36 § 2; 1907 c 211 § 4.]

69.04.260 Packaged food — Misbranding. If a food is in package form, it shall be deemed to be misbranded, unless it bears a label containing (1) the name and place of business of the manufacturer, packer, or distributor; and (2) an accurate statement of the quantity of the contents in terms of weight, measure, or numerical count: PROVIDED, That under clause (2) of this section reasonable variations shall be permitted, and exemptions as to small packages shall be established, by regulations promulgated by the director. [1945 c 257 § 44; Rem. Supp. 1945 § 6163-93.]

69.04.270 Food — Misbranding by lack of prominent label. A food shall be deemed to be misbranded if any word, statement, or other information required by or under authority of this chapter to appear on the label or labeling is not prominently placed thereon with such conspicuousness (as compared with other words, statements, designs, or devices, in 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. [1945 c 257 § 45; Rem. Supp. 1945 § 6163-94.]

69.04.280 Food — Misbranding for nonconformity with standard of identity. If a food purports to be or is represented as a food for which a definition and standard of identity has been prescribed by regulations as provided by RCW 69.04.190, it shall be deemed to be misbranded unless (1) it conforms to such definition and standard, and (2) its label bears the name of the food specified in the definition and standard, and, insofar as may be required by such regulations, the common names of optional ingredients (other than spices, flavoring, and coloring) present in such food. [1945 c 257 § 46; Rem. Supp. 1945 § 6163-95.]

69.04.290 Food — Misbranding for nonconformity with standard of quality. If a food purports to be or is represented as a food for which a standard of quality has been prescribed by regulations as provided by RCW 69.04.190, and its quality falls below such standard, it shall be deemed to be misbranded unless its label bears in such manner and form as such regulations specify, a statement that it falls below such standard. [1945 c 257 § 47; Rem. Supp. 1945 § 6163-96.]

69.04.300 Food — Misbranding for nonconformity with standard of fill. If a food purports to be or is represented as a food for which a standard or standards of fill of container have been prescribed by regulations as provided by RCW 69.04.190, and it falls below the standard of fill of container applicable thereto, it shall be deemed to be misbranded unless its label bears, in such manner and form as such regulations specify, a statement that it falls below such standard. [1945 c 257 § 48; Rem. Supp. 1945 § 6163-97.]

69.04.310 Food — Misbranding by failure to show usual name and ingredients. If a food is not subject to the provisions of RCW 69.04.280, it shall be deemed to be misbranded unless its label bears (1) the common or usual name of the food, if any there be, and (2) in case it is fabricated from two or more ingredients, the common or usual name of each such ingredient; except that spices, flavorings, and colorings, other than those sold as such, may be designated as spices, flavorings, and colorings without naming each: PROVIDED, That, to the extent that compliance with the requirements of clause (2) of this section is impracticable, or results in deception or unfair competition, exemptions shall be established by regulations promulgated by the director. [1945 c 257 § 49; Rem. Supp. 1945 § 6163-98.]

69.04.315 Halibut — Misbranding by failure to show proper name. No person shall label or offer for sale any food fish product designated as halibut, with or without additional descriptive words unless such food fish product is *Hippoglossus Hippoglossus* or *Hippoglossus Stenolepis*. Any person violating the provisions of this section shall be guilty of misbranding under the provisions of this chapter. [1967 ex.s. c 79 § 1.]

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69.04.320 Food — Misbranding by failure to show dietary properties. If a food purports to be or is represented for special dietary uses, it shall be deemed to be misbranded, unless its label bears such information concerning its vitamin, mineral and other dietary properties as is necessary in order to fully inform purchasers as to its value for such uses, as provided by regulations promulgated by the director, such regulations to conform insofar as practicable with regulations under section 403(j) of the federal act. [1945 c 257 § 50; Rem. Supp. 1945 § 6163-99.]

69.04.330 Food — Misbranding by failure to show artificial flavoring, coloring, etc. If a food bears or contains any artificial flavoring, artificial coloring, or chemical preservative, it shall be deemed to be misbranded unless it bears labeling stating that fact: PROVIDED, That to the extent that compliance with the requirements of this section is impracticable, exemptions shall be established by regulations promulgated by the director. The provisions of this section and of RCW 69.04.280 and 69.04.310, with respect to artificial coloring, shall not apply in the case of butter, cheese, or ice cream. [1945 c 257 § 51; Rem. Supp. 1945 § 6163-100.]

69.04.331 Popcorn sold by theaters or commercial food service establishments — Misbranded if the use of butter or ingredients of butter-like flavoring not disclosed. (1) If a theater or other commercial food service establishment prepares and sells popcorn for human consumption, the establishment, at the point of sale, shall disclose by posting a sign in a conspicuous manner to prospective consumers a statement as to whether the butter or butter-like flavoring added to or attributed to the popcorn offered for sale is butter as defined in *RCW 15.32.010 or is some other product. If the flavoring is some other product, the establishment shall also disclose the ingredients of the product.

The director of agriculture shall adopt rules prescribing the size and content of the sign upon which the disclosure is to be made. Any popcorn sold by or offered for sale by such an establishment to a consumer in violation of this section or the rules of the director implementing this section shall be deemed to be misbranded for the purposes of this chapter.

(2) The provisions of subsection (1) of this section do not apply to packaged popcorn labeled so as to disclose ingredients as required by law for prepackaged foods. [1986 c 203 § 17.] *Reviser's note: RCW 15.32.010 was recodified as RCW 15.36.012 pursuant to 1994 c 143 § 514. Severability -- 1986 c 203: See note following RCW 15.17.230.

69.04.333 Poultry and poultry products — Label to indicate if product frozen. It shall be unlawful for any person to sell at retail or display for sale at retail any poultry and poultry products, including turkey, which has been frozen at any time, without having the package

or container in which the same is sold bear a label clearly discernible to a customer that such product has been frozen and whether or not the same has since been thawed. No such poultry or poultry product shall be sold unless in such a package or container bearing said label. [1969 ex.s. c 194 § 1.]

69.04.334 Turkeys — Label requirement as to grading. No person shall advertise for sale, sell, offer for sale or hold for sale in intrastate commerce any turkey that does not bear a label. Such label shall be properly displayed on the package if such turkey is prepackaged, or attached to the turkey if not prepackaged. Such label shall, if the turkey has been graded, state the name of the governmental agency, whether federal or state, and the grade. No turkey which has been graded may be labeled as being ungraded. Any advertisement in any media concerning the sale of turkeys shall state or set forth whether a turkey is ungraded or graded and the specific grade if graded. [1969 ex.s. c 194 § 2.]

69.04.335 RCW 69.04.333 and 69.04.334 subject to enforcement and penalty provisions of chapter. The provisions of this chapter shall be applicable to the enforcement of RCW 69.04.333 and 69.04.334 and any person violating the provisions of RCW 69.04.333 and 69.04.334 shall be subject to the applicable civil and criminal penalties for such violations as provided for in this chapter. [1969 ex.s. c 194 § 3.]

69.04.340 Natural vitamin, mineral, or dietary properties need not be shown. Nothing in this chapter shall be construed to require the labeling or advertising to indicate the natural vitamin, natural mineral, or other natural dietary properties of dairy products or other agricultural products when sold as food. [1945 c 257 § 52; Rem. Supp. 1945 § 6163-101.]

69.04.350 Permits to manufacture or process certain foods. Whenever the director finds after investigation that the distribution in intrastate commerce of any class of food may, by reason of contamination with micro-organisms during the manufacture, processing, or packing thereof in any locality, be injurious to health, and that such injurious nature cannot be adequately determined after such articles have entered intrastate commerce, he then, and in such case only, shall promulgate regulations providing for the issuance, to manufacturers, processors, or packers of such class of food in such locality, of permits to which shall be attached such conditions governing the manufacture, processing, or packing of such class of food, for such temporary period of time, as may be necessary to protect the public health; and after the effective date of such regulations, and during such temporary period, no person shall introduce or deliver for introduction into intrastate commerce, any such food manufactured, processed, or packed by any such manufacturer,

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processor, or packer unless such manufacturer, processor, or packer holds a permit issued by the director as provided by such regulations. Insofar as practicable such regulations shall conform with, shall specify the conditions prescribed by, and shall remain in effect only so long as those promulgated under section 404(a) of the federal act. [1945 c 257 § 53; Rem. Supp. 1945 § 6163-102.]

69.04.360 Suspension of permit. The director is authorized to suspend immediately upon notice any permit issued under authority of *this section, if it is found that any of the conditions of the permit have been violated. The holder of a permit so suspended shall be privileged at any time to apply for the reinstatement of such permit, and the director shall, immediately after prompt hearing and an inspection of the factory or establishment, reinstate such permit, if it is found that adequate measures have been taken to comply with and maintain the conditions of the permit, as originally issued or as amended. [1945 c 257 § 54; Rem. Supp. 1945 § 6163-103.] *Reviser's note: The language "this section" appears in 1945 c 257 § 54 but apparently refers to 1945 c 257 § 53 codified as RCW [69.04.350](#).

69.04.370 Right of access for inspection. Any officer or employee duly designated by the director shall have access to any factory or establishment, the operator of which holds a permit from the director, for the purpose of ascertaining whether or not the conditions of the permit are being complied with, and denial of access for such inspection shall be ground for suspension of the permit until such access is freely given by the operator. [1945 c 257 § 55; Rem. Supp. 1945 § 6163-104.]

69.04.380 Food exempt if in transit for completion purposes. Food which is, in accordance with the practice of the trade, to be processed, labeled, or repacked in substantial quantities at an establishment other than the establishment where it was originally processed or packed, is exempted from the affirmative labeling requirements of this chapter, while it is in transit in intrastate commerce from the one establishment to the other, if such transit is made in good faith for such completion purposes only; but it is otherwise subject to all the applicable provisions of this chapter. [1945 c 257 § 56; Rem. Supp. 1945 § 6163-105.]

69.04.390 Regulations permitting tolerance of harmful matter. Any poisonous or deleterious substance added to any food, except where such substance is required in the production thereof or cannot be avoided by good manufacturing practice, shall be deemed unsafe for purposes of the application of clause (2)(a) of RCW [69.04.210](#); but when such substance is so required or cannot be so avoided, the director shall promulgate regulations limiting the quantity therein or thereon to such extent as he finds necessary for the protection of public health, and any quantity exceeding

the limits so fixed shall also be deemed unsafe for purposes of the application of clause (2)(a) of RCW [69.04.210](#). While such a regulation is in effect limiting the quantity of any such substance in the case of any food, such food shall not, by reason of bearing or containing any added amount of such substance, be considered to be adulterated within the meaning of clause (1) of RCW [69.04.210](#). In determining the quantity of such added substance to be tolerated in or on different articles of food, the director shall take into account the extent to which the use of such substance is required or cannot be avoided in the production of each such article, and the other ways in which the consumer may be affected by the same or other poisonous or deleterious substances. [1963 c 198 § 2; 1945 c 257 § 57; Rem. Supp. 1945 § 6163-106.]

69.04.392 Regulations permitting tolerance of harmful matter — Pesticide chemicals in or on raw agricultural commodities. (1) Any poisonous or deleterious pesticide chemical, or any pesticide chemical which generally is recognized among experts qualified by scientific training and experience to evaluate the safety of pesticide chemicals as unsafe for use, added to a raw agricultural commodity, shall be deemed unsafe for the purpose of the application of clause (2) of RCW [69.04.210](#) unless:

(a) A tolerance for such pesticide chemical in or on the raw agricultural commodity has been prescribed pursuant to subsection (2) hereof and the quantity of such pesticide chemical in or on the raw agricultural commodity is within the limits of the tolerance so prescribed; or

(b) With respect to use in or on such raw agricultural commodity, the pesticide chemical has been exempted from the requirement of a tolerance pursuant to subsection (2) hereof.

While a tolerance or exemption from tolerance is in effect for a pesticide chemical with respect to any raw agricultural commodity, such raw agricultural commodity shall not, by reason of bearing or containing any added amount of such pesticide chemical, be considered to be adulterated within the meaning of clause (1) of RCW [69.04.210](#).

(2) The regulations promulgated under section 408 of the Federal Food, Drug and Cosmetic Act, as of July 1, 1975, setting forth the tolerances for pesticide chemicals in or on any raw agricultural commodity, are hereby adopted as the regulations for tolerances applicable to this chapter: PROVIDED, That the director is hereby authorized to adopt by regulation any new or future amendments to such federal regulations for tolerances, including exemption from tolerance and zero tolerances, to the extent necessary to protect the public health. The director is also authorized to issue regulations in the absence of federal regulations and to prescribe therein tolerances for pesticides, exemptions, and zero tolerances, upon his own motion or upon the petition of any interested party requesting that such a regulation be established. It shall be incumbent upon such petitioner to

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establish, by data submitted to the director, that a necessity exists for such regulation and that the effect of such regulation will not be detrimental to the public health. If the data furnished by the petitioner is not sufficient to allow the director to determine whether such a regulation should be promulgated, the director may require additional data to be submitted and failure to comply with this request shall be sufficient grounds to deny the request of the petitioner for the issuance of such regulation.

(3) In adopting any new or amended tolerances by regulation issued pursuant to this section, the director shall give appropriate consideration, among other relevant factors, to the following: (a) The purpose of this chapter being to promote uniformity of state legislation with the federal act; (b) the necessity for the production of an adequate, wholesome, and economical food supply; (c) the other ways in which the consumer may be affected by the same pesticide chemical or by other related substances that are poisonous or deleterious; and (d) the opinion of experts qualified by scientific training and experience to determine the proper tolerance to be allowed for any pesticide chemical. [1975 1st ex.s. c 7 § 26; 1963 c 198 § 3.] **Purpose of section:** See RCW [69.04.398](#).

69.04.394 Regulations permitting tolerance of harmful matter — Food additives.(1) A food additive shall, with respect to any particular use or intended use of such additives, be deemed unsafe for the purpose of the application of clause (2)(c) of RCW [69.04.210](#), unless:

(a) It and its use or intended use conform to the terms of an exemption granted, pursuant to a regulation under subsection (2) hereof providing for the exemption from the requirements of this section for any food additive, and any food bearing or containing such additive, intended solely for investigational use by qualified experts when in the director's opinion such exemption is consistent with the public health; or

(b) There is in effect, and it and its use or intended use are in conformity with a regulation issued or effective under subsection (2) hereof prescribing the conditions under which such additive may be safely used.

