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Cottage Food Laws:

New Jersey



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NJ Admin. Code § 8:24-1.5 New Jersey Admin. Code § 8:24-11.1 through 11.8

Current through Register Vol. 56, No. 24, December 18, 2024.

NJ Admin. Code § 8:24-1.5. Definitions.

The following words and terms, as used in this chapter, shall have the following meanings, unless the context clearly indicates otherwise:

"Accredited program" means a food protection manager certification program that has been evaluated and listed by an accrediting agency as conforming to national standards for organizations that certify individuals. The term refers to the certification process and is a designation based upon an independent evaluation of factors such as the sponsor's mission; organizational structure; staff resources; revenue sources; policies; public information regarding program scope and eligibility requirement; recertification, discipline and grievance procedures; and test development and administration. The term does not refer to training functions or education programs.

"a[w]" means water activity which is a measure of the free moisture in a food, is the quotient of the water vapor pressure of the substance divided by the vapor pressure of pure water at the same temperature, and is indicated by the symbol a[w].

"Beverage" means a liquid for drinking, including water.

"Bottled drinking water" means water that is sealed in bottles, packages, or other containers and offered for sale for human consumption, including bottled mineral water.

"Certification number" means a unique combination of letters and numbers assigned by a shellfish control authority to a molluscan shellfish dealer according to the definition stated in the U.S. Department of Health and Human Services, Public Health Service, Food and Drug Administration, National Shellfish Sanitation Program's Guide for the Control of Molluscan Shellfish (2003), incorporated herein by reference, as amended and supplemented, and available through the Interstate Shellfish Sanitation Conference, 209-2 Dawson Road, Columbia, SC 29223, and available at <http://www.cfsan.fda.gov/%7Eear/nss2-toc.html>.

"CIP" means cleaned in place by the circulation or flowing by mechanical means through a piping system of a detergent solution,



water rinse, and sanitizing solution onto or over equipment surfaces that require cleaning, such as the method used, in part, to clean and sanitize a frozen dessert machine. The term does not include the cleaning of equipment such as band saws, slicers, or mixers that are subjected to in-place manual cleaning without the use of a CIP system.

"CFR" means Code of Federal Regulations.

"Commercially raised game animal" means game animals:

1. Commercially raised for food and raised, slaughtered, and processed under a voluntary inspection program that is conducted by the agency that has animal health jurisdiction; or
2. Under a voluntary inspection program administered by the USDA for game animals such as exotic animals (reindeer, elk, deer, antelope, water buffalo, or bison) that are "inspected and approved" in accordance with Exotic Animals; Voluntary Inspections, 9 CFR Part 352, incorporated herein by reference, as amended and supplemented, or rabbits that are "inspected and certified" in accordance with Voluntary Inspection of Rabbits and Edible Products Thereof, 9 CFR Part 354, incorporated herein by reference, as amended and supplemented.

"Color additive" has the meaning stated in the Federal Food, Drug, and Cosmetic Act, 21 U.S.C. § 321(t) and 21 CFR §§ 70.3(f) and 70.5, both incorporated herein by reference, as amended and supplemented.

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"Comminuted" means reduced in size by methods including chopping, flaking, grinding, or mincing. The term includes fish or meat products that are reduced in size and restructured or reformulated such as gefilte fish, gyros, ground beef, and sausage; and a mixture of two or more types of meat that have been reduced in size and combined, such as sausages made from two or more meats.

"Confirmed disease outbreak" means a foodborne disease outbreak in which laboratory analysis of appropriate specimens identifies a causative agent and epidemiological analysis implicates the food as the source of the illness.

"Consumer" means a person who is a member of the public, takes possession of food, is not functioning in the capacity of an operator of a retail food establishment or food processing plant, and does not offer the food for resale.

"Corrosion-resistant material" means a material that maintains acceptable surface cleanability characteristics under prolonged influence of the food to be contacted, the normal use of cleaning compounds and sanitizing solutions, and other conditions of the use environment.



"Cottage food product" means non-TCS food that a cottage food operator prepares and includes:

1. Baked goods, including bread, rolls, biscuits, cakes, cupcakes, pastries, and cookies;
2. Candy, including brittle and toffee;
3. Chocolate-covered nuts and dried fruit;
4. Dried fruit;
5. Dried herbs and seasonings, and mixtures thereof;
6. Dried pasta;
7. Dry baking mix;
8. Fruit jams, fruit jellies, and fruit preserves;
9. Fruit pies, fruit empanadas, and fruit tamales (excluding pumpkin);
10. Fudge;
11. Granola, cereal, and trail mix;
12. Honey and sweet sorghum syrup;
13. Nuts and nut mixtures;
14. Nut butters;
15. Popcorn and caramel corn;
16. Roasted coffee and dried tea;
17. Vinegar and mustard;
18. Waffle cones and pizzelles; and
19. Upon written application to the Public Health and Food Protection Program, other non-TCS food.

"Cottage food operator" means a person who holds a New Jersey Cottage Food Operator Permit.

"Critical control point" means a point or procedure in a specific food system where loss of control may result in an unacceptable health risk.

"Department" means the New Jersey Department of Health.

"Drinking water" means water that meets the provisions of the NJSDWA, is traditionally known as "potable water" and includes the term "water," except where the term used connotes that the water is not potable, such as "boiler water," "mop water," "rainwater," "wastewater," and "nondrinking" water.



"Dry storage area" means a room or area designated for the storage of packaged or containerized bulk food that is not potentially hazardous and dry goods such as single-service items.

