CHAPTER 24

"SANITATION IN RETAIL FOOD ESTABLISHMENTS AND FOOD AND BEVERAGE VENDING MACHINES"

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CHAPTER 24 (N.J.A.C. 8:24)

"Sanitation in Retail Food Establishments and Food and Beverage Vending Machines"

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Subchapter 1.
GENERAL PROVISIONS

8:24-1.1 Violations; declaration of nuisances

Retail food establishments in violation of this chapter are hereby declared to be nuisances, hazardous to health.

8:24-1.2 Severability

If any provision or application of any provision of this chapter is held invalid, that invalidity shall not affect other provisions or applications of this chapter.

8:24-1.3 Purpose

The purpose of this chapter is to safeguard public health and provide to consumers food that is safe and unadulterated.

8:24-1.4 Scope

This chapter establishes definitions; sets standards for management and personnel, food operations, and equipment and facilities; and provides for retail food establishment plan review, inspection, and employee restrictions.

8:24-1.5 Definitions

For the purpose of this chapter, the following words, phrases, names and terms 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.

"aw" 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 aw.

"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/~ear/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.

"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.

"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 and Senior Services.

"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/~dms/hret2toc.html.

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

"Health authority" means the duly licensed agent of the local board of health and/or State Department of Health and Senior Services to act in the enforcement of its ordinances and sanitary laws of the State.

"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.

"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 0 and 7 indicate acidity and values between 7 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 aw value of 0.85 or less;

3. A food with a pH level of 4.6 or below when measured at 75°F;

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 aw 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 water system" has the meaning stated in the NJSDWA.

"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)3ii;

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% 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. 41°F or less, except as specified under 2 below.

2. 45°F or less in refrigeration equipment in use as of January 2, 2007, that is not capable of maintaining the food at 41°F 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°F 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:

1. Such as a restaurant; satellite or catered feeding location; catering operation if the operation provides food directly to a consumer or to a conveyance used to transport people; market; vending location; conveyance used to transport people; institution; or food bank; and

2. That relinquishes possession of food to a consumer directly, or indirectly through a delivery service such as home delivery of grocery orders or restaurant takeout orders, or delivery service that is provided by common carriers.

"Retail food establishment" includes:

1. 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; or

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

"Retail food establishment" does not include:

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

2. A food processing plant;

3. A kitchen in a private home if only food that is not potentially hazardous 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;

4. An area where food that is prepared as specified in 3 above is sold or offered for human consumption;

5. 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 guesthouse 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; or

6. 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 preschools 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 temperatures" 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°F 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°F 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.

Min Temperature	Minimum Holding Time
145°F	3 minutes
150°F	1 minute
158°F	1 second (instantaneous)

3. 165°F or above for 15 seconds for poultry, stuffed fish, stuffed meat, stuffed pasta, stuffed poultry, stuffed ratites, or stuffing containing fish, meat, poultry, or ratities.

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°F	112 Minutes
132°F	77 minutes
134°F	47 minutes
136°F	32 minutes
138°F	19 minutes
140°F	12 minutes
142°F	8 minutes
144°F	5 minutes
145°F	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% 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 E. coli capable of producing Shiga toxins (also called verocytotoxins or "Shiga-like" toxins). This includes, but is not limited to, E. 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°F to 25°F 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.

"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.

Subchapter 2.

MANAGEMENT & PERSONNEL

8:24-2.1 Supervision

(a) The operator shall be the person in charge or shall designate a person in charge and shall ensure that a person in charge is present at the retail food establishment during all hours of operation.

(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 Program by mailing a written request to: Consumer and Environmental Health Services, Food and Drug Safety Program, P.O. Box 369, Trenton, New Jersey, 08625-0369, telephone (609) 588-3123.

(c) The person in charge shall ensure the following:

1. That retail food establishment operations are not conducted in a private home or in a room used as living or sleeping quarters;

2. That persons unnecessary to the retail food establishment operation are not allowed in the food preparation, food storage, or warewashing areas;

3. That employees and other persons such as delivery and maintenance persons and pesticide applicators entering the food preparation, food storage, and warewashing areas comply with this chapter;

i. Through routinely monitoring the employees' handwashing, that employees are effectively cleaning their hands;

ii. Through routinely monitoring the employees' observations and periodically evaluating foods upon their receipt, that employees are visibly observing foods as they are received to determine that they are from sources that are subject to inspection by the appropriate regulatory authority as set forth in N.J.A.C. 8:24-3.2, delivered at required temperatures, protected from contamination, unadulterated, and accurately presented;

iii. Through daily oversight of the employees' routine monitoring of the cooking temperatures using appropriate temperature measuring devices properly scaled and calibrated, that employees are properly cooking potentially hazardous food, being particularly careful in cooking those foods known to cause severe foodborne illness and death, such as eggs and comminuted meats;

iv. Through daily oversight of the employees' routine monitoring of food temperatures during cooling, that employees are using proper methods to rapidly cool potentially hazardous foods

that are not held hot or are not for consumption within 4 hours;

v. Through routine monitoring of solution temperature and exposure time for hot water sanitizing, and chemical concentration, pH, temperature, and exposure time for chemical sanitizing, that employees are properly sanitizing cleaned multiuse equipment and utensils before they are reused;

