

NEBRASKA ADMINISTRATIVE CODE

TITLE 19 DEPARTMENT OF AGRICULTURE

CHAPTER 5 ADULTERATED FOOD PRODUCT REGULATIONS

001 Scope. These regulations implement the Nebraska Pure Food Act, Neb. Rev. Stat. §§81 2,239 to 81-2,292.

002 Adulterated Food. Food is deemed adulterated under Neb. Rev. Stat. § 81-2,282, if it contains any amount of the following substances, which may be injurious to health in any amount when added to food:

002.01 Tetrahydrocannabinols and any precursor acidic forms, and any synthetic or converted analogues or equivalents thereof, including but not limited to delta-8 Tetrahydrocannabinol (delta-8 THC), delta-9 Tetrahydrocannabinol (delta-9 THC), delta-10 Tetrahydrocannabinol (delta-10 THC), delta-11 Tetrahydrocannabinol (delta-11 THC), Tetrahydrocannabinohexol (THC-H), Tetrahydrocannabinophoral (THC-P), Tetrahydrocannabinol acetate (THC-O), Tetrahydrocannabinioctyl (THC-JD), Tetrahydrocannabutol (THC-B), Tetrahydrocannabicyclol (THC-X), exo-Tetrahydrocannabinol (exo-THC), delta-8-iso Tetrahydrocannabinol (delta-8-iso THC), delta-4(8)-iso Tetrahydrocannabinol (delta-4(8)-iso THC), delta 6a10a Tetrahydrocannabinol (delta 6a10a THC), Hexahydrocannabinol (HHC), Hexahydrocannabinol acetate (HHC-O), Hexahydrocannabiphorol (HHC-P), Hydrox-4-Phytocannabinoid (PHC), and Tetrahydrocannabinolic acid (THC-A), except as specifically authorized in the Medical Cannabis Patient Protection Act, Neb. Rev. Stat. § 71-24,103 et seq., or Medical Cannabis Regulation Act, Neb. Rev. Stat. § 71-24,106 et seq.

002.02 Kratom, including any alkaloids found in kratom, or any converted synthetic analogues or equivalents thereof, including but not limited to 7-hydroxymitragynine and mitragynine pseudoindoxyl, except as specifically authorized in the Kratom Consumer Protection Act, Neb. Rev. Stat. § 71-3801 et seq.

002.03 Psilocybin, psilocin, or any natural or synthetic analogues or equivalents thereof, including but not limited to 4-acO-DMT.

002.04 Any other controlled substances, as defined under Neb. Rev. Stat. § 28-401, not otherwise authorized by law.

003 Unapproved Food Additives. Pursuant to Neb. Rev. Stat. § 81-2,257.01 and the 2022 Recommendations of the United States Public Health Service, Food and Drug Administration, Food may not contain unapproved Food Additives or foods that are not generally recognized as safe, including limitations on allowable amounts contained in the federal regulations.

003.01 In determining whether Food is in compliance with 19 NAC 5-003 and the associated statutes, the Department, including a hearing officer, may take judicial notice of written guidance of the United States Food and Drug Administration, including warning letters or lists on official websites of the federal government. Such written guidance may be used by the Department, including a hearing officer, in making determinations under these regulations.

004 Misbranding. Food is misbranded, under Neb. Rev. Stat. § 81-2,283, if it bears a label indicating that it contains any of the prohibited substances above and gives the impression that such substances are legal food products under state or federal law.

005 Food Defined. Food means a raw, cooked, or processed edible substance, ice, beverage, or ingredient used or intended for use or for sale in whole or in part for human consumption, or chewing gum. Food includes edible gummies and tinctures intended for human consumption.

006 Immediate Hearing Defined. For purposes of Neb. Rev. Stat. § 81-2,287, immediate hearing means that anyone subject to a stop-sale order may request in writing, within fifteen (15) days after the order is issued, a date for a hearing. Requests for hearing under this provision shall be advanced on the Department's hearing docket, take precedence over hearings requested under other Acts as permitted by law, and be heard and decided by the Department as soon as reasonably practicable, except no hearing shall be held sooner than is reasonable under the circumstances.

007 Annotation Neb. Rev. Stat. §§81-2,239 to 81-2,292.