"Easily cleanable" means a characteristic of a surface that:

1. Allows effective removal of soil by normal cleaning methods; and
2. Is dependent on the material, design, construction, and installation of the surface.

"Easily movable" means:

1. Portable; mounted on casters, gliders, or rollers; or provided with a mechanical means to safely tilt a unit of equipment for cleaning; and
2. Having no utility connection, a utility connection that disconnects quickly, or a flexible utility connection line of sufficient length to allow the equipment to be moved for cleaning of the equipment and adjacent area.

"Employee" means the operator, person in charge, person having supervisory or management duties, person on the payroll, family member, volunteer, person performing work under contractual agreement, or other person working in a retail food establishment.

"EPA" means the U.S. Environmental Protection Agency.

"Equipment" means an article that is used in the operation of a retail food establishment such as a freezer, grinder, hood, ice maker, meat block, mixer, oven, reach-in refrigerator, scale, sink, slicer, stove, table, temperature measuring device for ambient air, vending machine, or warewashing machine. The term does not include items used for handling or storing large quantities of packaged foods that are received from a supplier in a cased or overwrapped lot, such as hand trucks, forklifts, dollies, pallets, racks, and skids.

"Fish" means fresh or saltwater finfish, crustaceans and other forms of aquatic life (including alligator, frog, aquatic turtle, jellyfish, sea cucumber, and sea urchin and the roe of such animals) other than birds or mammals, and all mollusks, if such animal life is intended for human consumption. The term includes an edible human food product derived in whole or in part from fish, including fish that have been processed in any manner. The term does not include raw molluscan shellfish.

"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 additive" has the meaning stated in the Federal Food, Drug, and Cosmetic Act (FFDCA), 21 U.S.C. § 321(s) and 21 CFR §§ 170.3(e),



170.39, and 170.45-.60, both incorporated herein by reference, as amended and supplemented.

"Foodborne disease outbreak" means the occurrence of two or more cases of a similar illness resulting from the ingestion of a common food.

"Food-contact surface" means:

1. A surface of equipment or a utensil with which food normally comes into contact; or
2. A surface of equipment or a utensil from which food may drain, drip, or splash:
 - i. Into a food, or
 - ii. Onto a surface normally in contact with food.

"Food employee" means an individual working with unpackaged food, food equipment or utensils, or food-contact surfaces.

"Food processing plant" means a commercial operation that manufactures, packages, labels, or stores food for human consumption and does not provide food directly to a consumer. The term does not include a retail food establishment.

"Game animal" means an animal, the products of which are food, that is not classified as poultry, fish, cattle, sheep, swine, goat, horse or equine. The term includes mammals such as reindeer, elk, deer, antelope, water buffalo, bison, rabbit, squirrel, opossum, raccoon, nutria, or muskrat, and non-aquatic reptiles such as land snakes. The term excludes ratites such as ostrich, emu, and rhea.

"Group residence" means a private or public housing corporation or institutional facility that provides living quarters and meals. The term includes a domicile for unrelated persons such as a retirement home or a long-term health care facility.

"Hazard Analysis Critical Control Point (HACCP) plan" means a written document that delineates the formal procedures for following the HACCP principles (July, 2005) incorporated herein by reference, as amended and supplemented, and available through the Division of Cooperative Programs (HFS-625), Office of Compliance, Center for Food Safety and Applied Nutrition, Food and Drug Administration, 5100 Paint Branch Parkway, College Park, MD 20740, telephone (301) 436-2350 and website address <http://www.cfsan.fda.gov/%7Edms/hret2toc.html>.

"Hazard" means a biological, chemical, or physical property that may cause an unacceptable consumer health risk.

"Health authority" means a local board of health with jurisdiction, and/or the Department.



"Hermetically sealed container" means a container that is designed and intended to be secure against the entry of microorganisms and, in the case of low acid canned foods, to maintain the commercial sterility of its contents after processing.

"Highly susceptible population" means a group of persons who are more likely than other populations to experience foodborne disease because they are immunocompromised or older adults and in a facility that provides health care or assisted living services, such as a hospital or nursing home; or preschool age children in a facility that provides custodial care, such as a day care center.

"Imminent health hazard" means a significant threat or danger to health that is considered to exist when there is evidence sufficient to show that a product, practice, circumstance, or event creates a situation that requires immediate correction or cessation of operation to prevent injury based on the number of potential injuries, and the nature, severity, and duration of the anticipated injury.

"Injected" means manipulating a meat so that infectious or toxigenic microorganisms may be introduced from its surface to its interior through tenderizing with deep penetration or injecting the meat such as with juices which may be referred to as "injecting," "pinning," or "stitch pumping."

"Juice," when used in the context of food safety, means the aqueous liquid expressed or extracted from one or more fruits or vegetables, purees of the edible portions of one or more fruits or vegetables, or any concentrate of such liquid or puree. This definition does not apply to standards of identity.

"Kitchenware" means food preparation and storage utensils.

"Law" means applicable local, state, and Federal statutes, regulations, and ordinances.

"Linens" means fabric items such as cloth hampers, cloth napkins, tablecloths, wiping cloths, and work garments including cloth gloves.

