

ADOPTIONS SECTION

HEALTH

PUBLIC HEALTH SERVICES BRANCH

**DIVISION OF EPIDEMIOLOGY, ENVIRONMENTAL AND OCCUPATIONAL HEALTH
CONSUMER, ENVIRONMENTAL AND OCCUPATIONAL HEALTH SERVICE**

Notice of Readoption

**Sanitation in Retail Food Establishments, Food and Beverage Vending Machines,
and Cottage Food Operations**

Readoption with Technical Changes: N.J.A.C. 8:24

Authorized By: Judith M. Persichilli, R.N., B.S.N., M.A., Commissioner, Department of Health, in consultation with the Public Health Council.

Authority: N.J.S.A. 24:1-1 et seq., particularly 24:2-1, 24:5-1 et seq., 24:6B-1 et seq., 24:10-57.20, 24:10-73.1, 24:12-12, 24:17-1 et seq., and 26:1A-7 and 10.

Effective Dates: November 17, 2021, Readoption;
December 20, 2021, Technical Changes.

New Expiration Date: November 17, 2028.

Take notice that, pursuant to N.J.S.A. 52:14B-5.1, the Commissioner of the Department of Health (Department) hereby readopts N.J.A.C. 8:24, Sanitation in Retail Food Establishments, Food and Beverage Vending Machines, and Cottage Food Operations. N.J.A.C. 8:24 was scheduled to expire November 27, 2020. Pursuant to Executive Order Nos. 127 (2020) and 244 (2021) and P.L. 2021, c. 103, any chapter of the New Jersey Administrative Code that would otherwise have expired during the Public Health Emergency originally declared in Executive Order No. 103 (2020) is

extended through January 1, 2022. Therefore, this chapter has not yet expired and the 30-day filing date pursuant to N.J.S.A. 52:14B-5.1.c has not yet occurred, therefore, pursuant to Executive Order No. 244 (2021), and P.L. 2021, c. 103, this notice of readoption is timely filed.

Chapter 24 establishes standards for sanitation in retail food establishments, food and beverage vending machines, and cottage food operations in New Jersey. Subchapter 1. General Provisions, establishes standards for violations, declarations of nuisances, purpose and scope of the chapter, and definitions. Subchapter 2. Management and Personnel, establishes standards for supervision, employee health, personal cleanliness, and hygienic practices. Subchapter 3. Food, establishes standards for characteristics, sources, specifications, and original containers and records, protection from contamination after receiving, destruction of organisms of public health concern, limitation of growth of organisms of public health concern, food identity, presentation, and on-premises labeling, and special requirements for highly susceptible populations. Subchapter 4. Equipment, Utensils, and Linens, establishes standards for materials for construction and repair, design and construction, equipment location and installation, maintenance and operation, cleaning of equipment and utensils, sanitization of equipment and utensils, manual warewashing equipment, mechanical warewashing equipment, laundering, protection of clean items, and vending machines. Subchapter 5. Water, Plumbing, and Waste, establishes standards for water, plumbing system, mobile water tank and mobile retail food establishment water tank, sewage, other liquid waste, and rainwater, and refuse, recyclables, and returnables. Subchapter 6. Physical Facilities, establishes standards for materials for

construction and repair, design, construction, and installation, lighting, ventilation, and dressing areas, segregation and location of distressed merchandise, maintenance and operation, toilet facilities, and handwashing facilities. Subchapter 7. Poisonous or Toxic Materials, establishes standards for labeling and identification, operational supplies and applications, and stock and retail sale. Subchapter 8. Enforcement Provisions, establishes standards for legal authority, inspection of retail food establishments, examination of records, examination and condemnation of unwholesome, contaminated or adulterated food and drink, retail food establishments outside jurisdiction, emergency occurrences, salvaged foods, closure for infection, penalties, report of inspections, evaluation of reports, public posting of inspection reports, public availability of inspection records, and interpretations. Subchapter 9. Review of Plans, establishes standards for plan submission and approval and pre-operational inspection. Subchapter 10. Additional Requirements, establishes standards for choking prevention posters and smoking in restaurants and food stores. Subchapter 11. Cottage Food Operator Permit, establishes standards for requirement and procedure to obtain a cottage food operator permit, authorized cottage food operator activity, prohibited cottage food operator activity, cottage food point of sale notice, packaging, and labeling, health authority's right of access, application fees, permit duration, and permit renewal, suspension, revocation, and/or denial of issuance or renewal of a permit, monetary penalties, and hearing on enforcement actions. The chapter Appendix establishes the form for application for cottage food operator permit.

