

Regulatory Services



Richard W. Clark
Director

The Division of Regulatory Services has regulatory oversight of products used by consumers of Utah agricultural products and services. Our staff prides itself in their professional and sound work to ensure a wholesome, clean and uniform service throughout all the state. In this new era of security we are dedicated to providing helpful information and trained professionals to be constantly vigilant in the safety of our food supplies.

During the past year the Division recorded successes in several areas. First, no food protection professionals were lost to other government or industry competitors. In the three years prior, we suffered a 100% turnover in our Wasatch Front staff. Second, the Division de-centralized its Salt Lake office food compliance staff, allowing them to work closer to their homes and to minimize office time. We feel this is a significant step in improving our service delivery system. Third, a complete and in-depth evaluation was conducted of the Motor Fuel Quality Laboratory and the Fuel Pump Inspection Program. We are in the process of implementing the recommendations from this evaluation. The recommendations will allow us to provide a modern service, meeting today's consumer and industry needs, and will focus our resources on the activities that are most important to meet our statutory mission. Fourth, the Division has significantly improved its ability to collect and analyze performance data in the Weights & Measures Program and in the Food Compliance Program. Our Food Safety Management System is now in the Phase 2 testing stage. Fifth, we identified a law that is no longer needed. This law, Flour and Cereal Act, was promulgated decades ago to enrich cereals and bread with necessary vitamins and nutrients not found in the average American diet at the time. These dietary deficiencies disappeared long ago. We worked with Sen. Margaret Dayton to have this unnecessary law removed from the Utah statutes in the 2007 Legislature.

The past year has seen several management challenges presented to the Division. The 2007 Legislature amended the raw milk statutes and established Cottage Food Production Operations. These laws required intensive rule making, training, and policy and program procedure development. In addition, there are on-going inspection and sampling impacts. Another challenge arose when two neighboring states stopped allowing the transportation of shellfish from Utah. This created a huge financial burden for Utah businesses who deal in shellfish. With the cooperation of the U.S. Food and Drug Administration we have been able to develop a program and qualified staff to be a member of the Conference of Interstate Shellfish Shipments. As of August 2007 the Utah products will be allowed nationally. As part of an agency reorganization, the Division was given responsibility for the Bonding & Licensing of Dairy and Produce

Dealers. This is an important program to help lessen the financial liability of Utah's dairy and produce farmers. During the year we have identified dealers who were not part of the program and have assigned our food compliance officers the task of obtaining relevant information during their inspections of food establishments. Our staff was also involved in field checks in high profile cases involving adulterated pet foods and baby spinach. Whenever there are events like these that have the potential to impact public health, the Division curtails other activities and redirects its resources to them.

The Division was proud to host several regional and national conferences this year, as follows: Western Conference for Weights & Measures (Annual Regional Conference), National Egg Regulatory Officials (Bi-Annual National Conference), National Conference of Interstate Milk Shippers (Bi-annual National Conference), and the National Conference For Weights & Measures (Annual National Conference).**MEAT COMPLIANCE PROGRAM**

The Meat Compliance Program goal is to control and limit the movement in commerce, of adulterated or misbranded meats. An additional goal is to provide accurate information concerning complex meat laws.

Utah's Meat Compliance Program was reviewed initially and then again as part of the federal government's desire to streamline the program and create consistency throughout the United States. Both reviews rated it favorably. Suggestions to utilize federal forms and procedures are under consideration. Utah's administrative procedures rules prescribe actions that may be taken in the event of non-compliance. In addition statute describes many of the penalties for non-compliance. We would welcome federal adaptation and change to reflect the current worldwide marketplace.

Meat Compliance personnel have worked with several firms who are doing complex processing of meat products. In addition, to documentation of violation, we have provided opportunities for education and training to address food safety concerns. We have also worked with local health departments to address school lunch issues at charter schools. Many charter schools were unprepared to provide lunches at their facility. We are working with them to find ways to provide wholesome and properly produced meat food products that can be served at these institutions.

Utah's population continues to diversify bringing in new customs, products and compliance issues. These challenges

require creativity and flexibility to manage. It also requires additional tools to communicate between cultures.