While such a regulation relating to a food additive is in effect, a food shall not, by reason of bearing or containing such an additive in accordance with the regulation, be considered adulterated within the meaning of clause (1) of RCW [69.04.210](#).

(2) The regulations promulgated under section 409 of the Federal Food, Drug and Cosmetic Act, as of July 1, 1975, prescribing the conditions under which such food additive may be safely used, are hereby adopted as the regulations applicable to this chapter: PROVIDED, That the director is hereby authorized to adopt by regulation any new or future amendments to the federal regulations. The director is also authorized to issue regulations in the absence of federal regulations and to prescribe the conditions under which a food additive may be safely used and exemptions where such food additive is to be used solely for investigational purposes;

either upon his or her own motion or upon the petition of any interested party requesting that such a regulation be established. It shall be incumbent upon such petitioner to establish, by data submitted to the director, that a necessity exists for such regulation and that the effect of such a regulation will not be detrimental to the public health. If the data furnished by the petitioner is not sufficient to allow the director to determine whether such a regulation should be promulgated, the director may require additional data to be submitted and failure to comply with this request shall be sufficient grounds to deny the request of the petitioner for the issuance of such a regulation.

(3) In adopting any new or amended regulations pursuant to this section, the director shall give appropriate consideration, among other relevant factors, to the following: (a) The purpose of this chapter being to promote uniformity of state legislation with the federal act; (b) the probable consumption of the additive and of any substance formed in or on food because of the use of the additive; (c) the cumulative effect of such additive in the diet of human beings or animals, taking into account any chemically or pharmacologically related substance or substances in such diet; and (d) safety factors which in the opinion of experts qualified by scientific training and experience to evaluate the safety of food additives are generally recognized as appropriate for the use of animal experimentation data. [2009 c 549 § 1021; 1975 1st ex.s. c 7 § 27; 1963 c 198 § 4.] **Purpose of section:** See RCW [69.04.398](#).

69.04.396 Regulations permitting tolerance of harmful matter — Color additives.(1) A color additive shall, with respect to any particular use (for which it is being used or intended to be used or is represented as suitable) in or on food, be deemed unsafe for the purpose of the application of RCW [69.04.231](#), unless:

(a) There is in effect, and such color additive and such use are in conformity with, a regulation issued under this section listing such additive for such use, including any provision of such regulation prescribing the conditions under which such additive may be safely used;

(b) Such additive and such use thereof conform to the terms of an exemption for experimental use which is in effect pursuant to regulation under this section.

While there are in effect regulations under this section relating to a color additive or an exemption with respect to such additive a food shall not, by reason of bearing or containing such additive in all respects in accordance with such regulations or such exemption, be considered adulterated within the meaning of clause (1) of RCW [69.04.210](#).

(2) The regulations promulgated under section 706 of the Federal Food, Drug and Cosmetic Act, as of July 1, 1975, prescribing the use or limited use of such color additive, are hereby adopted as the regulations applicable to this chapter: PROVIDED, That the director is hereby authorized to adopt by regulation any new or future amendments to the federal regulations. The

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director is also authorized to issue regulations in the absence of federal regulations and to prescribe therein the conditions under which a color additive may be safely used including exemptions for experimental purposes. Such a regulation may be issued either upon the director's own motion or upon the petition of any interested party requesting that such a regulation be established. It shall be incumbent upon such petitioner to establish, by data submitted to the director, that a necessity exists for such regulation and that the effect of such a regulation will not be detrimental to the public health. If the data furnished by the petitioner is not sufficient to allow the director to determine whether such a regulation should be promulgated, the director may require additional data to be submitted and failure to comply with this request shall be sufficient grounds to deny the request of the petitioner for the issuance of such a regulation.

(3) In adopting any new or amended regulations pursuant to this section, the director shall give appropriate consideration, among other relevant factors, to the following: (a) The purpose of this chapter being to promote uniformity of state legislation with the federal act; (b) the probable consumption of, or other relevant exposure from, the additive and of any substance formed in or on food because of the use of the additive; (c) the cumulative effect, if any, of such additive in the diet of human beings or animals, taking into account the same or any chemically or pharmacologically related substance or substances in such diet; (d) safety factors which, in the opinion of experts qualified by scientific training and experience to evaluate the safety of color additives for the use or uses for which the additive is proposed to be listed, are generally recognized as appropriate for the use of animal experimentation data; (e) the availability of any needed practicable methods of analysis for determining the identity and quantity of (i) the pure dye and all intermediates and other impurities contained in such color additives, (ii) such additive in or on any article of food, and (iii) any substance formed in or on such article because of the use of such additive; and (f) the conformity by the manufacturer with the established standards in the industry relating to the proper formation of such color additive so as to result in a finished product safe for use as a color additive. [2009 c 549 § 1022; 1975 1st ex.s. c 7 § 28; 1963 c 198 § 6.] **Purpose of section:** See RCW 69.04.398. Food -- Adulteration by color additive: RCW 69.04.231.

69.04.398 Purpose of RCW 69.04.110, 69.04.392, 69.04.394, 69.04.396 — Uniformity with federal laws and regulations — Application to production of kosher food products — Adoption of rules. (1) The purpose of RCW 69.04.110, 69.04.392, 69.04.394, and 69.04.396 is to promote uniformity of state legislation and rules with the Federal Food, Drug and Cosmetic Act 21 USC 301 et seq. and regulations adopted thereunder. In accord with such declared purpose any regulation adopted under said federal food, drug and cosmetic act

concerning food in effect on July 1, 1975, and not adopted under any other specific provision of RCW 69.04.110, 69.04.392, 69.04.394, and 69.04.396 are hereby deemed to have been adopted under the provision hereof. Further, to promote such uniformity any regulation adopted hereafter under the provisions of the federal food, drug and cosmetic act concerning food and published in the federal register shall be deemed to have been adopted under the provisions of RCW 69.04.110, 69.04.392, 69.04.394, and 69.04.396 in accord with chapter 34.05 RCW as enacted or hereafter amended. The director may, however, within thirty days of the publication of the adoption of any such regulation under the federal food, drug and cosmetic act give public notice that a hearing will be held to determine if such regulation shall not be applicable under the provisions of RCW 69.04.110, 69.04.392, 69.04.394, and 69.04.396. Such hearing shall be in accord with the requirements of chapter 34.05 RCW as enacted or hereafter amended.

(2) The provisions of subsection (1) of this section do not apply to rules adopted by the director as necessary to permit the production of kosher food products as defined in RCW 69.90.010.

(3) Notwithstanding the provisions of subsections (1) and (2) of this section the director may adopt rules necessary to carry out the provisions of this chapter. [1991 c 162 § 5; 1986 c 203 § 18; 1975 1st ex.s. c 7 § 36.] **Severability -- 1986 c 203:** See note following RCW 15.17.230.

69.04.400 Conformance with federal regulations. The regulations promulgated under RCW 69.04.390 shall conform, insofar as practicable, with those promulgated under section 406 of the federal act. [1963 c 198 § 7; 1945 c 257 § 58; Rem. Supp. 1945 § 6163-107.]

69.04.410 Drugs — Adulteration by harmful substances. A drug or device shall be deemed to be adulterated (1) if it consists in whole or in part of any filthy, putrid, or decomposed substance; or (2) if it has been produced, prepared, packed, or held under insanitary conditions whereby it may have been contaminated with filth, or whereby it may have been rendered injurious to health; or (3) if it is a drug and its container is composed in whole or in part of any poisonous or deleterious substance which may render the contents injurious to health; or (4) if it is a drug and it bears or contains, for purposes of coloring only, a coal tar color other than one that is harmless and suitable for use in drugs for such purposes, as provided by regulations promulgated under section 504 of the federal act. [1945 c 257 § 59; Rem. Supp. 1945 § 6163-108. Prior: 1923 c 36 § 1; 1907 c 211 § 3; 1901 c 94 § 3.]

69.04.420 Drugs — Adulteration for failure to comply with compendium standard. If a drug or device purports to be or is represented as a drug the name of which is recognized in an official compendium, and its strength differs from, or its quality or purity falls below,

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the standard set forth in such compendium, it shall be deemed to be adulterated. Such determination as to strength, quality or purity shall be made in accordance with the tests or methods of assay set forth in such compendium or prescribed by regulations promulgated under section 501(b) of the federal act. No drug defined in an official compendium shall be deemed to be adulterated under this section because it differs from the standard of strength, quality, or purity therefor set forth in such compendium, if its difference in strength, quality, or purity from such standard is plainly stated on its label. Whenever a drug is recognized in both the United States pharmacopoeia and the homeopathic pharmacopoeia of the United States, it shall be subject to the requirements of the United States pharmacopoeia unless it is labeled and offered for sale as a homeopathic drug, in which case it shall be subject to the provisions of the homeopathic pharmacopoeia of the United States and not to those of the United States pharmacopoeia. [1945 c 257 § 60; Rem. Supp. 1945 § 6163-109.]

69.04.430 Drugs — Adulteration for lack of represented purity or quality. If a drug or device is not subject to the provisions of RCW 69.04.420 and its strength differs from, or its purity or quality falls below, that which it purports or is represented to possess, it shall be deemed to be adulterated. [1945 c 257 § 61; Rem. Supp. 1945 § 6163-110.]

69.04.440 Drugs — Adulteration by admixture or substitution of ingredients. A drug shall be deemed to be adulterated if any substance has been (1) mixed or packed therewith so as to reduce its quality or strength or (2) substituted wholly or in part therefor. [1945 c 257 § 62; Rem. Supp. 1945 § 6163-111.]

69.04.450 Drugs — Misbranding by false labeling. A drug or device shall be deemed to be misbranded if its labeling is false or misleading in any particular. [1945 c 257 § 63; Rem. Supp. 1945 § 6163-112. Prior: 1923 c 36 § 2; 1907 c 211 § 4.]

69.04.460 Packaged drugs — Misbranding. If a drug or device is in package form, it shall be deemed to be misbranded unless it bears a label containing (1) the name and place of business of the manufacturer, packer, or distributor; and (2) an accurate statement of the quantity of the contents in terms of weight, measure, or numerical count: PROVIDED, That under clause (2) of this section reasonable variations shall be permitted, and exemptions as to small packages shall be established, by regulations promulgated by the director. [1945 c 257 § 64; Rem. Supp. 1945 § 6163-113. Prior: 1923 c 36 § 2; 1907 c 211 § 4.]

69.04.470 Drugs — Misbranding by lack of prominent label. A drug or device shall be deemed to be misbranded if any word, statement, or other information required by or under authority of this chapter to appear

on the label or labeling is not prominently placed thereon with such conspicuousness (as compared with other words, statements, designs, or devices, in 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. [1945 c 257 § 65; Rem. Supp. 1945 § 6163-114. Prior: 1923 c 36 § 2; 1907 c 211 § 4.]

69.04.480 Drugs — Misbranding for failure to state content of habit forming drug. A drug or device shall be deemed to be misbranded if it is for use by human beings and contains any quantity of the narcotic or hypnotic substance alpha eucaïne, barbituric acid, beta eucaïne, bromal, cannabis, carbromal, chloral, coca, cocaine, codeine, heroin, marijuana, morphine, opium, paraldehyde, peyote, or sulphomethane; or any chemical derivative of such substance, which derivative has been designated as habit forming by regulations promulgated under section 502(d) of the federal act; unless its label bears the name and quantity or proportion of such substance or derivative and in juxtaposition therewith the statement "Warning -- May be habit forming." [2009 c 549 § 1023; 1945 c 257 § 66; Rem. Supp. 1945 § 6163-115. Prior: 1923 c 36 § 2; 1907 c 211 § 4.]

69.04.490 Drugs — Misbranding by failure to show usual name and ingredients. If a drug is not designated solely by a name recognized in an official compendium it shall be deemed to be misbranded unless its label bears (1) the common or usual name of the drug, if such there be; and (2), in case it is fabricated from two or more ingredients, the common or usual name of each active ingredient, including the quantity, kind, and proportion of any alcohol, and also including, whether active or not, the name and quantity or proportion of any bromides, ether, chloroform, acetanilid, acetphenetidin, amidopyrine, antipyrine, atropine, hyoscine, hyoscyamine, arsenic, digitalis, glucosides, mercury, ouabain, strophanthin, strychnine, thyroid, or any derivative or preparation of any such substances, contained therein: PROVIDED, That to the extent that compliance with the requirements of clause (2) of this section is impracticable, exemptions shall be established by regulations promulgated by the director. [1945 c 257 § 67; Rem. Supp. 1945 § 6163-116. Prior: 1923 c 36 § 2; 1907 c 211 § 4.]

69.04.500 Drugs — Misbranding by failure to give directions for use and warnings. A drug or device shall be deemed to be misbranded unless its labeling bears (1) adequate directions for use; and (2) such adequate warnings against use in those pathological conditions or by children where its use may be dangerous to health, or against unsafe dosage or methods or duration of administration or application, in such manner and form, as are necessary for the protection of users: PROVIDED, That where any requirement of clause (1) of this section

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as applied to any drug or device, is not necessary for the protection of the public health, the director shall promulgate regulations exempting such drug or device from such requirements. Such regulations shall include the exemptions prescribed under section 502(f)(1) of the federal act, insofar as such exemptions are applicable hereunder. [1945 c 257 § 68; Rem. Supp. 1945 § 6163-117. Prior: 1923 c 36 § 2; 1907 c 211 § 4.]

69.04.510 Drugs — Misbranding for improper packaging and labeling. A drug or device shall be deemed to be misbranded if it purports to be a drug the name of which is recognized in an official compendium, unless it is packaged and labeled as prescribed therein: PROVIDED, That the method of packing may be modified with the consent of the director, as permitted under section 502(g) of the federal act. Whenever a drug is recognized in both the United States pharmacopoeia and the homeopathic pharmacopoeia of the United States, it shall be subject to the requirements of the United States pharmacopoeia with respect to packaging and labeling unless it is labeled and offered for sale as a homeopathic drug, in which case it shall be subject to the provisions of the homeopathic pharmacopoeia of the United States, and not to those of the United States pharmacopoeia. [1945 c 257 § 69; Rem. Supp. 1945 § 6163-118. Prior: 1923 c 36 § 2; 1907 c 211 § 4.]