4. That consumers are notified that clean tableware is to be used when they return to self-service areas such as salad bars and buffets;

5. That employees are preventing cross-contamination of ready-to-eat food with bare hands by properly using suitable utensils such as deli tissue, spatulas, tongs, single use gloves, or dispensing equipment; and

6. That employees are properly trained in food safety as it relates to their assigned duties.

8:24-2.2 Employee health

(a) Persons, while affected with any disease in a communicable form or while a carrier of such disease or while affected with boils, infected wounds, sores, acute respiratory infection, jaundice, sore throat with fever, nausea, vomiting, or diarrhea which could cause foodborne diseases such as staphylococcal intoxication, shiga toxin-producing E. coli, salmonellosis, shigellosis or the hepatitis A virus, shall not work in any area of a food establishment in any capacity in which there is a likelihood of such person contaminating food or food contact surfaces with pathogenic organisms, or transmitting disease to other individuals and no person known or suspected of being affected with any such disease or condition shall be employed in any such area or capacity.

(b) If the manager or person in charge has reason to suspect that any employee has contracted any disease in a communicable form which could result in foodborne disease or has become a carrier of such disease, he or she shall advise the employee to contact his or her physician for treatment and shall relieve him or her of duties relating to food handling or food contact surfaces.

(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 ed. 2005), 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: apha@pbd.com; 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.

8:24-2.3 Personal cleanliness

(a) Food employees shall keep their hands and exposed portions of their arms clean.

(b) Food employees shall clean their hands and exposed portions of their arms for at least 20 seconds, using a cleaning compound in a handwashing sink that is equipped as specified under N.J.A.C. 8:24-6.7, and using the cleaning procedure specified in (c) below.

(c) Food employees shall use the following cleaning procedure in the order stated to clean their hands and exposed portions of their arms:

1. Rinse the hands and exposed portions of the arms under clean, running water;

2. Apply the amount of cleaning compound recommended by the cleaning compound manufacturer to the hands;

3. Rub the hands together vigorously for at least 10 seconds while paying particular attention to removing soil from underneath the fingernails during the cleaning procedure, and creating friction on the surfaces of the hands and arms, finger tips, and areas between the fingers;

4. Rinse fingers, hands and arms thoroughly under clean, running warm water; and

5. Immediately following the cleaning procedure, thoroughly dry the fingers, hands and arms using a method specified under N.J.A.C. 8:24-6.7(k).

(d) Food employees shall pay particular attention to the areas underneath the fingernails during the cleaning procedure.

(e) If approved and capable of removing the types of soils encountered in the food operations involved, an automatic handwashing facility may be used by food employees to clean their hands.

(f) Food employees shall clean their hands and exposed portions of their arms immediately before engaging in food preparation including working with exposed food, clean equipment and utensils, and unwrapped single-service and single-use articles, and:

1. After touching bare human body parts other than clean hands and clean, exposed portions of arms;

2. After using the toilet room;

3. After caring for or handling service animals or aquatic animals;

4. After coughing, sneezing, using a handkerchief or disposable tissue, using tobacco, eating, or drinking, except as specified in N.J.A.C. 8:24-2.4(a)2;

5. After handling soiled equipment or utensils;

6. During food preparation, as often as necessary to remove soil and contamination and to prevent cross contamination when changing tasks;

7. When switching between working with raw food and working with ready-to-eat food;

8. Before donning gloves for working with foods; and

9. After engaging in other activities that contaminate the hands.

(g) Food employees shall clean their hands in a handwashing sink or automatic handwashing facility acceptable to the health authority and may not clean their hands in a sink used for food preparation, a warewashing sink including a three compartment sink, or in a service sink or a curbed cleaning facility used for the disposal of mop water and similar liquid waste.