During the 2006 the Meat Compliance Program conducted 1720 random reviews of state businesses and 56 planned compliance reviews of previous violators of meat laws. Compliance investigations resulted in one (1) Letter of Warning being issued. Compliance officers collected more than 400 ground beef samples. The State Chemist tested the samples for fat, sulfites, and added water. The results showed a declining level of compliance due to changes in the ground beef business.

Weights and Measures Program

The Weights and Measures Program involves all weights and measures of every kind and any instrument or device used in weighing or measuring application. The purpose of the program is to ensure that equity prevails in the market place and that commodities bought or sold are accurately weighed or measured and properly identified. Unannounced inspections are routinely conducted. Weights and Measures also respond to consumer complaints.

Our inspectors routinely examine many types of scales that are used in commercial applications. Other devices the program inspects include diesel and gasoline pumps, vehicle tank meters, rack meters, high volume petroleum meters and propane meters. Our inspectors also verify the price at the checkout register assuring that price scans correctly and the customer is paying the advertised price. Inspectors check the net quantity statement on packaged goods and verify that the item contains the amount that is stated on the label.

The state of Utah's Metrology Laboratory maintains the legal standards of mass, length, and volume. This lab is operated and maintained by one person. Our metrologist checks the accuracy of our Weights and Measures field standards. The accuracy of equipment that is used by repair service companies is also verified by the programs metrologist. These calibration services are provided using standards for mass, length, and volume that are traceable to the National Institute of Standards of and Technology.

Accomplishments

The Weights and Measures Program has taken steps to chart its course for the foreseeable future. A complete evaluation of our Motor Fuel Quality Laboratory was conducted. The result was a plan for the laboratory to bring the lab up to date and provide the services that are needed now and those identified for the near future based on our industry analysis.

Inspected and tested Weighing and Measuring devices that are used commercially (gasoline pumps, propane meters, high

volume gasoline meters, rack meters, vehicle tank meters, scales, etc.). These inspections are unannounced to help both the business and the consumer receive an accurate measurement. These devices are checked to make sure they are operating correctly, legal for trade, and free from fraud and misuse. Utah helps assure that the market place is fair and equitable for both the business and the consumer.

Consumer awareness has increased due to significant increased fuel prices. This has resulted in several unsubstantiated quality complaints. Discussions have been held with refineries and marketers regarding fuel quality issues.

We provided 704 regular inspections at Utah's gas stations. The inspections were related to unit pricing, security seals intact, advertised price, product labeling, storage tanks labeling, adequately labeled pumps, octane posting, automatic shut off valve, money calibration, hose conditions, fill caps and covers, readable displays, displays function properly, anti drain valve, computer jump and that the calibration is accurate.

*"Just one of the reasons my job as a weights and measures inspector is important to Agriculture and the public has to do with livestock scales. Ranchers generally sell their calves in the fall and in most cases that "fall" pay check is their only paycheck of the year. So it is of vital importance that the scales being used the sell their commodity are accurate and state certified.
As a weights and measures inspector it is my job to assure accuracy in the scales, check and protect both the buyer and the seller."*

— Phil Crowther, Weights & Measures Inspector.

Our metrology lab continues to maintain recognition from the National Institute of Standards and Technology by meeting all Echelon III parameters. Consumers rely on the services of this facility to certify equipment used for weight, length or volumetric measurement in commercial business.

To assure economic standardization wit the rest of the nation, 750 artifacts from industry and 235 artifacts from our Weights and Measures Program were tested for a certificate of calibration using standards that are traceable to the National Institute of Standards and Technology.

The Utah metrology laboratory is currently recognized under a Certificate Measurement Assurance Program provided by the NIST Office of Weights and Measures. During the year we sent our metrologist to the Western Regional Assurance Program yearly training meeting. The state metrologist received and met all criteria for the Certificate of Measurement Traceability through NIST.

We conducted 94 Wheel Load Weigher scale inspections. These scales are used for law enforcement of weight limits on Utah highways.

Our Weights and Measures program has remained active in the National Conference on Weights and Measures (NCWM). The NCWM is the nation's consensus body that develops model weights and measures regulations adopted by Utah and the rest of the United States.