"Major food allergen":

1. Means any of the following, and/or a protein derived from any of the following:

- i. Milk;
- ii. Eggs;
- iii. Fish;
- iv. Crustacean shellfish;
- v. Tree nuts;
- vi. Wheat;



vii. Peanuts; and

viii. Soybeans; and

2. Excludes:

i. Any highly refined oil derived from a food specified in paragraph 1 above and any ingredient derived from such highly refined oil; and

ii. Any ingredient that is exempt under the petition or notification process specified in the Food Allergen Labeling and Consumer Protection Act of 2004 (Public Law 108-282).

"Meat" means the flesh of animals used as food including the dressed flesh of cattle, swine, sheep, or goats and other edible animals, except fish and poultry.

"Misbranded" means the definition as stated in N.J.S.A. 24:5-16 and 24:5-17.

"mg/L" means milligrams per liter, which is the metric equivalent of parts per million (ppm).

"Mobile retail food establishment" means any movable restaurant, truck, van, trailer, cart, bicycle, watercraft, or other movable unit including hand carried, portable containers in or on which food or beverage is transported, stored, or prepared for retail sale or given away at temporary locations.

"Molluscan shellfish" means any edible species of fresh or frozen oysters, clams, mussels, and scallops or edible portions thereof, except when the scallop product consists only of the shucked abductor muscle.

"NJSDWA" means the New Jersey Safe Drinking Water Act at N.J.S.A. 58:12A-1 et seq. and the rules promulgated thereunder at N.J.A.C. 7:10.

"Operator" means the entity that is legally responsible for the operation of the retail food establishment such as the owner, the owner's agent, or other person.

"Packaged" means bottled, canned, cartoned, securely bagged, or securely wrapped, whether packaged in retail food establishments or a food processing plant. The term does not include a wrapper, carryout box, or other nondurable container used to containerize food with the purpose of facilitating food protection during service and receipt of the food by the consumer.

"Person" means an association, a corporation, individual, partnership, other legal entity, government, or governmental subdivision or agency.

"Person in charge" means the individual present at a retail food establishment who is responsible for the operation at the time of inspection.

"Personal care items" means items or substances that may be poisonous, toxic, or a source of contamination and are used to



maintain or enhance a person's health, hygiene, or appearance including items such as medicines, first aid supplies, and other items such as cosmetics, and toiletries such as toothpaste and mouthwash.

"pH" means the symbol for the negative logarithm of the hydrogen ion concentration, which is a measure of the degree of acidity or alkalinity of a solution. Values between zero and seven indicate acidity and values between seven and 14 indicate alkalinity. The value for pure distilled water is seven, which is considered neutral.

"Physical facilities" means the structure and interior surfaces of a retail food establishment including accessories such as soap and towel dispensers and attachments such as light fixtures and heating or air conditioning system vents.

"Plumbing fixture" means a receptacle or device that is permanently or temporarily connected to the water distribution system of the premises and demands a supply of water from the system; or discharges used water, waste materials, or sewage directly or indirectly to the drainage system of the premises.

"Plumbing system" means the water supply and distribution pipes; plumbing fixtures and traps; soil, waste, and vent pipes; sanitary and storm sewers and building drains, including their respective connections, devices, and appurtenances within the premises; and water-treating equipment.

"Poisonous or toxic materials" means substances that are not intended for ingestion and are included in four categories:

1. Cleaners and sanitizers, which include cleaning and sanitizing agents and agents such as caustics, acids, drying agents, polishes, and other chemicals;
2. Pesticides except sanitizers, which include substances such as insecticides and rodenticides;
3. Substances necessary for the operation and maintenance of the establishment such as nonfood grade lubricants and personal care items that may be deleterious to health; and
4. Substances that are not necessary for the operation and maintenance of the establishment and are on the premises for retail sale, such as petroleum products and paints.

"Potentially hazardous food" means a food that is natural or synthetic and that requires temperature control because it is in a form capable of supporting:

1. The rapid and progressive growth of infectious or toxigenic microorganisms;



2. The growth and toxin production of *Clostridium botulinum*; or
3. In raw shell eggs, the growth of *Salmonella enteritidis*.

"Potentially hazardous food" includes an animal food (a food of animal origin) that is raw or heat-treated; a food of plant origin that is heat-treated or consists of raw seed sprouts; cut melons; and garlic and oil mixtures that are not acidified or otherwise modified at a food processing plant in a way that results in mixtures that do not support growth as specified under the first paragraph of this definition.

"Potentially hazardous food" does not include:

1. An air-cooled hard-boiled egg with shell intact;
2. A food with an a[w] value of 0.85 or less;
3. A food with a pH level of 4.6 or below when measured at 75 degrees Fahrenheit;
4. A food, in an unopened hermetically sealed container, that is commercially processed to achieve and maintain commercial sterility under conditions of nonrefrigerated storage and distribution;
5. A food for which laboratory evidence demonstrates that the rapid and progressive growth of infectious or toxigenic microorganisms or the growth of *S. enteritidis* in eggs or *C. botulinum* cannot occur, such as a food that has an a[w] and a pH that are above the levels specified under 2 and 3 above and that may contain a preservative, other barrier to the growth of microorganisms, or a combination of barriers that inhibit the growth of microorganisms; or
6. A food that does not support the growth of microorganisms as specified under the first paragraph of this definition even though the food may contain an infectious or toxigenic microorganism or chemical or physical contaminant at a level sufficient to cause illness.

"Poultry" means any domesticated bird (chickens, turkeys, ducks, geese, or guineas) and any migratory waterfowl, game bird, or squab such as pheasant, partridge, quail, grouse, or guineas. The term excludes ratites.