69.04.520 Drugs — Misbranding for failure to show possibility of deterioration. If a drug or device has been found by the secretary of agriculture of the United States to be a drug liable to deterioration, it shall be deemed to be misbranded unless it is packaged in such form and manner, and its label bears a statement of such precautions, as required in an official compendium or by regulations promulgated under section 502(h) of the federal act for the protection of the public health. [1945 c 257 § 70; Rem. Supp. 1945 § 6163-119. Prior: 1923 c 36 § 2; 1907 c 211 § 4.]

69.04.530 Drugs — Misbranding by misleading representation. A drug shall be deemed to be misbranded if (1) its container is so made, formed, or filled as to be misleading; or (2) if it is an imitation of another drug; or (3) if it is offered for sale under the name of another drug; or (4) if it is dangerous to health when used in the dosage, or with the frequency or duration prescribed, recommended, or suggested in the labeling thereof. [1945 c 257 § 71; Rem. Supp. 1945 § 6163-120. Prior: 1923 c 36 § 2; 1907 c 211 § 4.]

69.04.540 Drugs — Misbranding by sale without prescription of drug requiring it. A drug or device shall be deemed to be misbranded if it is a drug which by label provides, or which the federal act or any applicable law requires by label to provide, in effect, that it shall be used only upon the prescription of a physician, dentist, or veterinarian, unless it is dispensed at retail on a written

prescription signed by a physician, dentist, or veterinarian, who is licensed by law to administer such a drug. [1945 c 257 § 72; Rem. Supp. 1945 § 6163-121. Prior: 1923 c 36 § 2; 1907 c 211 § 4.]

69.04.550 Drugs exempt if in transit for completion purposes. A drug or device which is, in accordance with the practice of the trade, to be processed, labeled, or repacked in substantial quantities at an establishment other than the establishment where it was originally processed or packed, is exempted from the affirmative labeling and packaging requirements of this chapter, while it is in transit in intrastate commerce from the one establishment to the other, if such transit is made in good faith for such completion purposes only; but it is otherwise subject to all the applicable provisions of this chapter. [1945 c 257 § 73; Rem. Supp. 1945 § 6163-122.]

69.04.560 Dispensing of certain drugs exempt. A drug dispensed on a written prescription signed by a physician, dentist, or veterinarian (except a drug dispensed in the course of the conduct of a business of dispensing drugs pursuant to diagnosis by mail) shall, if (1) such physician, dentist, or veterinarian is licensed by law to administer such drug, and (2) such drug bears a label containing the name and place of business of the dispenser, the serial number and date of such prescription, and the name of such physician, dentist, or veterinarian, be exempt from the requirements of RCW ~~69.04.450~~ through ~~69.04.540~~. [1945 c 257 § 74; Rem. Supp. 1945 § 6163-123.]

69.04.565 DMSO (dimethyl sulfoxide) authorized. Notwithstanding any other provision of state law, DMSO (dimethyl sulfoxide) may be introduced into intrastate commerce as long as (1) it is manufactured or distributed by persons licensed pursuant to chapter ~~18.64~~ RCW or chapter ~~18.92~~ RCW, and (2) it is used, or intended to be used, in the treatment of human beings or animals for any ailment or adverse condition: PROVIDED, That DMSO intended for topical application, consistent with rules governing purity and labeling promulgated by the state board of pharmacy, shall not be considered a legend drug and may be sold by any retailer. [1981 c 50 § 1.] DMSO use by health facilities, physicians: RCW ~~70.54.190~~.

69.04.570 Introduction of new drug. No person shall introduce or deliver for introduction into intrastate commerce any new drug which is subject to section 505 of the federal act unless an application with respect to such drug has become effective thereunder. No person shall introduce or deliver for introduction into intrastate commerce any new drug which is not subject to section 505 of the federal act, unless (1) it has been found, by appropriate tests, that such drug is not unsafe for use under the conditions prescribed, recommended, or suggested in the labeling thereof; and (2) an application has been filed under this section of this chapter with

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respect to such drug: PROVIDED, That the requirement of clause (2) shall not apply to any drug introduced into intrastate commerce at any time prior to the enactment of this chapter or introduced into interstate commerce at any time prior to the enactment of the federal act:

PROVIDED FURTHER, That if the director finds that the requirement of clause (2) as applied to any drug or class of drugs, is not necessary for the protection of the public health, he shall promulgate regulations of exemption accordingly. [1945 c 257 § 75; Rem. Supp. 1945 § 6163-124.]

69.04.580 Application for introduction. An application under RCW 69.04.570 shall be filed with the director, and subject to any waiver by the director, shall include (1) full reports of investigations which have been made to show whether or not the drug, subject to the application, is safe for use under the conditions prescribed, recommended, or suggested in the labeling thereof; (2) a full list of the articles used as components of such drug; (3) a full statement of the composition of such drug; (4) a full description of the methods used in, and the facilities and controls used for, the manufacture, processing, and packing of such drug; (5) such samples of such drug and of the articles used as components thereof as the director may require; and (6) specimens of the labeling proposed to be used for such drug. [1945 c 257 § 76; Rem. Supp. 1945 § 6163-125.]

69.04.590 Effective date of application. An application filed under RCW 69.04.570 shall become effective on the sixtieth day after the filing thereof, unless the director (1) makes such application effective prior to such day; or (2) issues an order with respect to such application pursuant to RCW 69.04.600. [1945 c 257 § 77; Rem. Supp. 1945 § 6163-126.]

69.04.600 Denial of application. If the director finds, upon the basis of the information before him and after due notice and opportunity for hearing to the applicant, that the drug, subject to the application, is not safe for use under the conditions prescribed, recommended, or suggested in the labeling thereof, he shall, prior to such effective date, issue an order refusing to permit such application to become effective and stating the findings upon which it is based. [1945 c 257 § 78; Rem. Supp. 1945 § 6163-127.]

69.04.610 Revocation of denial. An order refusing to permit an application under RCW 69.04.570 to become effective may be suspended or revoked by the director, for cause and by order stating the findings upon which it is based. [1945 c 257 § 79; Rem. Supp. 1945 § 6163-128.]

69.04.620 Service of order of denial. Orders of the director issued under RCW 69.04.600 shall be served (1) in person by a duly authorized representative of the

director or (2) by mailing the order by registered mail addressed to the applicant or respondent at his address last known to the director. [1945 c 257 § 80; Rem. Supp. 1945 § 6163-129.]

69.04.630 Drug for investigational use exempt. A drug shall be exempt from the operation of RCW 69.04.570 which is intended, and introduced or delivered for introduction into intrastate commerce, solely for investigational use by experts qualified by scientific training and experience to investigate the safety of drugs and which is plainly labeled "For investigational use only." [1945 c 257 § 81; Rem. Supp. 1945 § 6163-130.]

69.04.640 Court review of denial. The superior court of Thurston county shall have jurisdiction to review and to affirm, modify, or set aside any order issued under RCW 69.04.600, upon petition seasonably made by the person to whom the order is addressed and after prompt hearing upon due notice to both parties. [1945 c 257 § 82; Rem. Supp. 1945 § 6163-131.]

69.04.650 Dispensing of certain drugs exempt. A drug dispensed on a written prescription signed by a physician, dentist, or veterinarian (except a drug dispensed in the course of the conduct of a business of dispensing drugs pursuant to diagnosis by mail) shall, if (1) such physician, dentist, or veterinarian is licensed by law to administer such drug, and (2) such drug bears a label containing the name and place of business of the dispenser, the serial number and date of such prescription, and the name of such physician, dentist, or veterinarian, be exempt from the operation of RCW 69.04.570 through 69.04.640. [1945 c 257 § 83; Rem. Supp. 1945 § 6163-132.]

69.04.660 Federally licensed drugs exempt. The provisions of RCW 69.04.570 shall not apply to any drug which is licensed under the federal virus, serum, and toxin act of July 1, 1902; or under the federal virus, serums, toxins, antitoxins, and analogous products act of March 4, 1913. [1945 c 257 § 84; Rem. Supp. 1945 § 6163-133.]

69.04.670 Cosmetics — Adulteration by injurious substances. A cosmetic shall be deemed to be adulterated (1) if it bears or contains any poisonous or deleterious substance which may render it injurious to users under the conditions of use prescribed in the labeling thereof, or under such conditions of use as are customary or usual: PROVIDED, That this provision shall not apply to coal tar hair dye, the label of which bears the following legend conspicuously displayed thereon: "Caution -- This product contains ingredients which may cause skin irritation on certain individuals and a preliminary test according to accompanying direction should first be made. This product must not be used for dyeing the eyelashes or eyebrows; to do so may cause

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blindness.", and the labeling of which bears adequate directions for such preliminary testing. For the purposes of this paragraph and paragraph (5) the term "hair dye" shall not include eyelash dyes or eyebrow dyes; or (2) if it consists in whole or in part of any filthy, putrid, or decomposed substance; or (3) if it has been produced, prepared, packed, or held under insanitary conditions whereby it may have become contaminated with filth, or whereby it may have been rendered injurious to health; or (4) if its container is composed in whole or in part of any poisonous or deleterious substance which may render the contents injurious to health; or (5) if it is not a hair dye and it bears or contains a coal tar color other than one that is harmless and suitable for use in cosmetics, as provided by regulations promulgated under section 604 of the federal act. [1945 c 257 § 85; Rem. Supp. 1945 § 6163-134.]

69.04.680 Cosmetics — Misbranding by false label, etc. A cosmetic shall be deemed to be misbranded (1) if its labeling is false or misleading in any particular; or (2) if in package form, unless it bears a label containing (a) the name and place of business of the manufacturer, packer, or distributor; and (b) an accurate statement of the quantity of the contents in terms of weight, measure, or numerical count: PROVIDED, That under clause (b) of this section reasonable variations shall be permitted, and exemptions as to small packages shall be established, by regulations prescribed by the director. [1945 c 257 § 86; Rem. Supp. 1945 § 6163-135.]

69.04.690 Cosmetics — Misbranding by lack of prominent label. A cosmetic shall be deemed to be misbranded (1) if any word, statement, or other information required by or under authority of this chapter to appear on the label or labeling is not prominently placed thereon with such conspicuousness (as compared with other words, statements, designs, or devices, in 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; or (2) if its container is so made, formed, or filled as to be misleading. [1945 c 257 § 87; Rem. Supp. 1945 § 6163-136.]

69.04.700 Cosmetics exempt if in transit for completion purposes. A cosmetic which is, in accordance with the practice of the trade, to be processed, labeled, or repacked in substantial quantities at an establishment other than the establishment where it was originally processed or packed, is exempted from the affirmative labeling requirements of this chapter, while it is in transit in intrastate commerce from the one establishment to the other, if such transit is made in good faith for such completion purposes only; but it is otherwise subject to all the applicable provisions of this chapter. [1945 c 257 § 88; Rem. Supp. 1945 § 6163-137.]

69.04.710 Advertisement, when deemed false.

An advertisement of a food, drug, device, or cosmetic shall be deemed to be false, if it is false or misleading in any particular. [1945 c 257 § 89; Rem. Supp. 1945 § 6163-138.]

69.04.720 Advertising of cure of certain diseases deemed false. The advertisement of a drug or device representing it to have any effect in albuminuria, appendicitis, arteriosclerosis, blood poison, bone disease, Bright's disease, cancer, carbuncles, cholecystitis, diabetes, diphtheria, dropsy, erysipelas, gallstones, heart and vascular diseases, high blood pressure, mastoiditis, measles, meningitis, mumps, nephritis, otitis media, paralysis, pneumonia, poliomyelitis (infantile paralysis), prostate gland disorders, pyelitis, scarlet fever, sexual impotence, sinus infection, smallpox, tuberculosis, tumors, typhoid, uremia, *venereal disease, shall also be deemed to be false; except that no advertisement not in violation of RCW 69.04.710 shall be deemed to be false under this section if it is disseminated only to members of the medical, veterinary, dental, pharmaceutical, and other legally recognized professions dealing with the healing arts, or appears only in the scientific periodicals of these professions, or is disseminated only for the purpose of public health education by persons not commercially interested, directly or indirectly, in the sale of such drugs or devices: PROVIDED, That whenever the director determines that an advance in medical science has made any type of self-medication safe as to any of the diseases named above, the director shall by regulation authorize the advertisement of drugs having curative or therapeutic effect for such disease, subject to such conditions and restrictions as the director may deem necessary in the interest of public health: PROVIDED FURTHER, That this section shall not be construed as indicating that self-medication for diseases other than those named herein is safe or efficacious. [1945 c 257 § 90; Rem. Supp. 1945 § 6163-139.] *Reviser's note: The term "venereal disease" was changed to "sexually transmitted disease" by 1988 c 206.

69.04.730 Enforcement, where vested — Regulations. The authority to promulgate regulations for the efficient enforcement of this chapter is hereby vested in the director: PROVIDED, HOWEVER, That the director shall designate the Washington state board of pharmacy to carry out all the provisions of this chapter pertaining to drugs and cosmetics, with authority to promulgate regulations for the efficient enforcement thereof. [1945 c 257 § 91 (vetoed); 1947 c 25 (passed notwithstanding veto); Rem. Supp. 1947 § 6163-139a.]

69.04.740 Regulations to conform with federal regulations. The purpose of this chapter being to promote uniformity of state legislation with the federal act, the director is hereby authorized (1) to adopt, insofar as applicable, the regulations from time to time promulgated under the federal act; and (2) to make the regulations promulgated under this chapter conform, insofar as practicable, with those promulgated under the

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federal act. [1945 c 257 § 92; Rem. Supp. 1945 § 6163-140.]

69.04.750 Hearings. Hearings authorized or required by this chapter shall be conducted by the director or his duly authorized representative designated for the purpose. [1945 c 257 § 93; Rem. Supp. 1945 § 6163-141.]

69.04.761 Hearing on proposed regulation — Procedure. The director shall hold a public hearing upon a proposal to promulgate any new or amended regulation under this chapter. The procedure to be followed concerning such hearings shall comply in all respects with chapter 34.05 RCW (Administrative Procedure Act) as now enacted or hereafter amended. [1963 c 198 § 13.]