Our Weights and Measures Program hosted the annual Western Weights and Measures Technological Conference in Salt Lake City. Representatives from 13 western states attended the conference along with other government and industry officials. The conference was a success. This conference acts as a source of information and a forum for debate in the development of consensus standards for weighing and measuring devices and commodities sold by weight, measure or count, in promoting the use of uniform laws and regulations, and administrative procedures adopted by the National Conference on Weights and Measures.

Price verification inspections of 406 retail check-out scanners were conducted. Our inspection program helps the consumer be confident that the price at which a product is advertised or displayed is the price they will be charged at the check-out counter. These inspections include but are not limited to grocery, hardware, general merchandise, drug, automotive supply, convenience, and warehouse club stores.

Checks of 4,936 packaged items were made for net content. Inspectors verify the net quantity of contents of packages kept, offered, or exposed for sale, or sold by weight, measure or count. Routine verification of the net contents of packages is important to facilitate value comparison and fair competition. Consumers have the right to expect packages to bear accurate net content information. Those manufacturers whose products are sold in such packages have the right to expect that their competitors will be required to adhere to the same standards.

Our weights and measures LPG inspector provides inspections to all Utah vendors dispensing LPG, either through dispensers or delivery trucks. During the year 208 propane meters were inspected throughout the state. These inspections included checking appropriate installation and calibration of propane dispensers and meters.

Inspections are conducted on airport fuel trucks, fuel delivery trucks, cement batch plant water meters and other large meters. Inspections included: 302 Vehicle tank meters, 127 rack meters, and 21 water meters.

Large-scale capacities include 1,000 lbs. and up. These devices may include scales used for weighing livestock, coal, gravel, vehicles, etc., within inspections conducted at auction yards, ranches, ports of entry, mine sites, construction sites, gravel pits and railroad yards, etc. A total of 668 establishments that have large capacity scales were inspected.

Complaints

Inspectors investigated 133 consumer complaints. These complaints were related to gasoline quality and quantity, scale accuracy, product packaging and labeling requirements, and pricing accuracy of the scanner at the retail check out register.

Applying uniform weights and measures standards to commercial transactions is important to a strong economy. As population and industry growth continues, so does the need for

business and the associated industry. Along with that comes the need to provide weights and measures inspection service.

Egg & Poultry Grading

The Egg and Poultry Grading program provides a needed service to the egg and poultry industry and the consumers of Utah. Grading provides a standardized means of describing the marketability of a particular product. Through the application of uniform grade standards, both eggs and poultry can be classified according to a range of quality characteristics. Buyers, sellers and consumers alike can communicate about these characteristics through a common language. The use of the official USDA grade shield certifies that both eggs and poultry have been graded under the continuous inspection of grading personal. USDA's grading services are voluntary. Egg packers and poultry processors who request this service pay for the services involved. Program activities include:

- Shell Egg Grading
- Egg Products Inspection
- Shell Egg Surveillance
- Poultry Grading
- School Lunch

Shell Egg Grading

A grader is stationed at the plant and is responsible for verifying that sanitation and quality requirements are met. Before processing starts, the grader performs a sanitation pre-op check. Product is then graded, continuously as it comes off the production line. The grader examines shell eggs for weight, color, soundness, texture of shell, the absence of defects, clarity of yolk outline, and clarity and firmness of albumen. The grader assures proper cleaning of eggs, proper cartoning and/or packaging of shell eggs and is responsible for the final determination of the grade in accordance with official standards and regulations.

During 2006, USDA licensed egg graders graded 1,023,464 Cases (30 dozen eggs per case). This is a record high for shell eggs USDA graded in Utah.

Egg Products Inspection

Liquid egg has become extremely important to commercial users of eggs because of its convenience and safety. It used to be that consumers went to the grocery store to buy ingredients, now they shop looking for items already prepared. As trends continue toward purchasing more and more of our food that has been prepared away from home, the convenience of further processed ingredients in restaurants, cafeterias, food service, and food manufacturing hold promising opportunities for the liquid egg industry.

During the year 2006, 260,549 (30 dozen per case) cases of shell eggs where processed into liquid or frozen egg products in Utah. This is about the same as last year's 262,107 (30 dozen case) cases.