"Premises" means:

1. The physical facility, its contents, and the contiguous land or property under the control of the operator; or
2. The physical facility, its contents, and the land or property not described under 1 above if its facilities and contents are under the control of the operator and may impact retail food establishment personnel, facilities, or operations, if a retail food establishment is only one component of a larger



operation such as a health care facility, hotel, motel, school, recreational camp, or prison.

"Primal cut" means a basic major cut into which carcasses and sides of meat are separated, such as a beef round, pork loin, lamb flank, or veal breast.

"Public Health and Food Protection Program" means the program of the Department by that name for which the contact information is:

Public Health and Food Protection Program
Consumer, Environmental and Occupational Health Service
Division of Epidemiology, Environmental and Occupational Health
NJ Department of Health
PO Box 369
Trenton, NJ 08625-0369
Telephone: (609) 826-4935
Email: phfpp@doh.nj.gov

"Public water system" has the meaning stated in the NJSOWA.

"Ratite" means a flightless bird such as an emu, ostrich, or rhea.

"Ready-to-eat food" means food that is in a form that is edible without additional preparation to achieve food safety, as specified under N.J.A.C. 8:24-3.4(a)1 through 3 or 3.4(b) or (d); or is a raw or partially cooked animal food and is prepared in response to a consumer order and for immediate service as specified under N.J.A.C. 8:24-3.4(a)3 ii;

1. Is prepared in accordance with a specialized processing approval that is granted as specified under N.J.A.C. 8:24-3.5(h); and
2. May receive additional preparation for palatability or aesthetic, epicurean, gastronomic, or culinary purposes.

"Ready-to-eat food" includes:

1. Raw animal food that is cooked to safe cooking temperatures, or frozen as specified under N.J.A.C. 8:24-3.4(d);
2. Raw fruits and vegetables that are washed as specified under N.J.A.C. 8:24-3.3(g);
3. Fruits and vegetables that are cooked for hot holding as specified under N.J.A.C. 8:24-3.4(c);
4. All potentially hazardous food that is cooked to the temperature and time required for the specific food under N.J.A.C. 8:24-3.4 and cooled as specified under N.J.A.C. 8:24-3.5(d);
5. Plant food for which further washing, cooking, or other processing is not required for food safety, and from which rinds, peels, husks, or shells, if naturally present are removed;



6. Substances derived from plants such as spices, seasonings, and sugar;
7. Bakery items such as bread, cakes, pies, fillings, or icing for which further cooking is not required for food safety;
8. The following products that are produced in accordance with USDA guidelines and that have received a lethality treatment for pathogens: dry, fermented sausages, such as dry salami or pepperoni; salt-cured meat and poultry products, such as prosciutto ham, country-cured ham, and Parma ham; and dried meat and poultry products, such as jerky or beef sticks; and
9. Foods manufactured according to Thermally Processed Low-Acid Foods Packaged in Hermetically Sealed Containers, 21 CFR Part 113, incorporated herein by reference, as amended and supplemented.

"Reduced oxygen packaging" means:

1. The reduction of the amount of oxygen in a package by removing oxygen; displacing oxygen and replacing it with another gas or combination of gases; or otherwise controlling the oxygen content to a level below that normally found in the surrounding, 21 percent oxygen atmosphere; and
2. A process as specified in 1 above that involves a food for which *Clostridium botulinum* is identified as a microbiological hazard in the final packaged form.

"Reduced oxygen packaging" includes:

1. Vacuum packaging, in which air is removed from a package of food and the package is hermetically sealed so that a vacuum remains inside the package, such as sous vide;
2. Modified atmosphere packaging, in which the atmosphere of a package of food is modified so that its composition is different from air but the atmosphere may change over time due to the permeability of the packaging material or the respiration of the food. Modified atmosphere packaging includes: reduction in the proportion of oxygen, total replacement of oxygen, or an increase in the proportion of other gases such as carbon dioxide or nitrogen; and
3. Controlled atmosphere packaging, in which the atmosphere of a package of food is modified so that until the package is opened, its composition is different from air, and continuous control of that atmosphere is maintained, such as by using oxygen scavengers or a combination of total replacement oxygen, nonrespiring food, and impermeable packaging material.

"Refrigeration temperatures" mean:



1. Forty-one degrees Fahrenheit or less, except as specified under 2 below.
2. Forty-five degrees Fahrenheit or less in refrigeration equipment in use as of January 2, 2007, that is not capable of maintaining the food at 41 degrees Fahrenheit or less if:
 - i. The equipment is in place and in use in the retail food establishment; and
 - ii. As of January 2, 2012, the equipment is upgraded or replaced to maintain food at a temperature of 41 degrees Fahrenheit or less.

"Refuse" means solid waste not carried by water through the sewage system.

"Regulatory authority" means the local, state, or Federal enforcement body or authorized representative having jurisdiction over the retail food establishment or food processing plant.

"Restricted use pesticide" has the meaning set forth by the New Jersey Department of Environmental Protection in the Pesticide Control rules, N.J.A.C. 7:30-1.2, and includes a pesticide product that is limited to use by or under the direct supervision of a certified applicator.

