

## **CHAPTER 33-31-03 SALVAGED FOOD**

### **Section**

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### **33-31-03-01. Definitions.**

In this chapter, unless the context or subject matter otherwise requires:

1. "Distressed food" means any food, the label of which has been lost, defaced, or obliterated; food that has been subjected to possible damage due to accident, fire, flood, adverse weather, or to any other similar cause; or food that is suspected of having been rendered unsafe or unsuitable for food use.
2. "Labeling" means any legal or descriptive matter or design appearing upon an article of food or its container, and includes circulars, pamphlets, and the like, which are packed and go with the article to the purchaser, and placards that may be allowed to be used to describe the food.
3. "Reconditioned or salvaged food" is reconditionable or salvageable food that has been reconditioned or salvaged under supervision of the department.
4. "Reconditioning" or "salvaging" is the act of cleaning, culling, sorting, labeling, relabeling, or in any other way treating distressed food so that it may be deemed to be reconditioned or salvaged food and therefore is acceptable for sale or use as human food, animal feed, or seed as provided by the department.
5. "Salvage food distributor" means a person who engages in the business of selling, distributing, or otherwise trafficking at wholesale in any distressed or salvaged food.
6. "Salvaged processing facility" means an establishment engaged in the business of reconditioning or by any other means salvaging distressed food for human consumption or use.

**History:** Effective March 1, 1996.

**General Authority:** NDCC 23-01-03

**Law Implemented:** NDCC 23-09-24

### **33-31-03-02. Protection of salvageable and salvaged merchandise.**

All salvageable and salvaged merchandise, while being stored or reconditioned at a salvage processing facility or during transportation, must be protected from contamination. All salvageable merchandise must be properly sorted and segregated from nonsalvageable food to prevent further contamination of the food to be reconditioned for sale or distribution.

**History:** Effective March 1, 1996.

**General Authority:** NDCC 23-01-03

**Law Implemented:** NDCC 23-09-24

### **33-31-03-03. Reconditioning.**

1. All metal cans of food offered for sale or distribution must be essentially free from rust or pitting and dents, especially at rim, end double seams, or side seams. Leakers, springers, flippers, and swells must be deemed unfit for sale or distribution. Containers, including metal and glass containers with press caps, screw caps, pull rings, or other types of openings which have been in contact with water, liquid foam, or other deleterious substances, as a result of firefighting efforts, flood, sewer backups, or similar mishaps, must be deemed unfit for sale or distribution.
2. All metal containers of food, other than those mentioned in subsection 1, whose integrity has not been compromised and whose integrity would not be compromised by the reconditioning, and which have been in contact with water, liquid foam, or other deleterious substance as a result of flood, sewer backup, or other reasons, after thorough cleaning, must be subjected to sanitizing rinse of a concentration of one hundred ppm available chlorine for a minimum period of one minute, or must be sanitized by another method approved by the department. They must subsequently be treated to inhibit rust formation.

**History:** Effective March 1, 1996.

**General Authority:** NDCC 23-01-03

**Law Implemented:** NDCC 23-09-24

### **33-31-03-04. Labeling requirements.**

1. Any container of food with the label of mandatory information missing which cannot be identified and relabeled correctly may not be sold. When original labels are missing or illegible, relabeling or overlabeling is required.
2. All salvaged food, except as described in subsection 5, must be identified to indicate that the food has been salvaged by clearly marking the term "salvaged food" on all invoices, bills of lading, shipping invoices, receipts, and inventory records.
3. A person selling salvaged food at retail, except as described in subsection 5, shall notify the consumer that the food is salvaged either by labeling each retail package or container "salvaged" or "reconditioned" or posting a conspicuous placard at the retail display location stating "salvaged food" or "reconditioned food". Placards must be readable, using letters of not less than one and one-half-inch [3.81-centimeter] type. Placards must also state, "This item has been reconditioned and has been determined wholesome for human consumption under applicable state requirements by (name of food seller)".
4. All salvaged food in containers must be provided with labels that comply with the requirements contained in North Dakota Century Code chapter 19-02. If original labels are removed from containers that are to be resold or redistributed, the replacement labels must show as the distributor the name and address of the salvage food processor and the date of reconditioning for sale or distribution.
5. Subsections 2 and 3 do not apply to food products damaged in normal course of handling and transportation, where food is intact in its original container and has not been subject to fire, chemical spills, temperature abuse in perishable food products, in contact with water, or other similar risk of contamination.

**History:** Effective March 1, 1996.

**General Authority:** NDCC 23-01-03

**Law Implemented:** NDCC 23-09-24

### **33-31-03-05. Recordkeeping requirements.**

A written record or receipt of distressed, salvageable, and salvaged food must be kept by the salvage food processor and distributor for inspection by the department during business hours. The records must include the name of the product, the source of the distressed food, the date received, the type of damage, the salvage process conducted, and the purchaser of the salvaged food. These records must be kept on the premises of the salvage food processor and distributor for a period of one year following the completion of transactions involving the food.

**History:** Effective March 1, 1996.

**General Authority:** NDCC 23-01-03

**Law Implemented:** NDCC 23-09-24

### **33-31-03-06. Salvage processing facilities and distributors outside the jurisdiction of the department.**

Salvaged merchandise from salvage processing facilities and distributors outside the jurisdiction of the department may be sold or distributed with the state if such facilities and distributors conform to the provisions of this code or substantially equivalent provisions. To determine the extent of compliance with such provisions, the department may accept reports from responsible authorities in other jurisdictions where such facilities and distributors operations are located.

**History:** Effective March 1, 1996.

**General Authority:** NDCC 23-01-03

**Law Implemented:** NDCC 23-09-24

### **33-31-03-07. Salvaged food operator license fee.**

Before any salvaged food operator engages in the distribution or selling of distressed or salvaged food, that operator must be licensed by the department. Licenses expire on December thirty-first following the date of issuance. The annual license fee for a salvaged food distributor is one hundred dollars.

**History:** Effective January 1, 2006; amended effective April 1, 2008; January 1, 2014.

**General Authority:** NDCC 23-01-03

**Law Implemented:** NDCC 23-09-24