Shell Egg Surveillance

This program deals mainly with egg packers and processors who must register their facility with the Surveillance program. It is not a service but rather a compliance issue that is concerned more with food safety than with grade/quality factors. Product that exceeds Grade B tolerances is retained. The Surveillance visit (inspection) is done by a licensed USDA Surveillance Inspector. These visits are conducted every three months.

21 Of these mandatory inspections were conducted by State of Utah graders during 2006.

Poultry Grading

Utah is home to Moroni Feed Co., one of the few fully integrated turkey producing cooperatives in the United States. With demand for cooked, smoked and roasted turkey products climbing in recent years, primarily because of the popularity of low-carb diets and improvements in turkey processing and packaging technology, Moroni has seen a need to change its product mix to include more profitable items such as turkey deli breasts, turkey roasts, turkey hams and ground turkey. Moroni Feed Co. is a key member of the Norbest, Inc. turkey marketing cooperative, which markets all of Moroni Feed's turkeys and turkey products worldwide. Norbest Inc, announced that effective May 1, 2006, Norbest joined forces in an alliance of sales and marketing functions with West Liberty Foods. This alliance will better position Utah's Turkey growers for the future. West Liberty Foods LLC owns and operates three state-of-the-art processing meat plants in Iowa. West Liberty Foods has also announced that it will be opening a fourth facility to be located in Utah.

The USDA licensed Poultry graders of Utah graded 88,544,096 lbs. of turkey and turkey products in the year 2006. This is a slight decrease over last years 92,649,753 lbs.

School Lunch

The USDA assists the poultry industry in limiting large fluctuations in the poultry products market. The USDA stabilizes the market for all the consumers by providing USDA poultry products to the national school lunch programs. The School Lunch Inspection Program involves the condition inspection of these products for wholesomeness. The process involves breaking the official seals on the semi-trailers, selecting samples of frozen product, and drilling the product in order to obtain the temperature. An organoleptic inspection is done and a USDA certificate is prepared. This program is reimbursed by the USDA for the work done in regards to the school lunch program. Utah egg and poultry graders inspect these commodities coming into Utah.

Bedding, Upholstered Furniture, & Quilted Clothing

The purpose of the Bedding, Upholstered Furniture, Quilted Clothing Program is to protect consumers against fraud and product misrepresentation, to assure Utahns hygienically clean products and to provide allergy awareness before purchase of these articles. Utah law requires manufacturers, supply dealers, wholesalers, and repairers of these products and their components to obtain an annual license before offering items for sale within the state.

Application forms, and other program information as well as helpful links to other regulatory jurisdictions are available at the following URL: <http://ag.utah.gov/regsvcs/bedding.html>

Advances in technology, changes in types of filling materials available, and increased offshore manufacturing keep state regulatory officials busy. Regulation and inspection help maintain a level playing field and help ensure honesty in labeling and advertising. Working with other state and federal government agencies, Utah helps improve product oversight and helps prevent contamination of US food and fiber sources by preventing importation of prohibited plant and animal products.

In 2007, Utah issued 2052 licenses which generated \$110,670 in general fund revenue. Annual license fees make the program self-sustaining and allow laboratory-testing of suspect products to determine whether their contents are accurately labeled and free from filth and other contaminants. Licenses have almost doubled in the period 2001-2007.

MATTRESSES & FOUNDATIONS NEWS: On July 1, 2007, 16 CFR Part 1633, a new federal regulation came into effect establishing national open flame resistance requirements for mattresses and foundations. The Consumer Product Safety Commission (CPSC) reports 400-500 deaths annually from mattress fires. They estimate the new regulation will prevent at least 240 deaths and 1150 injuries annually.

Mattress manufacturers will be using textile fiber blends and pads to increase the time from flame ignition to flashover in bedroom fires. New mattress sets will probably cost more, but will save lives, prevent injuries and reduce property damage.

FOOD LABELING PROGRAM

The State of Utah through the Utah Code Annotated (UCA) has adopted the regulations promulgated under the Federal Fair Packaging and Labeling Act as set forth in the Code of Federal Regulations (CFR). The food labeling program helps manufacturers understand and comply with state and federal label requirements.