"Retail food establishment" means an operation that stores, prepares, packages, serves, vends, or otherwise provides food for human consumption to a consumer, or indirectly to consumers through a delivery service, such as home delivery of grocery orders or restaurant takeout orders, or a service that is provided by common carriers and:

1. Includes:

- i. A restaurant;
- ii. A satellite or catered feeding location;
- iii. A catering operation, if the operation provides food directly to a consumer or to a conveyance used to transport people;
- iv. A market;
- v. A vending location;
- vi. A conveyance used to transport people;
- vii. An institution;
- viii. A food bank;
- ix. An element of the operation, such as a transportation vehicle, or a central preparation facility that supplies a vending location or satellite feeding location, unless the vending or feeding location is permitted by the health authority; and



x. An operation that is conducted in a mobile, stationary, temporary, or permanent facility or location, regardless of whether consumption occurs on or off the premises and regardless of whether there is a charge for the food; and

2. Excludes:

i. A produce stand that only offers whole, uncut fresh fruits and vegetables;

ii. A food processing plant;

iii. A kitchen in a private home that produces food that is non-TCS and:

(1) Is prepared for sale or service at a function, such as a religious or charitable organization's bake sale if the consumer is informed by a clearly visible placard at the sales or service location that the food is prepared in a kitchen that is not subject to regulation and inspection by the health authority; or

(2) Is prepared and sold, or otherwise relinquished, to the consumer, in accordance with a cottage food operator permit;

iv. An area where food that is prepared as specified at subparagraph 2iii above is sold or offered for human consumption;

v. A kitchen in a private home, such as a family child-care home, as defined at N.J.A.C. 10:126-1.2; or a bed and breakfast guest house or bed and breakfast homestay as defined at N.J.A.C. 5:70-1.5, that prepares and offers food to guests if the home is owner occupied, and breakfast is the only meal offered; and/or

vi. A private home that receives catered or home-delivered food.

"Risk type 1 food establishment" means any retail food establishment that:

1. Serves or sells only pre-packaged, non-potentially hazardous foods;
2. Prepares only non-potentially hazardous foods; or
3. Heats only commercially processed, potentially hazardous foods for hot holding and does not cool potentially hazardous foods.

Such retail establishments may include, but are not limited to, convenience store operations, hot dog carts, and coffee shops.

"Risk type 2 food establishment" means any retail food establishment that has a limited menu; and



1. Prepares, cooks, and serves most products immediately;
2. Exercises hot and cold holding of potentially hazardous foods after preparation or cooking; or
3. Limits the complex preparation of potentially hazardous foods, including the cooking, cooling, and reheating for hot holding, to two or fewer items.

Such retail establishments may include, but are not limited to, retail food store operations, schools that do not serve a highly susceptible population, and quick service operations, depending on the menu and preparation procedures.

"Risk type 3 food establishment" means any retail food establishment that:

1. Has an extensive menu which requires the handling of raw ingredients; and is involved in the complex preparation of menu items that includes the cooking, cooling, and reheating of at least three or more potentially hazardous foods; or
2. Prepares and serves potentially hazardous foods including the extensive handling of raw ingredients; and whose primary service population is a highly susceptible population.

Such establishments may include, but are not limited to, full service restaurants, diners, commissaries, and catering operations; or hospitals, nursing homes, and pre-schools preparing and serving potentially hazardous foods.

"Risk type 4 food establishment" means a retail food establishment that conducts specialized processes such as smoking, curing, canning, bottling, acidification designed to control pathogen proliferation, or any reduced oxygen packaging intended for extended shelf-life where such activities may require the assistance of a trained food technologist. Such establishments include those establishments conducting specialized processing at retail.

"Safe cooking temperature" means heating all parts of raw animal foods, such as eggs, fish, meat, poultry, and foods containing these raw animal foods to a temperature, and for a time that complies with one of the following methods, based on the food that is being cooked:

1. 145 degrees Fahrenheit or above for 15 seconds for fish, meat, pork and commercially raised game animals, except as specified under 2, 3 and 4 below.
2. 155 degrees Fahrenheit for 15 seconds or the temperature specified in the following chart that corresponds to the holding time for ratites and injected meats; the following if they are comminuted: fish, meat, commercially raised game animals, and raw eggs.



Minimum Temperature	Minimum Holding Time
145 degrees Fahrenheit	3 minutes
150 degrees Fahrenheit	1 minute
158 degrees Fahrenheit	1 second (instantaneous)

3. 165 degrees Fahrenheit or above for 15 seconds for poultry, stuffed fish, stuffed meat, stuffed pasta, stuffed poultry, stuffed ratites, or stuffing containing fish, meat, poultry, or ratites.

4. Whole beef roasts, corned beef roasts, pork roasts, and cured pork roasts such as ham, shall be cooked as specified in the following chart, to heat all parts of the food to a temperature and for the holding time that corresponds to that temperature:

Temperature	Time
130 degrees Fahrenheit	112 minutes
132 degrees Fahrenheit	77 minutes
134 degrees Fahrenheit	47 minutes
136 degrees Fahrenheit	32 minutes
138 degrees Fahrenheit	19 minutes
140 degrees Fahrenheit	12 minutes
142 degrees Fahrenheit	8 minutes
144 degrees Fahrenheit	5 minutes
145 degrees Fahrenheit	3 minutes

* Holding time may include post oven heat rise.

"Safe material" means:

1. An article manufactured from or composed of materials that may not reasonably be expected to result, directly or indirectly, in their becoming a component or otherwise affecting the characteristics of any food;
2. An additive that is used as specified in the Federal Food, Drug, and Cosmetic Act, 21 U.S.C. § 348, incorporated herein by reference, as amended and supplemented; or
3. Other materials that are not additives and that are used in conformity with applicable regulations of the Food and Drug Administration.