(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 edition," incorporated herein by reference, as amended and supplemented, available at http://www.fda.gov/cder/orange/default.htm, 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. Listed for such use in contact with food in Indirect Food Additives: Adjuvants, Production Aids, and Sanitizers, 21 CFR Part 178, incorporated herein by reference, as amended and supplemented;

ii. Exempt from regulation as food additives under Threshold of Regulation for Substances Used in Food-Contact Articles, 21 CFR §170.39, incorporated herein by reference, as amended and supplemented;

iii. Generally recognized as safe (GRAS) for the intended use in contact with food within the meaning of Substances Generally Recognized as Safe, 21 CFR Part 182, incorporated herein by reference, as amended and supplemented; Direct Food Substances Affirmed as Generally Recognized as Safe, 21 CFR Part 184, incorporated herein by reference, as amended and supplemented; or Indirect Food Substances Affirmed as Generally Recognized as Safe, 21 CFR Part 186, incorporated herein by reference, as amended and supplemented; or

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 and listed in the FDA's Inventory of Effective Food Contact Substances, as amended and supplemented, and available through The Office of Food Additive Safety (HFS-200), Center for Food Safety and Applied Nutrition, Food and Drug Administration, 5100 Paint Branch Parkway, College Park, MD 20740-3835, telephone (301) 436-1196 or (301) 436-1175, and available at http://www.cfsan.fda.gov/dms/opa-fcn.html; and

3. Be applied only to hands that are cleaned as specified in (a) through (e) above.

(i) Requirements for fingernails include the following:

1. Food employees shall keep their fingernails trimmed, filed, and maintained so that the edges and surfaces are cleanable and not rough; and

2. Food employees shall not wear fingernail polish or artificial fingernails when working with exposed food, unless wearing intact gloves in good repair.

(j) Food employees may not wear jewelry on their arms and hands while preparing food. This subsection does not apply to a plain ring such as a wedding band.

(k) Food employees shall wear clean outer clothing to prevent contamination of food, equipment, utensils, linens, and single-service and single-use articles.

8:24-2.4 Hygienic practices

(a) The following requirements shall apply to eating, drinking, or using tobacco:

1. Except as provided under (a)2 below, an employee shall only eat, drink, or use any form of tobacco, in compliance with the New Jersey Smoke-Free Air Act at N.J.S.A. 26:3D-55 through 3D-64 and the rules promulgated thereunder, in designated areas where the contamination of exposed food, clean equipment, utensils, linens, unwrapped single-service and single-use articles, or other items needing protection cannot result.

2. A food employee may drink from a closed beverage container if the container is handled to prevent contamination of the employee's hands, the container, exposed food, clean equipment, utensils, linens, and unwrapped single-service and single-use articles.

(b) Food employees experiencing persistent sneezing, coughing, or a runny nose that causes discharges from the eyes, nose, or mouth shall not work with exposed food, clean equipment, utensils, linens, or unwrapped single-service or single-use articles.

(c) The following requirements shall apply to hair restraints:

1. Except as provided in (c)2 below, food employees shall wear hair restraints such as hats, hair coverings or nets, beard restraints, and clothing that covers body hair, that are designed and worn to effectively keep their hair from contacting exposed food, clean equipment, utensils, linens; and unwrapped single-service and single-use articles.

2. This subsection does not apply to food employees such as counter staff who only serve beverages and wrapped or packaged foods, hostesses, and wait staff if they present a minimal risk of contaminating exposed food; clean equipment, utensils, and linens; and unwrapped single-service and single-use articles.

(d) The following requirements shall apply to the handling of animals.

1. Except as specified in (d)2 below, food employees shall not care for or handle animals that may be present, such as patrol dogs, service animals, or pets that are allowed as specified in N.J.A.C. 8:24-6.5(k)2ii through iv.

2. Food employees with service animals may handle or care for their service animals and food employees may handle or care for fish in aquariums or molluscan shellfish or crustacea in display tanks if the food employees wash their hands.

Subchapter 3.

FOOD

8:24-3.1 Characteristics

Food shall be safe and unadulterated.

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

(a) Sources requirements include the following:

1. Food in the retail food establishment shall be obtained from a source which is in compliance with applicable State and local laws and regulations.

2. Food prepared in a private home shall not be used or offered for human consumption in a retail food establishment.

3. Packaged food shall be labeled as specified in N.J.S.A. 24:5-17, Food Misbranding, and Food Labeling 21 CFR Part 101, incorporated herein by reference, as amended and supplemented, Labeling, Marking Devices, and Containers, 9 CFR Part 317, incorporated herein by reference, as amended and supplemented, and Labeling and Containers, 9 CFR Part 381, Subpart N, incorporated herein by reference, as amended and supplemented.

4. Fish that are intended for consumption in their raw form may be offered for sale or service only if they are obtained from a supplier that freezes the fish as specified under N.J.A.C. 8:24-3.4(d); or frozen on the premises as specified under N.J.A.C. 8:24-3.4(d) and records are retained as specified under N.J.A.C. 8:24-3.4(e).