Truthful and complete label information protects consumers and enables them to choose products that meet their particular health and lifestyle needs. Label reviews help prevent fraud, product misrepresentation, and unfair competition. In 2006, the food labeling program completed more than 604 label reviews. (This is a label "review" process, not an "approval" process.)

All packaged food items are required to be labeled with the following information before being offered for sale: 1) an appropriate product name, 2) a net quantity statement, 3) a list of all the ingredients in the food, 4) the name and address of the manufacturer, producer, or distributor, and 5) a nutrition facts statement (unless the food qualifies for an exemption from this portion of the label).

Ingredient information is crucial to consumers with food allergies and/or sensitivities or other dietary restrictions. Nutrition information also helps consumers to make healthy food choices.

Correct and complete food labels contribute to a safe and healthful food source for all of us. However, consumers are still ultimately responsible to read and understand the label and make choices based on their personal needs. For additional information on food labeling consult the Department's Food Labeling Web page at: <http://ag.utah.gov/regsvcs/labeling.html>

Dairy Compliance Program Utah Dairy Act

On January 24, 2007, HB 331, Utah Dairy Act Amendments, passed both the House and Senate of the State of Utah to become the new law to effectively broaden the scope of the availability of raw milk in the state. The amendments deal mainly with the raw milk portion of the Utah Dairy Act as found in the Utah Code Annotated (UCA) 4-3, and the main points in the amendments are as follows:

1. Defines and explicitly prohibits Cow-Share programs in the State of Utah
2. Provides regulations whereby raw milk bottled on the farm for retail sales can be sold off the dairy farm premise.
3. Mandates pathogen testing on raw milk sold off the dairy farm premise.

Milk Born Illness Outbreak

In an interesting twist of fate, Utah's first milk born illness outbreak related to a Permitted Raw for Retail Dairy occurred within 90 days after the closing of the Legislative Session. From January 1, 2007 through March 31, 2007 there were sixty two (62) campylobacter cases reported to the Utah County Health Department. Interviews of the ill linked 90.5% of the cases to consumption of raw milk purchased at dairy in Utah County, a permitted Raw for Retail Dairy in that county. Twenty three (23) cases were epidemiologically confirmed and another twenty five (25) were epi-linked cases of Campylobacter implicating the Utah County Raw Milk Dairy, where the producer manufactures and sells raw milk from both cows and goats. This outbreak enabled us to develop proposed regulations aimed at reducing the chances of similar outbreaks in the future.

rbST Use and Labeling

Prior to 2006 the three Utah processors who wished to label their bottled milk rbST free followed the Department the 1994 FDA document, "Interim Guidance on the Voluntary Labeling of Milk and Milk Products from Cows That Have Not Been Treated With Bovine Somatotropin." All three of these processors were small processors. Then a medium sized processor wanted to be able to label his milk as being from cows not treated with rbST, only instead of following the recommended language in the guideline, they wanted to say said, "No Artificial Growth Hormones". And that opened up the flood gates, and the floods came, and everyone of Utah's fluid milk processors wanted to sell milk with some type of rbST claim, and after the flood, virtually all milk bottled in Utah is

now label with a claim of some sort or another telling the consumer that this or that milk is the best because it contains no rbST. Some claims have been false and misleading and have had regulatory action taken to bring them into compliance.

Manufacturing Grade Dairy Farms

As of December 31, 2006 Utah's Dairy Industry was practically out the Manufacturing Grade Dairy Farm business. Except for one full time dairy and a couple of temporary dairies, such as the Utah State Fair and Richmond Black and White Days, all the dairies in Utah were or became Grade 'A' dairies. But the event that had a bigger impact on the Dairy Industry in Utah was that the two big processing plants whose operations included receiving the majority of Utah's Manufacturing Grade milk, changed their method of operations, changed their receiving, pasteurizing, and separating facilities over to Grade 'A' facilities and can no longer receive Manufacturing Grade milk. That was probably the overriding reason and cause of the last twenty plus Manufacturing dairies going Grade 'A'.