"Sanitization" means the application of cumulative heat or chemicals on cleaned food-contact surfaces that, when evaluated for efficacy, is sufficient to yield a reduction of five logs, which is equal to a 99.999 percent reduction, of representative disease microorganisms of public health importance.

"Sealed" means free of cracks or other openings that allow the entry or passage of moisture.



"Service animal" means an animal such as a guide dog, signal dog, or other animal individually trained to provide assistance to an individual with a disability.

"Servicing area" means an operating base location to which a mobile retail food establishment or transportation vehicle returns regularly for such things as vehicle and equipment cleaning, discharging liquid or solid wastes, refilling water tanks and ice bins, and boarding food.

"Sewage" means liquid waste containing animal or vegetable matter in suspension or solution and may include liquids containing chemicals in solution.

"Shellfish control authority" means a state, Federal, foreign, tribal, or other government entity legally responsible for administering a program that includes certification of molluscan shellfish harvesters and dealers for interstate commerce.

"Shellstock" means raw, in-shell molluscan shellfish.

"Shucked shellfish" means molluscan shellfish that have one or both shells removed.

"Shiga toxin-producing Escherichia coli" means any Escherichia coli capable of producing Shiga toxins (also called verocytotoxins or "Shiga-like" toxins) and includes, but is not limited to, Escherichia coli reported as serotype O157:H7, O157:NM, and O157:H-.

"Single-service articles" means tableware, carry-out utensils, and other items such as bags, containers, placemats, stirrers, straws, toothpicks, and wrappers that are designed and constructed for one time, one person use after which they are intended for discard.

"Single-use articles" means utensils and bulk food containers designed and constructed to be used once and discarded. The term includes items such as wax paper, butcher paper, plastic wrap, formed aluminum food containers, jars, plastic tubs or buckets, bread wrappers, pickle barrels, ketchup bottles, and number 10 cans which do not meet the materials, durability, strength, and cleanability specifications under N.J.A.C. 8:24-4.1(a) and 4.2(a) and (b) for multiuse utensils.

"Slacking" means the process of moderating the temperature of a food such as allowing a food to gradually increase from a temperature of -10 degrees Fahrenheit to 25 degrees Fahrenheit in preparation for deep-fat frying or to facilitate even heat penetration during the cooking of previously block-frozen food such as spinach.

"Smooth" means:



1. A food-contact surface having a surface free of pits and inclusions with a cleanability equal to or exceeding that of (100 grit) number 3 stainless steel;
2. A nonfood-contact surface of equipment having a surface equal to that of commercial grade hot-rolled steel free of visible scale; and
3. A floor, wall, or ceiling having an even or level surface with no roughness or projections that render it difficult to clean.

"Table-mounted equipment" means equipment that is not portable and is designed to be mounted off the floor on a table, counter, or shelf.

"Tableware" means eating, drinking, and serving utensils for table use such as flatware including forks, knives, and spoons; hollowware including bowls, cups, serving dishes, and tumblers; and plates.

"TCS food" means a food that requires time and/or temperature control for safety to limit pathogenic microorganism growth or toxin formation.

"Temperature measuring device" means a thermometer, thermocouple, thermistor, or other device that indicates the temperature of food, air, or water.

"Temporary retail food establishment" means a retail food establishment that operates for a period of no more than 14 consecutive days in conjunction with a single event or celebration.

"USDA" means the U.S. Department of Agriculture.

"Utensil" means a food-contact implement or container used in the storage, preparation, transportation, dispensing, sale, or service of food, such as kitchenware or tableware that is multiuse, single-service, or single-use; gloves used in contact with food; food temperature measuring devices; and probe-type price or identification tags used in contact with food.

"Vending machine" means a self-service device that, upon insertion of a coin, paper currency, token, card, or key, or by optional manual operation, dispenses unit servings of food in bulk or in packages without the necessity of replenishing the device between each vending operation.

"Vending machine location" means the room, enclosure, space, or area where one or more vending machines are installed and operated and includes the storage areas and areas on the premises that are used to service and maintain the vending machines.

"Warewashing" means the cleaning and sanitizing of food-contact surfaces of equipment and utensils.

"Whole-muscle, intact beef" means whole muscle beef that is not injected, mechanically tenderized, reconstructed, or scored and marinated, from which beef steaks may be cut.



NJ Admin. Code § 8:24-11.1. Requirement and procedure to obtain a Cottage Food Operator Permit

(a) A person or entity that engages in the production, distribution, and/or sale of food to consumers shall:

1. Have a Cottage Food Operator Permit; or
2. Comply with applicable laws to retail food establishments.

(b) A person seeking to obtain a Cottage Food Operator Permit shall submit to the Public Health and Food Protection Program:

1. A completed application in the form at N.J.A.C. 8:24-11Appendix, incorporated herein by reference, which is available at <http://www.nj.gov/health/forms> and on request to the Public Health and Food Protection Program;
2. A copy of a certificate issued by an accredited program showing that the applicant is a food protection manager in good standing with the accredited program;
3. If the cottage food operator's kitchen:
 - i. Uses private well water, a microbiological (total coliform) analysis of the private well water that is conducted using samples collected no earlier than 60 days prior to the filing date of the application, which is the postmark date, if the application is mailed, or the date of submission, if hand-delivered; and
 - ii. Does not use private well water, a copy of most recent water bill for the location of the cottage food kitchen; and
4. The nonrefundable application fee established at N.J.A.C. 8:24-11.6, payable to the Treasurer, State of New Jersey.