5. Meat and poultry that is not a ready-to-eat food and is in a packaged form when it is offered for sale or otherwise offered for consumption, shall be labeled to include safe handling instructions as specified under 9 CFR §317.2(l), incorporated herein by reference, as amended and supplemented, and 9 CFR §381.125(b), incorporated herein by reference, as amended and supplemented.

(b) Food in a hermetically sealed container shall be obtained from a food processing plant that is regulated by the food regulatory agency that has jurisdiction over the plant.

(c) Fluid milk and milk products shall meet applicable State and local laws and regulations.

(d) Wild mushroom species, if they are in packaged form and are the product of a food processing plant that is regulated by the food regulatory agency that has jurisdiction over the plant, are permitted for use or sale in a retail food establishment.

(e) Retail food establishments shall meet the following requirements with regard to game animals:

1. If commercially raised game animals are received for sale or service, they shall be commercially raised for food and raised, slaughtered, and processed under:

i. A voluntary inspection program that is conducted by the agency that has animal health jurisdiction;

ii. A routine inspection program conducted by a regulatory agency other than the agency that has animal health jurisdiction; or

iii. 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.

2. A game animal may not be received for sale or service if it is a species of wildlife that is listed in Endangered and Threatened Wildlife and Plants, 50 CFR Part 17, incorporated herein by reference, as amended and supplemented.

(f) Requirements for receiving temperatures are as follows:

1. Refrigerated, potentially hazardous food shall be at a temperature of 41°F or below when received, except that if a temperature other than 41°F is specified in law governing its distribution, such as laws governing milk at N.J.A.C. 8:21-10.11, and molluscan shellfish at N.J.A.C. 8:13-2.11, the food may be received at the specified temperature.

2. Raw shell eggs shall be received in refrigerated equipment that maintains an ambient air temperature of 45°F or less.

3. Potentially hazardous food that is cooked to safe cooking temperatures, and received hot shall be at a temperature of 135°F or above.

4. A food that is labeled frozen and shipped frozen by a food processing plant shall be received frozen.

5. Upon receipt, potentially hazardous food shall be free of evidence of previous temperature abuse.

(g) Food shall not contain unapproved food additives or additives that exceed amounts specified in 21 CFR Parts 170 through 180, incorporated herein by reference, as amended and supplemented, which relate to food additives, generally recognized as safe or prior sanctioned substances that exceed amounts specified in 21 CFR Parts 181 through 186, incorporated herein by reference, as amended and supplemented, substances that exceed amounts specified in Food Ingredients and Sources of Radiation, 9 CFR §424.21(b), incorporated herein by reference, as amended and supplemented, or pesticide residues that exceed provisions specified in Tolerances and Exemptions from Tolerances for Pesticide Chemicals in Food 40 CFR Part 180, incorporated herein by reference, as amended and supplemented.

(h) Shell eggs shall be received clean and sound and shall not exceed the restricted egg tolerances for U.S. Consumer Grade B as specified in Voluntary Grading of Shell Eggs, 7 CFR Part 56, incorporated herein by reference, as amended and supplemented, and Inspection of Eggs (Egg Products Inspection Act), 7 CFR Part 57, incorporated herein by reference, as amended and supplemented.

(i) The following requirements shall apply to eggs and milk products:

1. Liquid, frozen, and dry eggs and egg products shall be obtained pasteurized.

2. Fluid and dry milk and milk products shall be obtained pasteurized.

3. Frozen milk products, such as ice cream, shall be obtained pasteurized as specified in Frozen Desserts 21 CFR Part 135, incorporated herein by reference, as amended and supplemented.

4. Cheese shall be obtained pasteurized, unless alternative procedures to pasteurization are specified in the CFR, such as Cheeses and Related Cheese Products, 21 CFR Part 133, incorporated herein by reference, as amended and supplemented, which lists requirements for curing certain cheese varieties.

(j) Food packages shall be in good condition and protect the integrity of the contents so that the food is not exposed to adulteration or potential contaminants.

(k) Ice for use as a food or a cooling medium shall be made from drinking water.

(l) Fish that are received for sale or service shall be legally caught or harvested.

(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), 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 Program by mailing a written request to: Consumer and Environmental Health Services, Food and Drug Safety Program, P.O. Box 369, Trenton, New Jersey, 08625-0369, and available at http://www.cfsan.fda.gov/~ear/shellfish.html

(n) Shucked shellfish, packaging and identification requirements include the following:

1. Raw shucked shellfish shall be obtained in nonreturnable packages which bear a legible label that identifies the following:

i. The name, address, and certification number of the shucker-packer or repacker of the molluscan shellfish; and

ii. The "sell by" date for packages with a capacity of less than one-half gallon or the date shucked for packages with a capacity of one-half gallon or more.