The Department is developing rulemaking that would update Chapter 24 to conform to changes to the Federal Model Food Code. However, that rulemaking will not

be concluded before the existing rules expire. Therefore, subject to the technical changes described below, the Commissioner has determined that the existing rules remain necessary, adequate, reasonable, efficient, understandable, and responsive to the purposes for which they were promulgated, and should be readopted, until the rulemaking that is in development can be concluded.

The Department is making technical changes to reflect the change in the name of the Department, pursuant to N.J.S.A. 26:1A-2.1, and to update references to incorporated authorities, addresses, web addresses, email addresses, and phone numbers.

Full text of the technical changes follows (additions indicated in boldface **thus**; deletions indicated in brackets [thus]):

SUBCHAPTER 1. GENERAL PROVISIONS

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:

...

"Department" means the New Jersey Department of Health [and Senior Services].

...

"Hazard Analysis Critical Control Point (HACCP) plan" means a written document that delineates the formal procedures for following the HACCP principles ([July, 2005]

December 2017) 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] **5001 Campus Drive, HFS-009**, College Park, MD 20740-**3835**, telephone (301) 436-2350 and website address

[<http://www.cfsan.fda.gov/%7Edms/hret2toc.html>] [https://www.fda.gov/about-fda/fda-organization/center-food-safety-and-applied-nutrition-cfsan.](https://www.fda.gov/about-fda/fda-organization/center-food-safety-and-applied-nutrition-cfsan)

...

SUBCHAPTER 2. MANAGEMENT AND PERSONNEL

8:24-2.1 Supervision

(a) (No change.)

(b) Based on the risks of foodborne illness inherent to the food operation, during inspections and upon request, the person in charge shall demonstrate to the health authority knowledge of foodborne disease prevention, application of the Hazard Analysis Critical Control Point (HACCP) principles, and the requirements of this chapter. The person in charge shall demonstrate this knowledge by substantial compliance with this chapter. By January 2, 2010, at least one person in charge in Risk Type 3 Food Establishments shall be a certified food protection manager who has shown proficiency of required information through obtaining a food safety certificate by passing a food safety certification examination administered by an accredited certifying program recognized by the Conference for Food Protection. Certified food protection managers shall maintain the currency of the food safety certificate by following the accredited certifying program's requirements for renewal. Information on accredited food safety certification programs is available through the Department of Health, [and Senior Services, Food and Drug Safety] **Public Health and Food Protection** Program by mailing a written request to: Consumer [and], Environmental, **and Occupational** Health Service[s], [Food and Drug Safety] **Public Health and Food Protection** Program,

[P.O.] **PO** Box 369, Trenton, New Jersey, 08625-0369, telephone (609) [588-3123] **826-4935.**

(c) (No change.)

8:24-2.2 Employee health

(a) – (b) (No change.)