69.04.770 Review on petition prior to effective date. The director shall have jurisdiction to review and to affirm, modify, or set aside any order issued under *RCW 69.04.760, promulgating a new or amended regulation under this chapter, upon petition made at any time prior to the effective date of such regulation, by any person adversely affected by such order. [1945 c 257 § 95; Rem. Supp. 1945 § 6163-143.]*Reviser's note: RCW 69.04.760 was repealed by 1963 c 198 § 15. Later enactment, see RCW 69.04.761.

69.04.780 Investigations — Samples — Right of entry — Verified statements. The director shall cause the investigation and examination of food, drugs, devices, and cosmetics subject to this chapter. The director shall have the right (1) to take a sample or specimen of any such article, for examination under this chapter, upon tendering the market price therefor to the person having such article in custody; and (2) to enter any place or establishment within this state, at reasonable times, for the purpose of taking a sample or specimen of any such article, for such examination.

The director and the director's deputies, assistants, and inspectors are authorized to do all acts and things necessary to carry out the provisions of this chapter, including the taking of verified statements. Such department personnel are empowered to administer oaths of verification on the statements. [1991 c 162 § 6; 1945 c 257 § 96; Rem. Supp. 1945 § 6163-144.]

69.04.790 Owner may obtain part of sample. Where a sample or specimen of any such article is taken for examination under this chapter the director shall, upon request, provide a part thereof for examination by any person named on the label of such article, or the owner thereof, or his attorney or agent; except that the director is authorized, by regulation, to make such reasonable exceptions from, and to impose such reasonable terms and conditions relating to, the operation of this section as he finds necessary for the proper administration of the provisions of this chapter. [1945 c 257 § 97; Rem. Supp. 1945 § 6163-145.]

69.04.800 Access to records of other agencies.

For the purpose of enforcing the provisions of this chapter, pertinent records of any administrative agency of the state government shall be open to inspection by the director. [1945 c 257 § 98; Rem. Supp. 1945 § 6163-146.]

69.04.810 Access to records of intrastate carriers.

For the purpose of enforcing the provisions of this chapter, carriers engaged in intrastate commerce, and persons receiving food, drugs, devices, or cosmetics in intrastate commerce or holding such articles so received, shall, upon the request of the director, permit the director at reasonable times, to have access to and to copy all records showing the movement in intrastate commerce of any food, drug, device, or cosmetic, or the holding thereof during or after such movement, and the quantity, shipper, and consignee thereof; and it shall be unlawful for any such carrier or person to fail to permit such access to and the copying of any such records so requested when such request is accompanied by a statement in writing specifying the nature or kind of food, drug, device, or cosmetic to which such request relates: PROVIDED, That evidence obtained under this section shall not be used in a criminal prosecution of the person from whom obtained: PROVIDED FURTHER, That except for violations of RCW 69.04.955, penalties levied under RCW 69.04.980, the requirements of RCW 69.04.950 through 69.04.980, and the requirements of this section, carriers shall not be subject to the other provisions of this chapter by reason of their receipt, carriage, holding, or delivery of food, drugs, devices, or cosmetics in the usual course of business as carriers. [1990 c 202 § 9; 1945 c 257 § 99; Rem. Supp. 1945 § 6163-147.]

69.04.820 Right of entry to factories, warehouses, vehicles, etc. For the purpose of enforcing the provisions of this chapter, the director is authorized (1) to enter, at reasonable times, any factory, warehouse, or establishment subject to this chapter, or to enter any vehicle being used to transport or hold food, drugs, devices, or cosmetics in intrastate commerce; and (2) to inspect, at reasonable times, such factory, warehouse, establishment, or vehicle and all pertinent equipment, finished and unfinished materials, containers, labeling, and advertisements therein. [1945 c 257 § 100; Rem. Supp. 1945 § 6163-148.]

69.04.830 Publication of reports of judgments, orders and decrees. The director may cause to be published from time to time reports summarizing all judgments, decrees, and court orders which have been rendered under this chapter, including the nature of the charge and the disposition thereof. [1945 c 257 § 101; Rem. Supp. 1945 § 6163-149.]

69.04.840 Dissemination of information. The director may cause to be disseminated information regarding food, drugs, devices, or cosmetics in situations involving, in the opinion of the director, imminent danger to health

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or gross deception of, or fraud upon, the consumer. Nothing in this section shall be construed to prohibit the director from collecting, reporting, and illustrating the results of his examinations and investigations under this chapter. [1945 c 257 § 102; Rem. Supp. 1945 § 6163-150.]

69.04.845 Severability — 1945 c 257. If any provision of this chapter is declared unconstitutional, or the applicability thereof to any person or circumstances is held invalid, the constitutionality of the remainder of the chapter and the applicability thereof to other persons and circumstances shall not be affected thereby. [1945 c 257 § 103; Rem. Supp. 1945 § 6163-151.]

69.04.850 Construction — 1945 c 257. This chapter and the regulations promulgated hereunder shall be so interpreted and construed as to effectuate its general purpose to secure uniformity with federal acts and regulations relating to adulterating, misbranding and false advertising of food, drugs, devices, and cosmetics. [1945 c 257 § 104; Rem. Supp. 1945 § 6163-152.]

69.04.860 Effective date of chapter — 1945 c 257. This chapter shall take effect ninety days after the date of its enactment, and all state laws or parts of laws in conflict with this chapter are then repealed: PROVIDED, That the provisions of section 91 shall become effective on the enactment of this chapter, and thereafter the director is hereby authorized to conduct hearings and to promulgate regulations which shall become effective on or after the effective date of this chapter as the director shall direct: PROVIDED FURTHER, That all other provisions of this chapter to the extent that they may relate to the enforcement of such sections, shall take effect on the date of the enactment of this chapter. [1945 c 257 § 105; Rem. Supp. 1945 § 6163-153.] **Reviser's note:** 1945 c 257 § 91 referred to herein was vetoed by the governor but was subsequently reenacted as 1947 c 25 notwithstanding the veto. Section 91 is codified as RCW [69.04.730](#). For effective date of section 91 see preface 1947 session laws.

69.04.870 Short title. This chapter may be cited as the Uniform Washington Food, Drug, and Cosmetic Act. [1945 c 257 § 1; Rem. Supp. 1945 § 6163-50.]

69.04.880 Civil penalty. Whenever the director finds that a person has committed a violation of a provision of this chapter, the director may impose upon and collect from the violator a civil penalty not exceeding one thousand dollars per violation per day. Each and every such violation shall be a separate and distinct offense. Imposition of the civil penalty shall be subject to a hearing in conformance with chapter [34.05](#) RCW. [1991 c 162 § 2.]

69.04.900 Perishable packaged food — Pull date labeling — Definitions. For the purpose of RCW [69.04.900](#) through [69.04.920](#):

(1) "Perishable packaged food goods" means and includes all foods and beverages, except alcoholic

beverages, frozen foods, fresh meat, poultry and fish and a raw agricultural commodity as defined in this chapter, intended for human consumption which are canned, bottled, or packaged other than at the time and point of retail sale, which have a high risk of spoilage within a period of thirty days, and as determined by the director of the department of agriculture by rule and regulation to be perishable.

(2) "Pull date" means the latest date a packaged food product shall be offered for sale to the public.

(3) "Shelf life" means the length of time during which a packaged food product will retain its safe consumption quality if stored under proper temperature conditions.

(4) "Fish" as used in subsection (1) of this section shall mean any water breathing animals, including, but not limited to, shellfish such as lobster, clams, crab, or other mollusca which are prepared, processed, sold, or intended or offered for sale. [1974 ex.s. c 57 § 1; 1973 1st ex.s. c 112 § 1.]

69.04.905 Perishable packaged food — Pull date labeling — Required. All perishable packaged food goods with a projected shelf life of thirty days or less, which are offered for sale to the public after January 1, 1974 shall state on the package the pull date. The pull date must be stated in day, and month and be in a style and format that is readily decipherable by consumers: PROVIDED, That the director of the department of agriculture may exclude the monthly requirement on the pull date for perishable packaged food goods which have a shelf life of seven days or less. No perishable packaged food goods shall be offered for sale after the pull date, except as provided in RCW [69.04.910](#). [1974 ex.s. c 57 § 2; 1973 1st ex.s. c 112 § 2.]

69.04.910 Perishable packaged food — Pull date labeling — Selling or trading goods beyond pull date — Repackaging to substitute for original date — Exception. No person shall sell, trade or barter any perishable packaged food goods beyond the pull date appearing thereon, nor shall any person rewrap or repackage any packaged perishable food goods with the intention of placing a pull date thereon which is different from the original: PROVIDED, HOWEVER, That those packaged perishable food goods whose pull dates have expired may be sold if they are still wholesome and are without danger to health, and are clearly identified as having passed the pull date. [1973 1st ex.s. c 112 § 3.]

69.04.915 Perishable packaged food — Pull date labeling — Storage — Rules and regulations. The director of the department of agriculture shall by rule and regulation establish uniform standards for pull date labeling, and optimum storage conditions of perishable packaged food goods. In addition to his other duties the director, in consultation with the secretary of the department of health where appropriate, may promulgate such other rules and regulations as may be necessary to carry out the purposes of RCW [69.04.900](#)

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through [69.04.920](#). [1989 1st ex.s. c 9 § 225; 1973 1st ex.s. c 112 § 4.]

Effective date -- Severability -- 1989 1st ex.s. c 9: See RCW [43.70.910](#) and [43.70.920](#).

69.04.920 Perishable packaged food — Pull date labeling — Penalties. Any person convicted of a violation of RCW [69.04.905](#) or [69.04.910](#) shall be punishable by a fine not to exceed five hundred dollars. [1973 1st ex.s. c 112 § 5.]

69.04.928 Seafood labeling requirements — Pamphlet — Direct retail endorsement. The department of agriculture must develop a pamphlet that generally describes the labeling requirements for seafood, as set forth in this chapter, and provide an adequate quantity of the pamphlets to the department of fish and wildlife to distribute with the issuance of a direct retail endorsement under RCW [77.65.510](#). [2002 c 301 § 11.] **Finding -- Effective date -- 2002 c 301:** See notes following RCW [77.65.510](#).

69.04.930 Frozen fish and meat — Labeling requirements — Exceptions. It shall be unlawful for any person to sell at retail or display for sale at retail any food fish as defined in RCW [77.08.022](#) or shellfish as defined in RCW [77.08.010](#), any meat, or any meat food product which has been frozen at any time, without having the package or container in which the same is sold bear a label clearly discernible to a customer that such product has been frozen and whether or not the same has since been thawed. No such food fish or shellfish, meat or meat food product shall be sold unless in such a package or container bearing said label: PROVIDED, That this section shall not include any of the aforementioned food or food products that have been frozen prior to being smoked, cured, cooked or subjected to the heat of commercial sterilization. [2003 c 39 § 28; 1999 c 291 § 32; 1988 c 254 § 8; 1983 1st ex.s. c 46 § 179; 1975 c 39 § 1.]

69.04.932 Salmon labeling — Definitions. Unless the context clearly requires otherwise, the definitions in this section apply throughout RCW [69.04.933](#) through [69.04.935](#).

(1) "Salmon" means all species of the genus *Oncorhynchus*, except those classified as game fish in Title [77](#) RCW, and includes:

SCIENTIFIC NAME	COMMON NAME
<i>Oncorhynchus tshawytscha</i>	Chinook salmon or king salmon
<i>Oncorhynchus kisutch</i>	Coho salmon or silver salmon
<i>Oncorhynchus keta</i>	Chum salmon
<i>Oncorhynchus gorbuscha</i>	Pink salmon
<i>Oncorhynchus nerka</i>	Sockeye salmon
<i>Salmo salar</i> (in other than its landlocked form)	Atlantic salmon

(2) "Commercially caught" means salmon harvested by commercial fishers. [1993 c 282 § 2.]

Finding -- 1993 c 282: "The legislature finds that salmon consumers in Washington benefit from knowing the species and origin of the salmon they purchase. The accurate identification of such species, as well as knowledge of the country or state of origin and of whether they were caught commercially or were farm-raised, is important to consumers." [1993 c 282 § 1.]

69.04.933 Salmon labeling — Identification of species — Exceptions — Penalty. With the exception of a commercial fisher engaged in sales of fish to a fish buyer, no person may sell at wholesale or retail any fresh or frozen salmon food fish or cultured aquatic salmon without identifying the species of salmon by its common name to the buyer at the point of sale such that the buyer can make an informed decision in purchasing. A person knowingly violating this section is guilty of misbranding under this chapter. A person who receives misleading or erroneous information about the species of salmon and subsequently inaccurately identifies salmon shall not be guilty of misbranding. This section shall not apply to salmon that is minced, pulverized, coated with batter, or breaded. **Finding -- 1993 c 282:** See note following RCW [69.04.932](#).

69.04.934 Salmon labeling — Identification as farm-raised or commercially caught — Exceptions — Penalty. With the exception of a commercial fisher engaged in sales of fish to a fish buyer, no person may sell at wholesale or retail any fresh or frozen:

(1) Private sector cultured aquatic salmon without identifying the product as farm-raised salmon; or

(2) Commercially caught salmon designated as food fish under Title [77](#) RCW without identifying the product as commercially caught salmon.

Identification of the products under subsections (1) and (2) of this section shall be made to the buyer at the point of sale such that the buyer can make an informed decision in purchasing.

A person knowingly violating this section is guilty of misbranding under this chapter. A person who receives misleading or erroneous information about whether the salmon is farm-raised or commercially caught, and subsequently inaccurately identifies salmon shall not be guilty of misbranding. This section shall not apply to salmon that is minced, pulverized, coated with batter, or breaded. [2003 c 39 § 29; 1993 c 282 § 4.] **Finding -- 1993 c 282:** See note following RCW [69.04.932](#).

69.04.935 Salmon labeling — Rules for identification and enforcement. To promote honesty and fair dealing for consumers, the director, in consultation with the director of the department of fish and wildlife, shall adopt rules:

(1) Fixing and establishing a reasonable definition and standard of identity for salmon for purposes of identifying and selling salmon;

(2) Enforcing RCW [69.04.933](#) and [69.04.934](#). [1994 c 264 § 39; 1993 c 282 § 5.] **Finding -- 1993 c 282:** See note following RCW [69.04.932](#).