(o) Shellstock shall be obtained in containers bearing legible source identification tags that are affixed by the certified dealer that ships or reships the shellstock, as specified in N.J.A.C. 8:13 and that list the following:

1. Each dealer's tag shall list the following information, in the following order:

i. The dealer's name and address, and the certification number assigned by the shellfish control authority;

ii. The original shipper's certification number including the abbreviation of the name of the state or country in which the shellfish are harvested;

iii. The date of harvesting;

iv. The most precise identification of the harvest location or aquaculture site that is practicable based on the system of harvest area designations that is in use by the shellfish control authority and including the abbreviation of the name of the state or country in which the shellfish are harvested;

v. The type and quantity of shellfish; and

vi. The following statement in bold, capitalized type: **"THIS TAG IS REQUIRED TO BE ATTACHED UNTIL CONTAINER IS EMPTY AND THEREAFTER KEPT ON FILE FOR 90 DAYS."**

(p) When received by a retail food establishment, shellstock shall be reasonably free of mud, dead shellfish, and shellfish with broken shells. Dead shellfish or shellstock with badly broken shells shall be discarded.

(q) Requirements for molluscan shellfish in the original container include the following:

1. Molluscan shellfish shall not be removed from the container in which they are received other than immediately before sale or preparation for service, except as specified in (q)2 and 3 below.

2. Shellstock may be removed from the container in which they are received, displayed on drained ice, or held in a display container, and a quantity specified by a consumer may be removed from the display or display container and provided to the consumer only if:

i. The source of the shellstock on display is identified as specified under (o) above and recorded as specified under (r) below and

ii. The shellstock are protected from contamination.

3. Shucked shellfish may be removed from the container in which they were received and held in a display container from which individual servings are dispensed upon a consumer's request only if:

i. The labeling information for the shellfish on display as specified under (n) above is retained and correlated to the date when, or dates during which, the shellfish are sold or served; and

ii. The shellfish are protected from contamination.

(r) Requirements for maintaining identification of shellstock include the following:

1. Shellstock tags shall remain attached to the container in which the shellstock are received until the container is empty.

2. The identity of the source of shellstock that are sold or served shall be maintained by retaining shellstock tags for 90 calendar days from the date the container is emptied by using a recordkeeping system acceptable to the health authority that keeps the tags in chronological order correlated to the date when, or dates during which, the shellstock are sold or served; and ensures that shellstock from one tagged container are not commingled with shellstock from another container before being ordered by the consumer.

8:24-3.3 Protection from contamination after receiving

(a) Requirements for preventing contamination from hands include the following:

1. Food employees shall wash their hands as specified under N.J.A.C. 8:24- 2.3.

2. Food employees may not contact exposed, ready-to-eat food with their bare hands and shall use suitable utensils such as deli tissue, spatulas, tongs, single-use gloves, or dispensing equipment, except when washing fruits and vegetables as specified under N.J.A.C. 8:24-3.3(g); provided that food employees may contact exposed, ready-to-eat foods with their bare hands after meeting the requirements set forth in N..J.A.C 8:24-2.3(b) through (e), and in (a)4 below.

3. Food employees shall minimize bare hand and arm contact with exposed food that is not in a ready-to-eat form.

4. Food employees not serving a highly susceptible population may contact exposed, ready-to-eat food with their bare hands if the retail food establishment maintains written procedures that can be made available to the health authority upon request that include:

i. For each bare hand contact procedure, a listing of the specific ready-to-eat foods that may be touched by bare hands;

ii. Diagrams and other types of information showing that properly equipped handwashing facilities are provided in an easily accessible location and in close proximity to the work station where the bare hand contact procedure is conducted; and

iii. Documentation that food employees acknowledge that they have received training in:

(1) The risks of contacting the specific ready-to-eat foods with bare hands;
(2) Proper handwashing as specified in N.J.A.C. 8:24-2.3(b) and (c);
(3) When to wash their hands as specified in N.J.A.C. 8:24-2.3(f);
(4) Where to wash their hands as specified in N.J.A.C. 8:24-2.3(b); and
(5) Proper fingernail maintenance as specified in N.J.A.C. 8:24-2.3(i).

(b) Limitations for glove use include the following:

1. Single-use gloves shall be used for only one task such as working with ready-to-eat food or with raw animal food, used for no other purpose, and discarded when damaged or soiled, or when interruptions occur in the operation.