Statistics

Like most rural areas Utah's dairy farm population is decreasing. But two new dairies, each well over a 1000 cows moving into the Central Utah region continues the trend of fewer but larger dairies grouping in the more sparsely populated middle area of the State. The 2006 total of 86,000 cows is a 2.3% drop in the 88,000 cows in the State in 2005.

The 1.745 billion pounds of milk produced in Utah in 2006 represents a 5.1% increase in milk production over 2005 which was at 1.661 billion pounds. Since there was a decrease in cow numbers one could expect to see an increase in production per cow, which was the case, there was a 1,416 pound increase from 18,875 pounds per cow in 2005 to 20,291 pounds per cow in 2006. Five Compliance Officers perform the daily functions of dairy inspections, sampling, and equipment test

TYPE	NUMBER	INSPECTIONS
Grade A Dairies	322	994
Manufacturing Dairy	20	60
Dairy Processors	59	240
Raw to Retail Dairies (including Farmstead Cheese)	6	16
Milk Haulers/Samplers	167	74
Milk Trucks	155	134
Pasteurizers	50	195
Total	779	1713

Drug Violations

Of the 994 Grade 'A' inspections conducted in 2006, 232 of the inspection reports, or 23%, reported drug violations. This is up from 18% for last year. Twenty two dairies had their Grade 'A' permit suspended due to the presence of antibiotic drug residue found in their milk. Because of drug abuse and misuse 581,860 pounds of milk was discarded in 2006.

Food Compliance Program

Protecting the food supply through inspection is an obvious benefit of the Utah Department of Agriculture and Food, (UDAF)

Food Inspection program. The Food program provides sanitation inspection, equipment testing, consultation, and regulation of all food in commerce. The Program provides monitoring for a wide variety of products at registered facilities such as retail establishments, food processors, warehouses, bakeries, meat departments, water facilities, grain processors and temporary/seasonal food establishments. Less obvious to the public, however, is the behind the scenes work done by inspectors to proactively assist producers and processors who want to participate in food production, storage and distribution. UDAF, Food Program functions as a regulatory agency, therefore has many tools to protect the consumers and promote agriculture. Food Program staff conducted 4804 inspections at 2955 facilities. Inspection resulted in 29 warning notices, two (2) citations and 151,783 pounds of food embargoed, voluntary destroyed or reconditioned to meet establish requirements. Activities also protected consumers by participating in recalls of several different products. Staff and management responded to 58 complaints on food quality food-borne illness and personnel practices in 2006.

The ongoing education of the processor is part of a longtime mission of the program. Inspectors have routinely worked with new businesses on plan review, process evaluation, and making sure the labels and packaging are meeting all requirements even before these new businesses begin operating. Again, the investment of time by the inspector saves the business potential problems down the road. This also makes it easier for Utah farmers to market their products properly whether it is at a farmers market or a more traditional retail outlet.

Training is a priority for program. The import of adulterated per food from China and the distribution of E.coli 0157:H7 contaminated baby spinach nationally are recent events which underscore the need for the program personnel to be continually trained. Training will help the agency meet the challenges of an every changing and complex food industry. A training program that merges FDA onsite training, FDA ORAU (office of regulatory affairs-university) and in-house training was designed and will be implemented in FY2007.

The Food Compliance Program is faced with the same challenges other states are experiencing including reduced resources, increased expectations and a changing regulatory atmosphere. The complexity of inspections and the amount of time necessary to conduct them continues to increase as a result of mega-mergers, new processing technology and new types of food service activities in the retail food industry. The diversity of Utah's population is increasing too. Language barriers make it difficult for the division to effectively communicate with food safety requirements to some groups. Several initiatives are being considered to meet this challenge. The Food Compliance Program continues working with federal and state agencies to reduce the likelihood of a food related bioterrorism event, and to be prepared to respond to such an event.

In addition, the Food Compliance Program, in conjunction with state information technologies and in-house assistance, has nearly completed implementation of a new field inspection computer program to allow staff to electronically report and transfer data

from the field. This required a thorough review of all information in the system and how it was used. The new inspection program will provide more information to the field staff and be easier to use. When we complete the new field inspection computer program in the near future, our information systems will be among the best in the Western states.