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69.04.940 Imported lamb products — Labeling requirements. All retail sales of fresh or frozen lamb products which are imported from another country shall be labelled with the country of origin. For the purposes of this section "imported lamb products" shall include but not be limited to, live lambs imported from another country but slaughtered in the United States. [1987 c 393 § 25.]

69.04.950 Transport of bulk foods — Definitions. The definitions in this section apply throughout RCW 69.04.950 through 69.04.980:

(1) "Food" means: (a) Any article used for food or drink for humans or used as a component of such an article; or (b) a food grade substance.

(2) "Food grade substance" means a substance which satisfies the requirements of the federal food, drug, and cosmetic act, meat inspection act, and poultry products act and rules promulgated thereunder as materials approved by the federal food and drug administration, United States department of agriculture, or United States environmental protection agency for use: (a) As an additive in food or drink for human consumption, (b) in sanitizing food or drink for human consumption, (c) in processing food or drink for human consumption, or (d) in maintaining equipment with food contact surfaces during which maintenance the substance is expected to come in contact with food or drink for human consumption.

(3) "In bulk form" means a food or substance which is not packaged or contained by anything other than the cargo carrying portion of the vehicle or vessel.

(4) "Vehicle or vessel" means a commercial vehicle or commercial vessel which has a gross weight of more than ten thousand pounds, is used to transport property, and is a motor vehicle, motor truck, trailer, railroad car, or vessel. [1990 c 202 § 1. **Advisory committee -- Report -- 1990 c 202:** "The director of agriculture and the secretary of health shall examine, in consultation with an industry advisory committee, the potential hazards that may be posed to the public health by the transportation of food in other than bulk form in intrastate commerce. The director and secretary shall report the findings to the legislature by January 1, 1992, concerning the extent of the potential hazards, the frequency of mixed shipments of packaged food and nonfood items, the manner in which mixed shipments of packaged food and nonfood items are transported, and the incidents of food contamination in Washington state within the past five years. The findings shall include recommendations, if any, for regulating the transportation of food in other than bulk form.

The director and the secretary shall establish an industry advisory committee to provide advice regarding the examination required by this section. The director and the secretary shall jointly appoint not less than nine persons to the committee. These persons shall be representatives from the manufacturing, processing, wholesaling, distributing, and retailing sectors of the food industry." [1990 c 202 § 8.]

69.04.955 Transport of bulk foods — Prohibitions — Exemption. (1) Except as provided in RCW 69.04.965 and 69.04.975, no person may transport in intrastate commerce food in bulk form in the cargo carrying portion of a vehicle or vessel that has been used for transporting in bulk form a cargo other than food.

(2) No person may transport in intrastate commerce food in bulk form in the cargo carrying portion of a

vehicle or vessel unless the vehicle or vessel is marked "Food or Food Compatible Only" in conformance with rules adopted under RCW 69.04.960.

(3) No person may transport in intrastate commerce a substance in bulk form other than food or a substance on a list adopted under RCW 69.04.960 in the cargo carrying portion of a vehicle or vessel marked "Food or Food Compatible Only."

(4) This section does not apply to the transportation of a raw agricultural commodity from the point of its production to the facility at which the commodity is first processed or packaged. [1990 c 202 § 2.]

69.04.960 Transport of bulk foods — Compatible substances — Cleaning vehicle or vessel — Vehicle or vessel marking. (1) The director of agriculture and the secretary of health shall jointly adopt by rule:

(a) A list of food compatible substances other than food that may be transported in bulk form as cargo in a vehicle or vessel that is also used, on separate occasions, to transport food in bulk form as cargo. The list shall contain those substances that the director and the secretary determine will not pose a health hazard if food in bulk form were transported in the vehicle or vessel after it transported the substance. In making this determination, the director and the secretary shall assume that some residual portion of the substance will remain in the cargo carrying portion of the vehicle or vessel when the food is transported;

(b) The procedures to be used to clean the vehicle or vessel after transporting the substance and prior to transporting the food;

(c) The form of the certificates to be used under RCW 69.04.965; and

(d) Requirements for the "Food or Food Compatible Only" marking which must be borne by a vehicle or vessel under RCW 69.04.955 or 69.04.965.

(2) In developing and adopting rules under this section and RCW 69.04.970, the director and the secretary shall consult with the secretary of transportation, the chief of the state patrol, the chair of the utilities and transportation commission, and representatives of the vehicle and vessel transportation industries, food processors, and agricultural commodity organizations. [1990 c 202 § 3.]

69.04.965 Transport of bulk foods — Transports not constituting violations. Transporting food as cargo in bulk form in intrastate commerce in a vehicle or vessel that has previously been used to transport in bulk form a cargo other than food does not constitute a violation of RCW 69.04.955 if:

(1) The cargo is a food compatible substance contained on the list adopted by the director and secretary under RCW 69.04.960;

(2) The vehicle or vessel has been cleaned as required by the rules adopted under RCW 69.04.960;

(3) The vehicle or vessel is marked "Food or Food Compatible" in conformance with rules adopted under

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RCW 69.04.960; and

(4) A certificate accompanies the vehicle or vessel when the food is transported by other than railroad car which attests, under penalty of perjury, to the fact that the vehicle or vessel has been cleaned as required by those rules and is dated and signed by the party responsible for that cleaning. Such certificates shall be maintained by the owner of the vehicle or vessel for not less than three years and shall be available for inspection concerning compliance with RCW 69.04.950 through 69.04.980. The director of agriculture and the secretary of health shall jointly adopt rules requiring such certificates for the transportation of food under this section by railroad car and requiring such certificates to be available for inspection concerning compliance with RCW 69.04.950 through 69.04.980. Forms for the certificates shall be provided by the department of agriculture. [1990 c 202 § 4.]

69.04.970 Transport of bulk foods — Substances rendering vehicle or vessel permanently unsuitable for bulk food transport — Procedures to rehabilitate vehicles and vessels. The director of agriculture and the secretary of health shall jointly adopt by rule:

(1) A list of substances which, if transported in bulk form in the cargo carrying portion of a vehicle or vessel, render the vehicle or vessel permanently unsuitable for use in transporting food in bulk form because the prospect that any residue might be present in the vehicle or vessel when it transports food poses a hazard to the public health; and

(2) Procedures to be used to rehabilitate a vehicle or vessel that has been used to transport a substance other than a substance contained on a list adopted under RCW 69.04.960 or under subsection (1) of this section. The procedures shall ensure that transporting food in the cargo carrying portion of the vehicle or vessel after its rehabilitation will not pose a health hazard. [1990 c 202 § 5.]

69.04.975 Transport of bulk foods — Rehabilitation of vehicles and vessels — Inspection — Certification — Marking — Costs. A vehicle or vessel that has been used to transport a substance other than food or a substance contained on the lists adopted by the director and secretary under RCW 69.04.960 and 69.04.970, may be rehabilitated and used to transport food only if:

(1) The vehicle or vessel is rehabilitated in accordance with the procedures established by the director and secretary in RCW 69.04.970;

(2) The vehicle or vessel is inspected by the department of agriculture, and the department determines that transporting food in the cargo carrying portion of the vehicle or vessel will not pose a health hazard;

(3) A certificate accompanies the vehicle or vessel certifying that the vehicle or vessel has been rehabilitated and inspected and is authorized to transport food, and is dated and signed by the director of

agriculture, or an authorized agent of the director. Such certificates shall be maintained for the life of the vehicle by the owner of the vehicle or vessel, and shall be available for inspection concerning compliance with RCW 69.04.950 through 69.04.980. Forms for the certificates shall be provided by the department of agriculture; and

(4) The vehicle or vessel is marked as required by RCW 69.04.955 or is marked and satisfies the requirements of RCW 69.04.965 which are not inconsistent with the rehabilitation authorized by this section.

No vehicle or vessel that has transported in bulk form a substance contained on the list adopted under RCW 69.04.970 qualifies for rehabilitation.

The cost of rehabilitation shall be borne by the vehicle or vessel owner. The director shall determine a reasonable fee to be imposed on the vehicle or vessel owner based on inspection, laboratory, and administrative costs incurred by the department in rehabilitating the vehicle or vessel. [1990 c 202 § 6.]

69.04.980 Transport of bulk foods — Penalties. A person who knowingly transports a cargo in violation of RCW 69.04.955 or who knowingly causes a cargo to be transported in violation of RCW 69.04.955 is subject to a civil penalty, as determined by the director of agriculture, for each such violation as follows:

(1) For a person's first violation or first violation in a period of five years, not more than five thousand dollars;

(2) For a person's second or subsequent violation within five years of a previous violation, not more than ten thousand dollars.

The director shall impose the penalty by an order which is subject to the provisions of chapter 34.05 RCW.

The director shall, wherever practical, secure the assistance of other public agencies, including but not limited to the department of health, the utilities and transportation commission, and the state patrol, in identifying and investigating potential violations of RCW 69.04.955. [1990 c 202 § 7.]

CHAPTER 69.07 RCW

WASHINGTON FOOD PROCESSING ACT

Sections

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69.07.920	Short title.

RCW 69.07.005 Legislative declaration. The processing of food intended for public consumption is important and vital to the health and welfare both immediate and future and is hereby declared to be a business affected with the public interest. The provisions of this chapter [1991 c 137] are enacted to safeguard the consuming public from unsafe, adulterated, or misbranded food by requiring licensing of all food processing plants as defined in this chapter and setting forth the requirements for such licensing. [1991 c 137 § 1.]

RCW 69.07.010 Definitions. For the purposes of this chapter:

- (1) "Department" means the department of agriculture of the state of Washington;
- (2) "Director" means the director of the department;
- (3) "Food" means any substance used for food or drink by any person, including ice, bottled water, and any ingredient used for components of any such substance regardless of the quantity of such component;
- (4) "Sale" means selling, offering for sale, holding for sale, preparing for sale, trading, bartering, offering a gift as an inducement for sale of, and advertising for sale in any media;

(5) "Food processing" means the handling or processing of any food in any manner in preparation for sale for human consumption: PROVIDED, That it shall not include fresh fruit or vegetables merely washed or trimmed while being prepared or packaged for sale in their natural state;

(6) "Food processing plant" includes but is not limited to any premises, plant, establishment, building, room, area, facilities and the appurtenances thereto, in whole or in part, where food is prepared, handled or processed in any manner for distribution or sale for resale by retail outlets, restaurants, and any such other facility selling or distributing to the ultimate consumer: PROVIDED, That, as set forth herein, establishments processing foods in any manner for resale shall be considered a food processing plant as to such processing;

(7) "Food service establishment" shall mean any fixed or mobile restaurant, coffee shop, cafeteria, short order cafe, luncheonette, grill, tearoom, sandwich shop, soda fountain, tavern, bar, cocktail lounge, night club, roadside stand, industrial-feeding establishment, retail grocery, retail food market, retail meat market, retail bakery, private, public, or nonprofit organization routinely serving food, catering kitchen, commissary or similar place in which food or drink is prepared for sale or for service on the premises or elsewhere, and any other eating or drinking establishment or operation where food is served or provided for the public with or without charge.

For the purpose of this chapter any custom cannery or processing plant where raw food products, food, or food products are processed for the owner thereof, or the food processing facilities are made available to the owners or persons in control of raw food products or food or food products for processing in any manner, shall be considered to be food processing plants;

(8) "Person" means an individual, partnership, corporation, or association. [1992 c 34 § 3; 1991 c 137 § 2; 1967 ex.s. c 121 § 1.] **NOTES:**

Severability--1992 c 34: See note following RCW 69.07.170.

RCW 69.07.020 Enforcement--Rules--Adoption--Contents--Standards. (1) The department shall enforce and carry out the provisions of this chapter, and may adopt the necessary rules to carry out its purposes.

(2) Such rules may include:

(a) Standards for temperature controls in the storage of foods, so as to provide proper refrigeration.

(b) Standards for temperatures at which low acid foods must be processed and the length of time such temperatures must be applied and at what pressure in the processing of such low acid foods.

(c) Standards and types of recording devices that must be used in providing records of the processing of low acid foods, and how they shall be made available to the department of agriculture for inspection.

(d) Requirements for the keeping of records of the temperatures, times and pressures at which foods were processed, or for the temperatures at which refrigerated

products were stored by the licensee and the furnishing of such records to the department.

(e) Standards that must be used to establish the temperature and purity of water used in the processing of foods. [1969 c 68 § 1; 1967 ex.s. c 121 § 2.]

RCW 69.07.040 Food processing license--Waiver if licensed under chapter 15.36 RCW--Expiration date--Application, contents--Fee. It shall be unlawful for any person to operate a food processing plant or process foods in the state without first having obtained an annual license from the department, which shall expire on a date set by rule by the director. License fees shall be prorated where necessary to accommodate staggering of expiration dates. Application for a license shall be on a form prescribed by the director and accompanied by the license fee. The license fee is determined by computing the gross annual sales for the accounting year immediately preceding the license year. If the license is for a new operator, the license fee shall be based on an estimated gross annual sales for the initial license period.

If gross annual sales are:	The license fee is:
\$0 to \$50,000	\$55.00
\$50,001 to \$500,000	\$110.00
\$500,001 to \$1,000,000	\$220.00
\$1,000,001 to \$5,000,000	\$385.00
\$5,000,001 to \$10,000,000	\$550.00
Greater than \$10,000,000	\$825.00

Such application shall include the full name of the applicant for the license and the location of the food processing plant he or she intends to operate. If such applicant is an individual, receiver, trustee, firm, partnership, association or corporation, the full name of each member of the firm or partnership, or names of the officers of the association or corporation shall be given on the application. Such application shall further state the principal business address of the applicant in the state and elsewhere and the name of a person domiciled in this state authorized to receive and accept service of summons of legal notices of all kinds for the applicant. The application shall also specify the type of food to be processed and the method or nature of processing operation or preservation of that food and any other necessary information. Upon the approval of the application by the director and compliance with the provisions of this chapter, including the applicable regulations adopted hereunder by the department, the applicant shall be issued a license or renewal thereof.