2. Slash-resistant gloves that are used to protect the hands during operations requiring cutting shall be used in direct contact only with food that is subsequently cooked such as

frozen food or a primal cut of meat, except as specified in (b)3 below.

3. Slash-resistant gloves may be used with ready-to-eat food that will not be subsequently cooked if the slash-resistant gloves have a smooth, durable, and nonabsorbent outer surface; or if the slash-resistant gloves are covered with a smooth, durable, nonabsorbent glove, or a single-use glove.

4. Cloth gloves may not be used in direct contact with food unless the food is subsequently cooked such as frozen food or a primal cut of meat.

(c) Separation, packaging and segregation requirements for packaged and unpackaged food include the following:

1. Food shall be protected from cross contamination by:

i. Separating raw animal foods from any ready-to-eat foods during storage, preparation, holding, and display;

ii. Separating types of raw animal foods such as beef, fish, lamb, pork, and poultry from each other during storage, preparation, holding, and display, except when combined as ingredients. This separation of raw animal foods shall be accomplished by using separate equipment for each type of food, arranging each type of food in equipment so that cross contamination of one type with another is prevented, and preparing each type of food at different times or in separate areas;

iii. Cleaning and sanitizing equipment and utensils;

iv. Cleaning hermetically sealed containers of food of visible soil before opening;

v. Protecting food containers that are received packaged together in a case or overwrap from cuts when the case or overwrap is opened;

vi. Storing damaged, spoiled, or recalled food being held in the retail food establishment as specified under N.J.A.C. 8:24-6.4;

vii. Separating fruits and vegetables, before they are washed, from ready-to-eat food; and

viii. Storing the food in packages, covered containers, or wrappings, except:

(1) Whole, uncut, raw fruits and vegetables and nuts in the shell, that require peeling or hulling before consumption;
(2) Primal cuts, quarters, or sides of raw meat or slab bacon that are hung on clean, sanitized hooks or placed on clean, sanitized racks;
(3) Whole, uncut, processed meats such as country hams, and smoked or cured sausages that are placed on clean, sanitized racks;
(4) Food being cooled; or
(5) Shellstock.

(d) Working containers holding food or food ingredients that are removed from their original packages for use in the retail food establishment, such as cooking oils, flour, herbs, potato flakes, salt, spices, and sugar, shall be identified with the common name of the food, except that containers holding food that can be readily and unmistakably recognized such as dry pasta need not be identified.

(e) Pasteurized eggs or egg products shall be substituted for raw shell eggs in the preparation of foods such as Caesar salad, hollandaise or Bearnaise sauce, mayonnaise, meringue, eggnog, tiramisu and egg-fortified beverages that are not cooked to safe cooking temperatures.

(f) Requirements for protection from unapproved additives requirements include the following:

1. Food shall be protected from contamination that may result from the addition of the following, as specified in N.J.A.C. 8:24-3.2(g):

i. Unsafe or unapproved food or color additives; and

ii. Unsafe or unapproved levels of approved food and color additives.

2. A food employee shall not:

i. Apply sulfiting agents to fresh fruits and vegetables intended for raw consumption or to a food considered to be a good source of vitamin B1; or

ii. Serve or sell food intended for raw consumption that is treated with sulfiting agents before receipt by the retail food establishment, except that grapes need not meet the requirement in this subparagraph.

(g) Requirements for washing fruits and vegetables shall include the following:

1. Raw fruits and vegetables shall be thoroughly washed in water to remove soil and other contaminants before being cut, combined with other ingredients, cooked, served, or offered for human consumption in ready-to-eat form, except as specified in (g)2 below and except that whole, raw fruits and vegetables that are intended for washing by the consumer before consumption need not be washed before they are sold.

2. Fruits and vegetables may be washed by using chemicals as specified under N.J.A.C. 8:24-7.2(g).

(h) Ice shall not be used as food after use as a medium for cooling the exterior surfaces of food such as melons or fish, packaged foods such as canned beverages, or cooling coils and tubes of equipment.

(i) Requirements for storage or display of food in contact with water or ice shall include the following:

1. Packaged food shall not be stored in direct contact with ice or water if the food is subject to the entry of water because of the nature of its packaging, wrapping, or container or its positioning in the ice or water;

2. Unpackaged food may not be stored in direct contact with undrained ice, except as specified in (i)3 and 4 below;

3. Whole, raw fruits or vegetables; cut, raw vegetables such as celery or carrot sticks or cut potatoes; and tofu may be immersed in ice or water; and

4. Raw chicken and raw fish that are received immersed in ice in shipping containers may remain in that condition while in storage awaiting preparation, display, service, or sale.