(c) The Department or health authority may use the following sources as guidelines for determining the characteristics and control of foodborne diseases:

1. The American Public Health Association's (APHA) text, Control of Communicable Diseases Manual (David L. Heymann, MD ed., APHA Press [18th]**20th** ed. [2005] **2016**), as amended and supplemented. The Control of Communicable Diseases Manual is available from the American Public Health Association, 800 I Street, NW, Washington, DC 20001, telephone: (202) 777-2742, [and e-mail] **email: apha@pbd.com** and through the internet at <https://secure.apha.org/imis/ItemDetail?iProductCode=978-087553-0185&CATEGORY=BK>; or

2. The Department's Communicable Disease Service [Manual (last updated October 21, 2005), as amended and supplemented. The Communicable Disease Service Manual is available for download at <http://www.state.nj.us/health/cd/techinfo.htm>] guidance documents, which are available online at <https://www.nj.gov/health/cd>.

8:24-2.3 Personal cleanliness

(a)-(g) (No change.)

(h) A hand sanitizer and a chemical hand sanitizing solution used as a hand dip shall:

1. Be an approved drug that is listed in the FDA publication Approved Drug

Products with Therapeutic Equivalence Evaluations, commonly known as the "Orange Book [25th] **41st** edition," incorporated herein by reference, as amended and supplemented, available at [<http://www.fda.gov/cder/orange/default.htm>]

<https://www.fda.gov/drugs/drug-approvals-and-databases/approved-drug-products-therapeutic-equivalence-evaluations-orange-book>, as an approved drug based on safety and effectiveness; or have active antimicrobial ingredients that are listed in the FDA final monograph for OTC Antimicrobial Drug Products, at First aid antibiotic active ingredients and Permitted combinations of active ingredients, 21 CFR [§§] 333.110 and 333.120, incorporated herein by reference, as amended and supplemented;

2. Consist of components that are:

i.-iii. (No change.)

iv. Permitted for such use by an effective Food Contact Substance Notification as defined by the FFDCA, 21 U.S.C. § 348(h), incorporated herein by reference, as amended and supplemented of Effective Food Contact Substances, as amended and supplemented, and available through The Office of Food Additive Safety ([HFS-200] **HFS-275**), Center for Food Safety and Applied Nutrition, Food and Drug Administration, [5100 and listed in the FDA's Inventory Paint Branch Parkway, College Park, MD 20740-3835] **5001 Campus Drive, College Park, MD 20740**, telephone

[(301) 436-1196 or (301) 436-1175] **1-888-723-3366**, and available at
[<http://www.cfsan.fda.gov/dms/opa-fcn.html>] [**https://www.fda.gov/food/packaging-food-contact-substances-fcs/inventory-effective-food-contact-substance-fcs-notifications**](https://www.fda.gov/food/packaging-food-contact-substances-fcs/inventory-effective-food-contact-substance-fcs-notifications); and

3. (No change.)

(i)-(k) (No change.)

SUBCHAPTER 3. FOOD

8:24-3.2 Sources, specifications, and original containers and records

(a)-(l) (No change.)

(m) Molluscan shellfish requirements shall include the following:

1. Molluscan shellfish shall be obtained from sources meeting the requirements specified in the U.S. Department of Health and Human Services, Public Health Service, Food and Drug Administration, National Shellfish Sanitation Program Guide for the Control of Molluscan Shellfish ([2003] **2019**), incorporated herein by reference, as amended and supplemented.

2. Molluscan shellfish received in interstate commerce shall be from sources that are listed in the U.S. Department of Health and Human Services, Food and Drug Administration, Center for Food Safety and Applied Nutrition, Interstate Certified Shellfish Shippers List, incorporated herein by reference, as amended and supplemented, and available through the Department of Health, [and Senior Services, Food and Drug Safety] **Public Health and Food Protection** Program by mailing a

written request to: Consumer [and], Environmental, **and Occupational** Health Service[s], [Food and Drug Safety] **Public Health and Food Protection** Program, [P.O.] **PO** Box 369, Trenton, New Jersey, 08625-0369, and available at
[\[http://www.cfsan.fda.gov/%7Eear/shellfish.html\]](http://www.cfsan.fda.gov/%7Eear/shellfish.html)
<https://www.fda.gov/food/federalstate-food-programs/national-shellfish-sanitation-program-nssp>.

(n)-(r) (No change.)