Licenses shall be issued to cover only those products, processes, and operations specified in the license application and approved for licensing. Wherever a license holder wishes to engage in processing a type of food product that is different than the type specified on the application supporting the licensee's existing license and processing that type of food product would require a major addition to or modification of the licensee's processing facilities or has a high potential for harm, the licensee shall submit an amendment to the current license application. In such a case, the licensee may engage in processing the new type of food product only after the amendment has been approved by the department.

If upon investigation by the director, it is determined that a person is processing food for retail sale and is not under permit, license, or inspection by a local health

authority, then that person may be considered a food processor and subject to the provisions of this chapter. The director may waive the licensure requirements of this chapter for a person's operations at a facility if the person has obtained a milk processing plant license under chapter 15.36 RCW to conduct the same or a similar operation at the facility. [1995 c 374 § 21. Prior: 1993 sp.s. c 19 § 11; 1993 c 212 § 2; 1992 c 160 § 3; 1991 c 137 § 3; 1988 c 5 § 1; 1969 c 68 § 2; 1967 ex.s. c 121 § 4.] **NOTES:**

Effective date--1995 c 374 §§ 1-47, 50-53, and 59-68: See note following RCW 15.36.012.

RCW 69.07.050 Renewal of license--Additional fee, when. If the application for renewal of any license provided for under this chapter is not filed prior to the expiration date as established by rule by the director, an additional fee of ten percent of the cost of the license shall be assessed and added to the original fee and shall be paid by the applicant before the renewal license shall be issued: PROVIDED, That such additional fee shall not be charged if the applicant furnishes an affidavit certifying that he or she has not operated a food processing plant or processed foods subsequent to the expiration of his or her license. [1992 c 160 § 4; 1991 c 137 § 4; 1988 c 5 § 2; 1967 ex.s. c 121 § 5.]

RCW 69.07.060 Denial, suspension or revocation of license--Grounds. The director may, subsequent to a hearing thereon, deny, suspend or revoke any license provided for in this chapter if he determines that an applicant has committed any of the following acts:

- (1) Refused, neglected or failed to comply with the provisions of this chapter, the rules and regulations adopted hereunder, or any lawful order of the director.
- (2) Refused, neglected or failed to keep and maintain records required by this chapter, or to make such records available when requested pursuant to the provisions of this chapter.
- (3) Refused the department access to any portion or area of the food processing plant for the purpose of carrying out the provisions of this chapter.
- (4) Refused the department access to any records required to be kept under the provisions of this chapter.
- (5) Refused, neglected, or failed to comply with any provisions of chapter 69.04 RCW, Washington Food, Drug, and Cosmetic Act, or any regulations adopted thereunder.

The provisions of this section requiring that a hearing be conducted before an action may be taken against a license do not apply to an action taken under RCW 69.07.065. [1991 c 137 § 5; 1979 c 154 § 19; 1967 ex.s. c 121 § 6.] **NOTES:**

Severability--1979 c 154: See note following RCW 15.49.330.

RCW 69.07.065 Suspension of license summarily--Reinstatement. (1) Whenever the director finds an establishment operating under conditions that constitute an immediate danger to public health or whenever the licensee or any employee of the licensee actively prevents the director or the director's representative, during an onsite inspection, from determining whether such a condition exists, the director may summarily suspend, pending a hearing, a license provided for in this chapter.

(2) Whenever a license is summarily suspended, the holder of the license shall be notified in writing that the

license is, upon service of the notice, immediately suspended and that prompt opportunity for a hearing will be provided.

(3) Whenever a license is summarily suspended, food processing operations shall immediately cease. However, the director may reinstate the license when the condition that caused the suspension has been abated to the director's satisfaction. [1991 c 137 § 6.]

RCW 69.07.070 Rules and regulations, hearings subject to Administrative Procedure Act. The adoption of any rules and regulations under the provisions of this chapter, or the holding of a hearing in regard to a license issued or which may be issued under the provisions of this chapter shall be subject to the applicable provisions of chapter 34.05 RCW, the Administrative Procedure Act, as enacted or hereafter amended. [1967 ex.s. c 121 § 7.]

RCW 69.07.080 Inspections by department--Access--When. For purpose of determining whether the rules adopted pursuant to RCW 69.07.020, as now or hereafter amended are complied with, the department shall have access for inspection purposes to any part, portion or area of a food processing plant, and any records required to be kept under the provisions of this chapter or rules and regulations adopted hereunder. Such inspection shall, when possible, be made during regular business hours or during any working shift of said food processing plant. The department may, however, inspect such food processing plant at any time when it has received information that an emergency affecting the public health has arisen and such food processing plant is or may be involved in the matters causing such emergency. [1969 c 68 § 3; 1967 ex.s. c 121 § 8.]

RCW 69.07.085 Sanitary certificates--Fee. The department may issue sanitary certificates to food processors under this chapter subject to such requirements as it may establish by rule. The fee for issuance shall be fifty dollars per certificate. Fees collected under this section shall be deposited in the agricultural local fund. [1995 c 374 § 23; 1988 c 254 § 9.] **NOTES:**

Effective date--1995 c 374 §§ 1-47, 50-53, and 59-68: See note following RCW 15.36.012.

RCW 69.07.095 Authority of director and personnel. The director or the director's deputies, assistants, and inspectors are authorized to do all acts and things necessary to carry out the provisions of this chapter, including the taking of verified statements. The department personnel are empowered to administer oaths of verification on the statement. [1991 c 137 § 7.]

RCW 69.07.100 Establishments exempted from provisions of chapter. The provisions of this chapter shall not apply to establishments issued a permit or licensed under the provisions of:

- (1) Chapter 69.25 RCW, the Washington wholesome eggs and egg products act;
- (2) Chapter 69.28 RCW, the Washington state honey act;
- (3) Chapter 16.49 RCW, the Meat inspection act;
- (4) Chapter 77.65 RCW, relating to the direct retail endorsement for wild-caught seafood;

(5) Title 66 RCW, relating to alcoholic beverage control; and

(6) Chapter 69.30 RCW, the Sanitary control of shellfish act. However, if any such establishments process foods not specifically provided for in the above entitled acts, such establishments shall be subject to the provisions of this chapter.

The provisions of this chapter shall not apply to restaurants or food service establishments. [2002 c 301 § 10; 1995 c 374 § 22; 1988 c 5 § 4; 1983 c 3 § 168; 1967 ex.s. c 121 § 10.] **NOTES:**

Finding--Effective date--2002 c 301: See notes following RCW 77.65.510.

Effective date--1995 c 374 §§ 1-47, 50-53, and 59-68: See note following RCW 15.36.012.

RCW 69.07.103 Chickens--Slaughter, preparation, sale--One thousand or fewer--Special, temporary permit--Rules--Fee. (1) A special, temporary permit issued by the department under this section is required for the slaughter and preparation of one thousand or fewer pastured chickens in a calendar year by the agricultural producer of the chickens for the sale of whole raw chickens by the producer directly to the ultimate consumer at the producer's farm, and for such sale. Such activities shall not be conducted without the permit. However, if the activities are conducted under such a permit, the activities are exempted from any other licensing requirements of this chapter.

(2)(a) The department must adopt by rule requirements for a special, temporary permit for the activities described in subsection (1) of this section. The requirements must be generally patterned after those established by WAC 246-215-190 as it exists on July 27, 2003, for temporary food service establishments, but must be tailored specifically to these slaughter, preparation, and sale activities. The requirements must include, but are not limited to, those for: Cooling procedures, when applicable; sanitary facilities, equipment, and utensils; clean water; washing and other hygienic practices; and waste and wastewater disposal.

(b) The rules must also identify the length of time such a permit is valid. In determining the length of time, the department must take care to ensure that it is adequate to accommodate the seasonal nature of the permitted activities. In adopting any rule under this section, the department must also carefully consider the economic constraints on the regulated activity.

(3) The department shall conduct such inspections of the activities permitted under this section as are reasonably necessary to ensure compliance with permit requirements.

(4) The fee for a special permit issued under this section is seventy-five dollars.

(5) For the purposes of this section, "chicken" means the species *Gallus domesticus*. [2003 c 397 § 2.]

RCW 69.07.110 Enforcement of chapter. The department may use all the civil remedies provided for in chapter 69.04 RCW (The Uniform Washington Food, Drug, and Cosmetic Act) in carrying out and enforcing the provisions of this chapter. [1967 ex.s. c 121 § 11.]

RCW 69.07.120 Disposition of money into food processing inspection account. All moneys received by

the department under the provisions of this chapter shall be paid into the food processing inspection account hereby created within the agricultural local fund established in RCW 43.23.230 and shall be used solely to carry out the provisions of this chapter and chapter 69.04 RCW. [1992 c 160 § 5; 1967 ex.s. c 121 § 12.]

RCW 69.07.135 Unlawful to sell or distribute food from unlicensed processor. It shall be unlawful to resell, to offer for resale, or to distribute for resale in intrastate commerce any food processed in a food processing plant, which has not obtained a license, as provided for in this chapter, once notification by the director has been given to the person or persons reselling, offering, or distributing food for resale, that said food is from an unlicensed processing operation. [1991 c 137 § 8.]

RCW 69.07.140 Violations--Warning notice. Nothing in this chapter shall be construed as requiring the department to report for prosecution violations of this chapter when it believes that the public interest will best be served by a suitable notice of warning in writing. [1967 ex.s. c 121 § 14.]

RCW 69.07.150 Violations--Penalties. (1)(a) Except as provided in (b) of this subsection, any person violating any provision of this chapter or any rule or regulation adopted hereunder is guilty of a misdemeanor.

(b) A second or subsequent violation is a gross misdemeanor. Any offense committed more than five years after a previous conviction shall be considered a first offense.

(2) Whenever the director finds that a person has committed a violation of any of the provisions of this chapter, and that violation has not been punished pursuant to subsection (1) of this section, the director may impose upon and collect from the violator a civil penalty not exceeding one thousand dollars per violation per day. Each violation shall be a separate and distinct offense. [2003 c 53 § 316; 1991 c 137 § 9; 1967 ex.s. c 121 § 15.]

NOTES: Intent--Effective date--2003 c 53: See notes following RCW 2.48.180.

RCW 69.07.160 Authority of director and department under chapter 69.04 RCW not impaired by any provision of chapter 69.07 RCW. The authority granted to the director and to the department under the provisions of the Uniform Washington Food, Drug, and Cosmetic Act (chapter 69.04 RCW), as now or hereafter amended, shall not be deemed to be reduced or otherwise impaired as a result of any provision or provisions of the Washington Food Processing Act (chapter 69.07 RCW). [1969 c 68 § 4.]

RCW 69.07.170 Definitions. As used in RCW 69.07.180 and 69.07.190:

(1) "Artesian water" means bottled water from a well tapping a confined aquifer in which the water level stands above the water table. "Artesian water" shall meet the requirements of "natural water."

(2) "Bottled water" means water that is placed in a sealed container or package and is offered for sale for human consumption or other consumer uses.

(3) "Carbonated water" or "sparkling water" means bottled water containing carbon dioxide.

(4) "Department" means the department of agriculture.

(5) "Distilled water" means bottled water that has been produced by a process of distillation and meets the definition of purified water in the most recent edition of the United States Pharmacopeia.

(6) "Drinking water" means bottled water obtained from an approved source that has at minimum undergone treatment consisting of filtration, activated carbon or particulate, and ozonation or an equivalent disinfection process, or that meets the requirements of the federal safe drinking water act of 1974 as amended and complies with all department of health rules regarding drinking water.

(7) "Mineral water" means bottled water that contains not less than five hundred parts per million total dissolved solids. "Natural mineral water" shall meet the requirements of "natural water."

(8) "Natural water" means bottled spring, mineral, artesian, or well water that is derived from an underground formation and may be derived from a public water system as defined in RCW 70.119A.020 only if that supply has a single source such as an actual spring, artesian well, or pumped well, and has not undergone any treatment that changes its original chemical makeup except ozonation or an equivalent disinfection process.

(9) "Plant operator" means a person who owns or operates a bottled water plant.

(10) "Purified water" means bottled water produced by distillation, deionization, reverse osmosis, or other suitable process and that meets the definition of purified water in the most recent edition of the United States Pharmacopeia. Water that meets this definition and is vaporized, then condensed, may be labeled "distilled water."

(11) "Spring water" means water derived from an underground formation from which water flows naturally to the surface of the earth. "Spring water" shall meet the requirements of "natural water."

(12) "Water dealer" means a person who imports bottled water or causes bulk water to be transported for bottling for human consumption or other consumer uses.

(13) "Well water" means water from a hole bored, drilled, or otherwise constructed in the ground that taps the water of an aquifer. "Well water" shall meet the requirements of "natural water." [1992 c 34 § 1.] **NOTES:**

Severability--1992 c 34: "If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected." [1992 c 34 § 9.]

RCW 69.07.180 Bottled water labeling standards. All bottled water must conform to applicable federal and state labeling laws and be labeled in compliance with the following standards:

(1) Mineral water may be labeled "mineral water." Bottled water to which minerals are added shall be labeled so as to disclose that minerals are added, and may not be labeled "natural mineral water."

(2) Spring water may be labeled "spring water" or "natural spring water."

(3) Water containing carbon dioxide that emerges from the source and is bottled directly with its entrapped

gas or from which the gas is mechanically separated and later reintroduced at a level not higher than naturally occurring in the water may bear on its label the words "naturally carbonated" or "naturally sparkling."

(4) Bottled water that contains carbon dioxide other than that naturally occurring in the source of the product shall be labeled with the words "carbonated," "carbonation added," or "sparkling" if the carbonation is obtained from a natural or manufactured source.

(5) Well water may be labeled "well water" or "natural well water."

(6) Artesian water may be labeled "artesian water" or "natural artesian water."

(7) Purified water may be labeled "purified water" and the method of preparation shall be stated on the label, except that purified water produced by distillation may be labeled as "distilled water."

(8) Drinking water may be labeled "drinking water."

(9) The use of the word "spring," or any derivative of "spring" other than in a trademark, trade name, or company name, to describe water that is not spring water is prohibited.

(10) A product meeting more than one of the definitions in RCW 69.07.170 may be identified by any of the applicable product types defined in RCW 69.07.170, except where otherwise specifically prohibited.

(11) Supplemental printed information and graphics may appear on the label but shall not imply properties of the product or preparation methods that are not factual.