(j) Food shall only contact surfaces of equipment and utensils that are cleaned and sanitized.

(k) During pauses in food preparation or dispensing, food preparation and dispensing utensils shall be stored:

1. In the food with their handles above the top of the food and the container, except as specified in (k)2 below;

2. In food that is not potentially hazardous, with their handles above the top of the food within containers of equipment that can be closed, such as bins of sugar, flour, or cinnamon;

3. On a clean portion of the food prepara table or cooking equipment only if the in- utensil and the food-contact surface of th preparation table or cooking equipment are cleaned and sanitized at a frequency specified under N.J.A.C. 8:24-4.6 and 4.7;

4. In running water of sufficient velocity to flush particulates to the drain, if used with moist food such as ice cream or mashed potatoes;

5. In a clean, protected location if the utensils, such as ice scoops, are used only with a food that is not potentially hazardous; or

6. In a container of water if the water is maintained at a temperature of at least 135°F and the container is cleaned at a frequency specified under N.J.A.C. 8:24-4.6.

(l) Linens and napkins may not be used in contact with food unless they are used to line a container for the service of foods and the linens and napkins are replaced each time the container is refilled for a new consumer.

(m) Requirements for wiping cloths shall include the following:

1. Cloths that are in use for wiping food spills shall be used for no other purpose.

2. Cloths used for wiping food spills shall be:

i. Dry and used for wiping food spills from tableware and carry-out containers; or

ii. Wet and cleaned as specified under N.J.A.C. 8:24-4.10(b)4, stored in a chemical sanitizer at a concentration specified in N.J.A.C. 8:24-4.8(j)1, and used for wiping spills from food-contact and non food-contact surfaces of equipment.

3. Dry or wet cloths that are used with raw animal foods shall be kept separate from cloths used for other purposes, and wet cloths used with raw animal foods shall be kept in a separate sanitizing solution.

4. Wet wiping cloths used with a freshly made sanitizing solution and dry wiping cloths shall be free of food debris and visible soil.

5. Working containers of sanitizing solutions for storage of in-use wiping cloths may be placed above the floor and used in a manner to prevent contamination of food, equipment, utensils, linens, single-service or single use articles.

(n) A food employee may not use a utensil more than once to taste food that is to be sold or served.

(o) Requirements for using clean tableware for second portions and refills include the following:

1. Except for refilling a consumer's drinking cup or container without contact between the pouring utensil and the lip-contact area of the drinking cup or container, food employees may not use tableware, including single-service articles, soiled by the consumer to provide second portions or refills.

2. Self-service consumers may not be allowed to use soiled tableware, including single-service articles, to obtain additional food from the display and serving equipment, except as specified in (o)3 below.

3. Drinking cups and containers may be reused by self-service consumers if refilling is a contamination-free process as specified under N.J.A.C. 8:24-4.2(m)1, 2 and 4.

(p) Requirements for refilling returnables follow:

1. A take-home food container returned to a retail food establishment shall not be refilled at a retail food establishment with a potentially hazardous food.

2. A take-home food container refilled with food that is not potentially hazardous shall be cleaned as specified under N.J.A.C. 8:24-4.6 except as specified in (p)3 below.

3. Personal take-out beverage containers, such as thermally insulated bottles, nonspill coffee cups and promotional beverage glasses, may be refilled by employees or the consumer only if refilling is a contamination-free process as specified under N.J.A.C. 8:24-4.2(m)1, 2 and 4.

(q) Food storage requirements include the following:

1. Except as specified in (q)2 and 3 below, food shall be protected from contamination by storing the food:

i. In a clean, dry location;

ii. Where it is not exposed to splash, dust, or other contamination; and

iii. At least six inches above the floor.

2. Food in packages and working containers may be stored less than six inches above the floor on case lot handling equipment such as dollies, pallets, racks, and skids.

3. Pressurized beverage containers, cased food in waterproof containers such as bottles or cans, and milk containers in plastic crates may be stored on a floor that is clean and not exposed to floor moisture.

(r) Food shall not be stored in locker rooms; toilet rooms; dressing rooms; garbage rooms; mechanical rooms; or under sewer lines that are not shielded to intercept potential drips; under leaking water lines, including leaking automatic fire sprinkler heads, or under lines on which water has condensed; under open stairwells; or under other sources of contamination.

(s) During preparation, unpackaged food shall be protected from environmental sources of contamination.

(t) Food on display shall be protected from contamination by the use of packaging; counter, service line, or salad bar food guards; display cases; or other effective means, except for nuts in the shell and whole, raw fruits and vegetables that are intended for hulling, peeling, or washing by the consumer before consumption.