(c) The Department will conduct a completeness review of the application and notify the applicant in writing of any deficiency or incompleteness therein that the applicant must correct before the Department will process further the application.

1. If an applicant fails to correct a deficient or incomplete application within 30 days of the issuance of a notice pursuant to (b) above, the Department will deem the application abandoned.

(d) Upon determining an application to be complete, the Department shall issue a cottage food operator permit to the applicant.



(e) An applicant for a cottage food operator permit shall ascertain and comply with applicable local laws of the municipality in which the applicant seeks to operate a cottage food operation.

NJ Admin. Code § 8:24-11.2. Authorized cottage food operator activity

(a) A Cottage Food Operator Permit authorizes a holder thereof:

1. To produce cottage food products in the private kitchen of the operator's residence and at no other location; and
2. Subject to N.J.A.C. 8:24-11.5, to distribute cottage food products to consumers thereof without being subject to initial or periodic inspection by a health authority and other requirements applicable to retail food establishments pursuant to this chapter and the Public Health Practice Standards of Performance for Local Boards of Health in New Jersey at N.J.A.C. 8:52, other than as specified in this subchapter.

(b) A cottage food operator may transact activities that are ancillary to the delivery or relinquishment of cottage food products to a consumer by means of United States postal mail, common carrier, electronic communication, internet, and/or telephone, provided the delivery or relinquishment of cottage food products occurs in New Jersey in compliance with N.J.A.C. 8:24-11.3(a).

1. Authorized ancillary transactions include:

- i. Accepting order placements;
- ii. Receiving payments;
- iii. Engaging in marketing or advertising activities; and
- iv. Participating in other business activities other than cottage food product delivery and relinquishment.

NJ Admin. Code § 8:24-11.3. Prohibited cottage food operator activity

(a) A cottage food operator shall not deliver or relinquish cottage food products:

1. At a location other than:

- i. The home of the cottage food operator, but not for onsite consumption;
- ii. The home of the consumer, provided the home is in New Jersey;
- iii. A New Jersey farmers' market or farm stand;
- iv. To consumers, at a New Jersey temporary retail food establishment; or



v. In New Jersey, to the consumer, provided applicable law does not otherwise prohibit the delivery or relinquishment at the location;

2. To a person who is not the consumer;
3. To a wholesale establishment as N.J.A.C. 8:21-9 defines that term;
4. To a retail food establishment;
5. By United States postal mail or a common carrier, subject to N.J.A.C. 8:24-11.2(b); and/ or
6. In interstate commerce, that is, outside of the State of New Jersey, subject to N.J.A.C. 8:24-11.2(b).

(b) The gross annual sales (that is, before deductions of taxes and operating expenses) that a cottage food operator generates from the sale of cottage food products shall not exceed \$ 50,000.

NJ Admin. Code § 8:24-11.4. Cottage food point-of-sale notice, packaging, and labeling

(a) A cottage food operator shall make available for inspection, on request, the operator's permit if the point of sale is the residence of the operator or the consumer.

(b) If the point of sale is a location other than the residence of the operator or the consumer, the operator shall place at the point of sale, on conspicuous and unobstructed display, the cottage food permit and a placard that states, "This food is prepared pursuant to N.J.A.C. 8:2411 in a home kitchen that has not been inspected by the Department of Health."

(c) A cottage food operator shall affix one or more labels or tags on cottage food that collectively state at least the following:

1. The common name of the cottage food product;
2. The cottage food product ingredients in descending order of predominance by weight;
3. If the cottage food product contains a major food allergen, the word, "Contains" followed by a list of the major food allergens that the cottage food product contains;
4. The cottage food operator's name, business name, and Cottage Food Operator Permit number;
5. The name of the municipality in which the cottage food operator prepares the cottage food product, which shall be the same as the municipality that appears of record with the



Department as the cottage food operator's residence, followed by either "New Jersey" or "NJ"; and

6. The statement, "This food is prepared pursuant to N.J.A.C. 8:24-11 in a home kitchen that has not been inspected by the Department of Health."

NJ Admin. Code § 8:24-11.5. Health authority's right of access

(a) Pursuant to N.J.S.A. 24:1-1 et seq., especially 24:2-1 et seq., and 24:3-1 et seq., and 26:1A-1 et seq., especially 26:1A-16, 17, 18, and 19, a health authority is authorized to enter upon, examine, and survey any premises, including the home kitchen of a cottage food operator, and things thereof, including materials, equipment, books, and records:

1. To enforce or confirm compliance with any health law or other law under the official's jurisdiction; and/or
2. To investigate complaints associated with cottage food products, such as contamination, foodborne illness, misbranding, or adulteration.

NJ Admin. Code § 8:24-11.6. Application fees; permit duration; permit renewal

- (a) The fee to apply for a Cottage Food Operator Permit is \$ 100.00.
- (b) A Cottage Food Operator Permit is valid for two years from date of issuance.
- (c) The fee to apply for renewal of a Cottage Food Operator Permit is \$ 100.00.
- (d) To prevent permit lapse, a cottage food operator permittee should submit an application for permit renewal by no later than 45 days before the expiration of the permit that is in effect.