[1992 c 34 § 6.] **NOTES:**

Severability--1992 c 34: See note following RCW 69.07.170.

RCW 69.07.190 Bottled soft drinks, soda, or seltzer exempt from bottled water labeling requirements.

Bottled soft drinks, soda, or seltzer products commonly recognized as soft drinks and identified on the product identity panel with a common or usual name other than one of those specified in RCW 69.07.170 are exempt from the requirements of RCW 69.07.180. Water that is not in compliance with the requirements of RCW 69.07.180 may not be identified, labeled, or advertised as "artesian water," "bottled water," "distilled water," "natural water," "purified water," "spring water," or "well water." [1992 c 34 § 7.] **NOTES:**

Severability--1992 c 34: See note following RCW 69.07.170.

RCW 69.07.900 Chapter is cumulative and nonexclusive. The provisions of this chapter shall be cumulative and nonexclusive and shall not affect any other remedy. [1967 ex.s. c 121 § 16.]

RCW 69.07.910 Severability--1967 ex.s. c 121. If any provision of this chapter, or its application to any person or circumstance is held invalid, the remainder of the chapter, or the application of the provision to other persons or circumstances is not affected. [1967 ex.s. c 121 § 17.]

RCW 69.07.920 Short title. This chapter shall be known and designated as the Washington food processing act. [1967 ex.s. c 121 § 18.]

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WAC 16-165-100 Food establishments — Inspection criteria — Purpose.

The purpose of the following rules is to:

(1) Establish an inspection criteria and a rating system that will be used to determine whether food processing establishments which process, handle or store food in intrastate commerce, are in compliance with chapters 16.49, 69.04, 69.07 and 69.10 RCW, and regulations adopted thereunder, including Title 21 CFR.

(2) Identify steps leading to enforcement actions by the department.

(3) Establish criteria for licensing food establishments under chapters 69.07 and 69.10 RCW.

[Statutory Authority: RCW 16.49.680, 19.32.030, 69.04.730, 69.07.020 and 69.10.055. 99-13-001, § 16-165-100, filed 6/3/99, effective 7/4/99.]

WAC 16-165-110 Food processor licensing — New application — Inspection criteria.

To qualify for a new food processing plant license issued under chapter 69.07 RCW, the Washington Food Processing Act, a food processing facility must first make application to the department. After the department receives a complete application, the department will inspect the facility. The facility must be in compliance with the following requirements prior to issuance of a license:

The food processing facility must achieve a score of ninety points or higher on the preclicensing inspection AND be in compliance with licensing criteria. Refer to WAC 16-165-140 for the inspection criteria. For the purposes of licensing, a food processing facility may incur a one-point debit of a licensing criteria that has sliding scale.

[Statutory Authority: RCW 16.49.680, 19.32.030, 69.04.730, 69.07.020 and 69.10.055. 99-13-001, § 16-165-110, filed 6/3/99, effective 7/4/99.]

WAC 16-165-120 Food establishments — Definitions.

(1) Definitions for terms used in this chapter may be found in chapters 69.04, 69.07 and 69.10 RCW, and Title 21 CFR as adopted, unless otherwise provided in this chapter.

(2) For the purposes of this chapter, the following definitions apply:

(a) "Adequate" means that which is needed to accomplish the intended purpose in keeping with good public health practice.

(b) "Critical violation" means a violation of the inspection criteria that is a direct violation of RCW 69.04.040 (1), (2), (3) or (4) with respect to adulterated food or a violation that results in food adulteration that could cause injury or illness in consumers, or that has the potential to contribute to conditions resulting in such adulteration.

(c) "Department" means the department of agriculture of the state of Washington (WSDA).

(d) "Director" means the director of agriculture.

(e) "Establishment or food establishment" means any premise, plant, building, room, area, or facility which processes, prepares, handles or stores food or food products for sale in intrastate commerce including food processors, food storage warehouses, custom slaughter operations, refrigerated lockers, and dairy manufacturing plants.

(f) "Licensing criteria violation" means any violation of the inspection criteria required to be in compliance prior to the issuance of a food processor's license under chapter 69.07 RCW.

(g) "Sanitize" means to adequately treat food contact surfaces by a process that is effective in destroying vegetative cells of

microorganisms of public health significance, and in substantially reducing numbers of other undesirable microorganisms, but without adversely affecting the product or its safety for the consumer.

(h) "Significant violation" means any violation of the inspection criteria not deemed to be a critical violation as defined in WAC 16-165-140(2).

[Statutory Authority: RCW 16.49.680, 19.32.030, 69.04.730, 69.07.020 and 69.10.055. 99-13-001, § 16-165-120, filed 6/3/99, effective 7/4/99.]

WAC 16-165-130 Food establishments — Inspection criteria definitions — Interpretations.

WSDA will use the definitions and interpretations in this section to determine if a food establishment inspection complies with the inspection criteria.

(1) "**Clean and adequate protective clothing and hair restraints**" means the clothing or the outside layer of clothing, which can occasionally or incidentally contact food, either directly or indirectly, is:

(a) Clean at the start of the work shift; and

(b) Changed when the clothing becomes so soiled during the course of the work shift that contamination of food, food packaging or food contact surfaces becomes imminent; and

(c) Suitable to the specific food processing operation for protection against the contamination of food, food packaging, and food contact surfaces.

Clean and effective hair restraints, such as hairnets, or beard nets if appropriate, are worn for the protection of food from contamination. Hats, caps, scarves or other head cover are acceptable if the hair is properly contained to protect food from contamination. Hair spray and/or tying back the hair in ponytails, etc., are not considered effective hair restraints.

(2) "**Adequate washing and sanitizing of hands as necessary**" means washing and sanitizing hands thoroughly to protect against contamination of food from undesirable microorganisms in an adequate handwash facility by:

(a) Using proper handwashing methods which consist of:

(i) Applying soap to hands;

(ii) Using warm water;

(iii) Scrubbing hands thoroughly;

(iv) Rinsing and drying hands using methods that prevent food contamination;

(b) Washing hands before beginning work, after each absence from the work station, and any time hands become soiled or contaminated; and

(c) Sanitizing hands when appropriate in addition to, but not in place of, the proper handwashing methods.

(3) "**Garments and personal belongings stored appropriately; not a source of contamination**" means personal belongings and garments, either personal or plant supplied, are stored or kept separately from food processing, handling and storage operations such as in an area, locker, cupboard, or other closeable unit that is dedicated to the storing or hanging of personal belongings and clothing so not to become a source of contamination to food, food packaging or food contact surfaces; and

No food, packaging materials, utensils or equipment used in the food processing operation are kept, stored or comingled with personal

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belongings or garments.

(4) **"Processes separated as required"** means there is a separation of processes for the purpose of reducing potential contamination in food processing operations where contamination is likely to occur. One or more of the following means may accomplish this:

- (a) Location;
- (b) Time;
- (c) Partition;
- (d) Air flow;
- (e) Enclosed systems; or
- (f) Other effective method.

(5) **"Adequate light"** means a minimum of 25 foot candles at the working surfaces of food processing areas and a minimum of 10 foot candles at the floor level in all other food processing areas.

(6) **"Detergents, sanitizers and toxic materials properly identified"** means:

(a) Labeling any container containing detergent, sanitizer or toxic material with the:

- (i) Product name;
- (ii) Chemical description;
- (iii) Directions for use;
- (iv) Any required precautionary and warning statements;
- (v) First-aid instructions;
- (vi) Name and address of the manufacturer or distributor; and
- (vii) Any other additional information required by the federal Environmental Protection Agency or other laws or rules; or

(b) Small transport or use containers for detergents, sanitizers or toxic materials are used only under the following conditions:

- (i) The contents are properly identified on the container. Labeling the container with the common name is acceptable if the original storage container is on hand and properly identified;
- (ii) No food container is used as a container for detergents, sanitizers or toxic materials;
- (iii) No container used for detergents, sanitizers or toxic materials, is used as a food container.

(7) **"Product contact surfaces clean and maintained in a sanitary condition, cleaned and sanitized prior to each use or as essential"** means:

(a) Product contact surfaces of equipment, utensils, containers and other articles used in the processing of food, when its continued use is apparent, are not soiled with any residue or contaminant that could adulterate food products as defined in RCW [69.04.210](#); and

(b) Food residues are removed from food product contact surfaces frequently enough to prevent residues from becoming unwholesome or unfit for food, decomposed, filthy, putrid, or injurious to health; and

(c) The food product contact surfaces are sanitized prior to use and after cleaning.

(8) **"Product contact surfaces clean and maintained in a sanitary condition, cleaned and sanitized prior to each use or as essential: Critical violation"** means it is a critical violation if a food product contact surface comes into contact with potentially hazardous food and the surface is not sanitized after cleaning or prior to use.

Product contact surfaces that become contaminated, but are cleaned

and sanitized prior to use are not considered a critical violation.

(9) **"Nonproduct contact surfaces of equipment cleaned and maintained in a sanitary condition"** means nonproduct contact surfaces of equipment used in the processing of food are kept reasonably free from dirt, old food residues, foreign material, dust, mold, mildew, slime and other accumulations that occur because of day-to-day food processing operations.

(10) **"In-use food contact equipment and utensils appropriately stored: Protected from contamination between uses"** means the utensils used in the processing of foods, such as knives, scrapers, scoops, shovels, cutters, and other hand tools and equipment, are placed or stored in a manner to prevent food contact surfaces from being contaminated with filth. Filth includes, but is not limited to, microorganisms, unsuitable toxic chemicals, and microscopic physical contaminants.

Storage and placement of utensils or equipment in the following manner is considered inappropriate storage:

- (a) In contact with the floor, dirty equipment frames, other insanitary nonfood contact surfaces;
- (b) In contact with containers of non-potable water (other than sterilizing solutions); and
- (c) In contact with other contaminants.

(11) **"In-use food contact equipment and utensils appropriately stored: Protected from contamination between uses: Critical violation"** means that it is a critical violation when a utensil or piece of equipment is or has been stored in such a manner that it becomes obviously contaminated with filth and its continued use is apparent.

Utensils and equipment that become contaminated are not considered a critical violation if the utensils and equipment are cleaned and sanitized prior to the next use.

(12) **Water supply -- "Safe and of sanitary quality"** means the water supply used in the processing of food is potable from an approved source and is monitored in accordance with applicable laws and rules. Water from an approved source and monitored in accordance with applicable laws and rules means:

(a) Food processors who produce bottled water meet the requirements of 21 CFR, Part 129 and comply with the state department of health, division of drinking water requirements for a group A water system (chapter [246-290](#) WAC).

(b) Food processors who produce ice comply with the state department of health, division of drinking water requirements for a group A water system (chapter [246-290](#) WAC).

(c) Food processors with twenty-five or more employees and operating sixty days or more annually comply with the state department of health, division of drinking water requirements for a group A water system (chapter [246-290](#) WAC).

(d) Processors with less than twenty-five employees or operating less than sixty days annually, except single-family residences employing only household members, comply with the state department of health, division of drinking water requirements for a group B water system (chapter [246-291](#) WAC).

(e) Processors that operate from single-family residences on private water supplies meet the department of health, division of drinking water requirements for a group B water system (chapter [246-291](#) WAC) with respect to monitoring for bacteriological, chemical and physical properties. Processors that do not use water as an ingredient or incorporate water into their product need only meet the bacteriological

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testing requirements.

(f) Water used for certain purposes within the food processing operation (such as circulated water used in the washing of soil from raw agricultural commodities or fluming) is acceptable if:

- (i) The water does not impart harmful or deleterious substances or additives to food products; and
- (ii) The food products in contact with the water undergo a final potable water wash/rinse; and
- (iii) The water meets the requirements of the good manufacturing practices under 21 CFR, Part 110.

(13) "**Current satisfactory water test**" means analysis verifying the bacteriological, physical and chemical safety of the water has been conducted according to appropriate group A or B water system monitoring schedules or, in the case of bottled water operations, according to the requirements of Title 21 CFR, Part 129 and that reports of such analysis are on file at the processing facility and available for review by WSDA during routine facility inspection.

(14) "**Ice from an approved source**" means:

(a) Ice is manufactured on the premises of a food establishment with water that is safe and of sanitary quality; or

(b) Ice is supplied by an establishment that is under license and inspection of a federal, state or local government agency, and proof of the water's potability is on file with the food processing plant using the ice.

(15) "**Ice properly handled**" means ice is processed, handled and held according to sanitary practices provided in 21 CFR, Part 110, and ice used in the processing of food is protected from contamination by taking the necessary precautions during its manufacture, storage, transport and use. Necessary precautions include, but are not limited to:

(a) Storage bins and containers of water are covered;

(b) All storage and packaging containers, including ice house or storage room contact surfaces, are sanitary, readily cleanable, and do not impart deleterious materials to the ice. Wooden totes are not to be used for the transporting or holding of ice;

(c) Scoops, shovels and other utensils used in the handling of ice are in a sanitary condition, properly stored, readily cleanable, and do not impart deleterious materials to the ice;

(d) The ice does not come into contact with floor areas where foot traffic is possible; and

(e) Equipment used to manufacture ice is in a sanitary condition, readily cleanable and does not impart any deleterious or other foreign substances to the ice.

(16) "**No cross connections, no back siphonage**" means there is no backflow from or cross connection between piping systems that discharge waste water sewage and piping systems that carry water for food manufacturing. This includes any cross connection between a potable water system and:

(a) A system in which the water contains boiler additives; or

(b) A CIP (clean in place) system; or

(c) A recirculating system used to wash or flume food products, such as raw fruits or vegetables.

(17) "**Adequate floor drains and plumbing to convey wastes and sewage from the plant, into approved sewage disposal system**" means:

(a) Plumbing is designed, sized, installed and maintained in accordance with applicable state and local plumbing codes so that sewage and liquid disposable waste is readily conveyed from the plant;

(b) Floor drainage is sufficient to prevent excessive pooling of water or other disposable waste;

(c) Plumbing and drains do not provide a source of contamination to food, potable water, food contact surfaces or food packaging material or create any insanitary condition; and

(d) Sewage is disposed into a municipal sewer system or other system approved by a federal, state or local agency having jurisdiction.

(18) "**Adequate, readily accessible toilet facilities**" means:

(a) A food establishment provides its employees with toilet facilities that are located within a reasonable distance to the work area, and the toilet facilities are maintained in accordance with 21 CFR, Part 110.37, and:

(i) Toilet facilities are located on the premises of a licensed food establishment; or

(ii) If the food establishment shares space in a multiple building complex, toilet facilities are located within the complex and within a reasonable distance from the work area; or

(iii) A domestic toilet facility is sufficient if the food processing operation is a family operation where only family members are employed and if the domestic toilet facility meets applicable requirements provided in 21 CFR, Part 110.37.

(b) Outhouses, chemical toilets or other nonflush toilets may not be used in a food establishment.

(19) "**Toilets clean, in good repair, not opening directly into process areas, self-closing doors**" means toilet rooms are kept clean, free of trash and litter, in good repair and all toilet room doors are self-closing and do not open directly into a food processing area.

(20) "**Handwash facilities adequate and convenient, with hot and cold or tempered water**" means food handlers in a food establishment have access to one or more handwashing facilities with hot, cold, or tempered running water, and:

(a) There is at least one handwash facility located in the food processing area in a location convenient to each food handling area when hands come into contact with or manipulate unwrapped or unpackaged ready to eat food. (Hand sanitizing stations may be required if appropriate); or

(b) Handwash facilities are located in rest rooms or other areas in operations where food is not manipulated by hand and hands do not contact the food; or

(c) Handwash facilities are located in rest rooms or other areas and hand sanitizing stations are located in food processing areas in operations where food would normally undergo further preparation (for example washing, cleaning, cooking or other processing) either in the plant or by the consumer that would adequately eliminate physical, chemical and microbiological contaminants introduced by handling.

(21) "**Hand dips provided as necessary**" means hand sanitizing stations are provided, and properly positioned and maintained in all food operations as provided in subsection (20)(c) of this section.

(a) For the purposes of this subsection "properly positioned" means:

(i) Food handlers have ready access to hand sanitizing stations breaks and whenever necessary while working; and

(ii) At least one hand sanitizing station is inside the process room entry ways on each side of the processing table, lines

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and equipment where food is manipulated by hand, and at least one hand sanitizing station for every ten food handlers at processing tables, lines and equipment.

(b) For the purposes of this subsection "properly maintained" means sanitizing solutions are checked and recharged to a strength equal to 10 PPM chlorine or 25 PPM iodine, and changed every four hours while in use.

(c) Hand sanitizing stations are recommended for all food operations provided for in subsection (20)(c) of this section.

(22) "**Food protected from contamination in storage**" means food is stored under conditions that protect food against physical, chemical and microbial contamination, as well as against deterioration of the food and the container.

(23) "**Food protected from contamination in storage: Critical violation**" means it is a critical violation when:

(a) A storage situation allows potential contamination of products. This includes, but is not limited to, the storing of raw materials in such a fashion that they cross-contaminate finished food products, particularly ready to eat food. For example, the storage of raw fish and seafood, meat, poultry and other food which inherently contains pathogenic and spoilage microorganisms, as well as soil and other foreign material, is in direct contact with other food in the same container or in any other cross-contaminating circumstance with finished food products; or

(b) Raw materials or food products from unapproved or uncertified sources are used that are inherently associated with food-borne illnesses. Raw products include, but are not limited to:

- (i) Unpasteurized milk and dairy products;
- (ii) Unpasteurized eggs used in products which are not heated to pasteurization temperatures during processing;
- (iii) Home canned low-acid foods;
- (iv) Raw uncertified shellfish; and
- (v) Uninspected meat products.

(24) "**Adequate records maintained as required**" means all records are maintained as provided under Title 21 CFR, Part 113 Thermally Processed Low-Acid Foods Packaged in Hermetically Sealed Containers; Part 114, Acid Foods; Part 129, Bottled Water; and any other law or rule requiring recordkeeping, EXCEPT that water tests under Part 129 are covered under subsection (13) of this section, "Current satisfactory water test."

(25) "**Adequate records maintained as required: Critical violation**" means it is a critical violation when a record is not maintained on any food process and/or controls as provided for in subsection (24) of this section, or so poorly maintained that the information intended to be conveyed by the record is lacking or cannot be determined.

(26) "**Products coded as required**" means all products are coded as provided under Title 21 CFR, Part 113, Thermally Processed Low-Acid Foods Packaged in Hermetically Sealed Containers; Part 114, Acidified Foods; Part 129, Processing and Bottling of Bottled Drinking Water; and any other law or rule requiring that products be coded.

(27) "**Products coded as required: Critical violation**" means it is a critical violation when a product is not coded as required in subsection (26) of this section, or so inadequately coded with respect to the food product, the plant where manufactured, the date manufactured, time or batch manufactured, cannot be readily identified.

(28) "**Packaging material properly handled and stored**" means:

A food contact surface of food packaging material is protected from potential sources of contamination during handling and storage. This includes, but is not limited to:

- (a) Boxes, liners and other primary containers are stored off floors or other insanitary surfaces;
- (b) Top containers in a nested stack of lined or primary containers are inverted or otherwise protected;
- (c) All single service containers, caps, roll stock, liner jars, bottles, jugs and other preformed containers are stored in closed sanitary tubes, wrappings, boxes or cartons prior to use;
- (d) The forming, make-up or other package assembly is conducted in a manner that precludes contamination; and
- (e) The handling of packaging material and containers prior to filling or wrapping is conducted so not to expose them to contamination by dust, foreign material or other contaminants.

(29) "**Potentially hazardous food**" means any food, whole or in part, capable of supporting the germination, growth and/or toxin production by infectious or toxic microorganisms is at temperatures between 38°F and 145°F, and/or food is otherwise harmful to health. [Statutory Authority: RCW [16.49.680](#), [19.32.030](#), [69.04.730](#), [69.07.020](#) and [69.10.055](#), 99-13-001, § 16-165-130, filed 6/3/99, effective 7/4/99.]

16-165-140 Food establishment — Inspection criteria.

The food inspection criteria shall be in accordance with the following table for determining:

- (1) If a food establishment is in compliance with chapters [16.49](#), [69.04](#), [69.07](#) and [69.10](#) RCW, and rules adopted thereunder;
- (2) The debit value for each significant violation; and
- (3) Whether a violation is critical, or a licensing requirement:

INSPECTION CRITERIA Critical Inspection Criteria		
Criteria Item-Critical*		Licensing Requirement?
1.	Food products free from adulteration.	Yes
2.	Persons with apparent infections or communicable diseases properly restricted.	Yes
3.	Adequate washing and sanitizing of hands as necessary, gloves used in food handling sanitary conditions.	Yes
4.	Product contact surfaces clean and maintained in a sanitary condition; cleaned and sanitized prior to each use or as essential.	Yes

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Criteria Item-Critical*		Licensing Requirement?
5.	In use food contact equipment and utensils appropriately stored; protected from contamination between uses.	No
6.	Water used safe and of adequate sanitary quality; from approved source.	Yes
7.	No cross connections; no back-siphonage.	Yes
8.	Ice from approved source.	Yes
9.	Hot and cold water, under pressure, in areas where foods are processed or equipment washed.	Yes
10.	Adequate, readily accessible toilet facilities provided.	Yes
11.	No evidence of human defecation or urination about the premises.	Yes
12.	Handwash facilities adequate and convenient, including hot and cold or tempered water.	Yes
13.	Food protected from contamination in storage.	No
14.	Critical control points and factors such as time, temperature, pressure, flow rate, pH, Aw, inhibitors adequate to ensure safety of product.	Yes
15.	Process registered as required; processes approved as required.	Yes
16.	Persons involved in LACF, acidified food, pasteurized operation licensed or certified as required.	No
17.	Adequate records maintained as required.	No
18.	Products coded as required.	No
19.	Required critical control point monitoring devices such as retort thermometers, recorder/controllers, pH meters, approved, accurate and in place.	Yes
20.	Required critical control point monitoring, measurements, test, and analysis on products and containers performed as required.	No
21.	Potentially hazardous foods maintained at proper temperatures.	Yes

INSPECTION CRITERIA Significant Inspection Criteria			
Criteria Item-Significant		Debit Value	Licensing Requirement?
1.	Jewelry, watches other personal items not a source of contamination.	1	No
2.	Clean and adequate protective clothing and hair restraints.	1-2	No
3.	Use of tobacco, eating and drinking of food and beverages and gum chewing restricted to appropriate areas.	1	No
4.	Garments and personal belongings stored appropriately, not a source of potential contamination.	2	No
5.	Employee work procedures preclude contamination.	1-2	No
6.	Grounds: Free from pest attractions, breeding places, harborage, excessive dust and other contaminants.	1	No
7.	Suitable size and location, construction including walls, floors, ceiling, counters, shelving, other fixtures, smooth, readily cleanable and in good repair.	1-5	Yes
8.	Processes separated as required.	1-2	Yes
9.	No operations in domestic living or sleeping quarters (including domestic kitchens).	0	Yes
10.	Adequate light.	1-2	Yes
11.	Lights; glass over food protected; breakproof.	1	No
12.	Adequate ventilation to minimize vapors, steams, noxious fumes.	1-2	Yes
13.	Drip or condensate from ceiling, fixtures, pipes, ducts not a potential source of contamination.	1-3	No
14.	Screened or protected to exclude pests.	1-2	No
15.	Building, fixtures, facilities clean; including transport vehicles.	1-5	Yes
16.	Detergents, sanitizers, toxic materials safely used and stored.	1-3	No
17.	Detergents, sanitizers and toxic materials properly identified.	1-2	No

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	Criteria Item-Significant	Debit Value	Licensing Requirement?
18.	Product contact surfaces clean and maintained in a sanitary condition; cleaned and sanitized prior to each use or as essential.	1-2	No
19.	Non-product contact surfaces of equipment clean and maintained in a sanitary condition.	1-2	No
20.	In use food contact equipment and utensils appropriately stored; protected from contamination between uses.	1-2	No
21.	Effective measures taken to exclude pests from the facility. No harborage/breeding areas.	1-2	No
22.	Pesticides safely used and stored.	1-3	No
23.	No evidence of rodents, insects, birds or other animals.	1-5	Yes
24.	Current satisfactory water supply test.	5	Yes
25.	Water supply sufficient in quantity for intended operations.	2	Yes
26.	Adequate floor drains and plumbing to convey wastes and sewage from plant.	1-2	Yes
27.	Sewage and waste lines protected not a source of contamination.	1-2	Yes
28.	Adequate offal, rubbish and waste disposal.	1-2	Yes
29.	Toilet facilities clean and in good repair, no direct opening to process area, self-closing door.	1-2	Yes
30.	Soap and single service towels or suitable drying devices provided at handwash facilities. Adequate refuse receptacles provided.	1-2	No
31.	Readily understandable handwash signs provided at handwash facilities.	1	No
32.	Hand dips provided as necessary.	1-2	No
33.	Design, material and workmanship durable, readily cleanable and in good repair. Contact surfaces nontoxic and corrosion resistant.	1-3	Yes
34.	Design and use preclude contamination with lubricants, fuel, contaminated water, paint, rust, compressed air/gas and other	1-3	No

	contaminants.		
	Criteria Item-Significant	Debit Value	Licensing Requirement?
35.	Freezers and cold storage units equipped with adequate thermometers.	1	No
36.	Incoming raw materials, ingredients or processed food from an approved source, in an obvious sanitary condition. Items inspected on receipt, suitable for intended use, segregated as necessary and properly stored (clean storage containers, facilities, products properly covered), frozen foods stored frozen, properly thawed; ingredients properly identified; raw materials washed or cleaned as required.	1-5	No
37.	Adequate records maintained as required - Noncritical.	1	No
38.	Products coded as required - Noncritical.	1	No
39.	Required monitoring, measurements, tests, analysis on products and containers performed as required - Noncritical.	1	No
40.	No contaminating material used, stored or transported with supplies, ingredients or processed foods.	1-2	No
41.	Packing material properly handled and stored.	1	No
42.	Food products not misbranded, including pull dates.	1	Yes
43.	Cleaning operations - conducted to minimize contamination.	1-3	No

Statutory Authority: RCW [16.49.680](#), [19.32.030](#), [69.04.730](#), [69.07.020](#) and [69.10.055](#) 99-13-001, § 16-165-140, filed 6/3/99, effective 7/4/99.]

16-165-150 Food establishment inspection rating system — Inspection score.

(1) A food establishment is rated as follows at the completion of an inspection conducted by the department:

(a) A food establishment will be debited the point value assigned to the inspection item listed in WAC [16-165-140](#) for each violation found during an inspection.

(b) The sum of the points debited for an inspection are subtracted from the maximum point value of one hundred. The remaining sum is the establishment's score for that inspection.

(c) When the department on a food establishment inspection identifies a critical violation, no score will be listed unless the critical violation is satisfactorily corrected during the inspection.

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(2) An establishment is considered in substantial compliance with the inspection criteria if:

- No critical violations are found, or if critical violations are found and corrected prior to completion of the inspection; and
- The establishment's inspection score is ninety points or above.

[Statutory Authority: RCW 16.49.680, 19.32.030, 69.04.730, 69.07.020 and 69.10.055. 99-13-001, § 16-165-150, filed 6/3/99, effective 7/4/99.]

WAC 16-165-160 Food establishments — Basis for enforcement action.

(1) The department may issue a notice of correction for:

- (a) Food establishments that score less than ninety points on an inspection; or
- (b) Critical violations found during an inspection of a food establishment.

(2) The department may review and consider initiating enforcement action, such as license suspension, civil penalties, and/or other penalties provided in chapters 16.49, 69.04, 69.07, or 69.10 RCW when:

- (a) Food establishments score less than ninety points on two separate inspections within a consecutive three-year period; or
- (b) Food establishments fail to correct critical violations during an inspection.

(3) Nothing herein shall prevent the department from:

- (a) Choosing not to pursue a case administratively.
- (b) Issuing a notice of correction in lieu of pursuing administrative action.
- (c) Negotiating settlement(s) of cases on such terms and for such reasons as it deems appropriate.

[Statutory Authority: RCW 16.49.680, 19.32.030, 69.04.730, 69.07.020 and 69.10.055. 99-13-001, § 16-165-160, filed 6/3/99, effective 7/4/99.]