NJ Admin. Code § 8:24-11.7. Suspension, revocation, and/or denial of issuance of renewal of a permit; monetary penalties

- (a) A person or entity that violates any provision of this chapter or refuses to comply with a lawful order or direction of a health authority is liable for penalties as provided by N.J.S.A. 24:17-1 et seq., and 26:1A-10, and/or injunctive action as provided by law.
- (b) The Department may impose a monetary penalty pursuant to N.J.S.A. 24:17-1 et seq., and 26:1A-10, and/or suspend, revoke, and/or refuse to issue or renew, a Cottage Food Operator Permit, if the applicant or permit holder fails to comply with applicable provisions of this subchapter, Titles 24 and 26 of the Revised Statutes of New Jersey, and/or any other applicable rules or statutes, and/or if a health authority determines that the applicant or permit holder poses a threat to public health, safety, or welfare.



1. The Department shall provide the applicant or permit holder notice of the monetary penalty, suspension, revocation, or denial of issuance or renewal, of a permit, and the reason for the action taken.

(c) The Department may issue a summary suspension of the permit of a cottage food operator if the permit holder's continued operation poses an immediate or serious threat to public health, safety, or welfare.

1. The Department shall provide the permit holder notice of a summary suspension and the reason for the action taken.

2. A summary suspension is effective as of the date of issuance.

3. A cottage food operator whose permit the Department summarily suspends shall have the right to apply for emergency relief, as provided at N.J.A.C. 8:24-11.8.

(d) If a person, entity, or cottage food operator operates as a cottage food operator without a valid permit issued by the Department, fails or refuses to comply with an order of a health authority, poses a threat to public health, safety, and welfare, and/or engages in activity that is violative of applicable provisions of Titles 24 and 26 of the Revised Statutes of New Jersey and/or this chapter, the Department may:

1. Issue an order requiring the person, entity, or cottage food operator to cease and desist operations;

2. Take action in the New Jersey Superior Court against the person, entity, or cottage food operator to enjoin its operations;

3. Confiscate, condemn, seize, sell, destroy, detain, and/or embargo articles of food in accordance with N.J.S.A. 24:1-1 et seq., especially 24:4-1 et seq.; and/or

4. Impose monetary penalties pursuant to N.J.S.A. 24:17-1 et seq., and 26:1A-10.

(e) A monetary penalty that the Department imposes pursuant to N.J.S.A. 24:17-1.1 et seq., and/or 26:1A-10, shall become due 45 days after the deadline to file an appeal has ended.

1. If an applicant for a Cottage Food Operator Permit or a permit holder files an appeal with the Department, then the monetary penalty shall become due in accordance with N.J.A.C. 8:24-11.8(b).

(f) Failure to pay a monetary penalty when it becomes due pursuant to (e) above and/or N.J.A. C. 8:24-11.8(b) may result in one or more of the following actions being imposed on the applicant for a cottage food operator permit or the permit holder:



1. Institution of a summary civil proceeding by the State, pursuant to the Penalty Enforcement Law, N.J.S.A. 2A:58-1et seq.;
2. The Department's denial of, or refusal to issue, a permit or a permit renewal; and/or
3. Revocation of an existing permit.

NJ Admin. Code § 8:24-11.8. Hearing on enforcement actions.

(a) When the Department summarily suspends the permit of a cottage food operator, the operator maintains the right to petition the Commissioner of the Department for emergency relief.

1. To request emergency relief, the cottage food operator must submit to the Department, within 30 days from the date of the notice of summary suspension, a request in writing accompanied by a response to the notice of summary suspension.

- i. Failure to submit a request for emergency relief within 30 days from the date of the notice of summary suspension shall result in the cottage food operator's forfeiture of all rights to emergency relief.

2. All applications for emergency relief will be handled in accordance with N.J.A.C. 1:1-12.6(c).

3. Unless emergency relief is granted, the summary suspension shall remain in effect until lifted by either the Department or a court of competent jurisdiction.

4. Nothing in this section shall be construed to prevent the Department from simultaneously, or thereafter, moving to suspend or revoke the permit of a cottage food operator or to issue the cottage food operator a monetary penalty.

(b) If the Department issues a notice of proposed assessment of a monetary penalty, permit suspension or revocation, and/or denial of permit issuance or renewal, the Department shall afford the applicant or permit holder an opportunity for a hearing to contest the proposed action.

1. A monetary penalty, permit suspension (excluding summary suspensions) or revocation, and/or denial of permit issuance or renewal shall become effective and final 30 days from the date of the notice of proposed action, unless the applicant or permit holder, within that 30-day period, submits a written request for a hearing to the Department with a response to the proposed action.

- i. Failure to submit a written request for a hearing within 30 days from the date of the notice of proposed



action shall result in the applicant or permit holder forfeiting all rights to such a hearing.

ii. If the applicant or permit holder submits a timely request for a hearing, then the monetary penalty, and/or the suspension (excluding summary suspensions), revocation, and/or denial of permit renewal shall be held in abeyance until the hearing is concluded and a final decision is rendered.

iii. A monetary penalty that is the subject of a hearing, which the applicant or permit holder timely requests pursuant to this section, is due 45 days after the Commissioner's issuance of a final agency decision determining the penalty.

iv. A revocation, suspension, or denial of issuance or renewal of a Cottage Food Operator Permit is effective immediately upon the Commissioner's issuance of a final agency decision on the action.

(c) The Department shall transmit hearing requests to the Office of Administrative Law.

(d) Hearings shall be conducted pursuant to the Administrative Procedure Act, N.J.S.A. 52:14B-1 et seq., and 52:14F-1 et seq., and the Uniform Administrative Procedure Rules, N.J.A.C. 1:1.