(u) Condiments shall be protected from contamination by being kept in the following:

1. Dispensers that are designed to provide protection;

2. Protected food displays provided with the proper utensils;

3. Original containers designed for dispensing; or

4. Individual packages or portions.

(v) Raw, unpackaged animal food, such as beef, lamb, pork, poultry, and fish shall not be offered for consumer self-service. This subsection does not apply to the following:

1. Consumer self-service of ready-to-eat foods at buffets or salad bars that serve foods such as sushi or raw shellfish;

2. Ready-to-cook individual portions for immediate cooking and consumption on the premises such as consumer-cooked meats or consumer-selected ingredients for Mongolian barbecue; or

3. Raw, frozen, shell-on shrimp or lobster.

(w) Consumer self-service operations for ready-to-eat foods shall be provided with suitable utensils or effective dispensing methods that protect the food from contamination.

(x) Consumer self-service operations such as buffets and salad bars shall be monitored by food employees trained in safe operating procedures.

(y) Requirements for returned food and reservice of food include the following:

1. After being served or sold and in the possession of a consumer, food that is unused or returned by the consumer shall not be offered as food for human consumption, except as specified in (y)2 below.

2. Except as specified under N.J.A.C. 8:24-3.7(a)2, a container of food that is not potentially hazardous may be transferred from one consumer to another if:

i. The food is dispensed so that it is protected from contamination and the container is closed between uses, such as a narrow-neck bottle containing catsup, steak sauce, or wine; or

ii. The food, such as crackers, salt, or pepper, is in an unopened original package and is maintained in sound condition.

(z) Food shall be protected from contamination that may result from a factor or source not specified above.

8:24-3.4 Destruction of organisms of public health concern

(a) Cooking temperature requirements for raw animal foods include the following:

1. Except as specified under (a)2 and 3 below, raw animal foods such as eggs, fish, meat, poultry, and foods containing these raw animal foods, shall be cooked to heat all parts of the food to a temperature and for a time that complies with one of the following methods based on the food that is being cooked:

i. 145°F or above for 15 seconds for fish, meat, pork and commercially raised game animals except as specified under (a)1ii and iii and (a)2 below.

ii. 155°F for 15 seconds or the temperature specified in the following chart that corresponds to the holding time for raw shell eggs, ratites and injected meats; and to the following if they are comminuted: fish, meat, commercially raised game animals.

Min Temperature	Minimum Holding Time
145°F	3 minutes
150°F	1 minute
158°F	1 second (instantaneous)

iii. 165°F 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.

2. 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°F	112 Minutes
132°F	77 minutes
134°F	47 minutes
136°F	32 minutes
138°F	19 minutes
140°F	12 minutes
142°F	8 minutes
144°F	5 minutes
145°F	3 minutes

*Holding time may include post oven heat rise.

3. A raw animal food, such as raw shell eggs, raw fish, raw-marinated fish, or raw molluscan shellfish; or a partially cooked food such as lightly cooked comminuted meat, lightly cooked fish, soft cooked eggs, or rare meat may be served or offered for sale in a ready-to-eat form only if:

i. The retail food establishment serves a population that is not a highly susceptible population; and

ii. The food is prepared in response to a consumer order and for immediate service.

(b) Raw animal foods cooked in a microwave oven shall be heated to a temperature of at least 165°F in all parts of the food; rotated or stirred throughout or midway during cooking to compensate for uneven distribution of heat; covered to retain surface moisture; and allowed to stand covered for two minutes after cooking to obtain temperature equilibrium.

(c) Fruits and vegetables that are cooked for hot holding shall be cooked to a temperature of 135°F.

(d) Requirements for parasite destruction include the following:

1. Before service or sale in ready-to-eat form, raw, raw-marinated, partially cooked, or marinated-partially cooked fish shall be frozen throughout to a temperature of:

i. -4°F or below for 168 hours (seven days) in a freezer; or

ii. -31°F or below for 15 hours in a blast freezer, except as specified in (d)2 below.

2. If the fish are tuna of the species Thunnus alalunga, Thunnus albacares (Yellowfin tuna), Thunnus atlanticus, Thunnus maccoyli (Bluefin tuna, Southern), Thunnus obesus (Bigeye tuna), or Thunnus thynnus (Bluefin tuna, Northern), the fish may be served or sold in a raw, raw-marinated, or partially cooked ready-to-eat form without freezing.

(e) Records creation and retention requirements include the following:

1. If raw, raw-marinated, partially cooked, or marinated-partially cooked fish are served or sold in ready-to-eat form, the person in charge shall record the freezing temperature and time to which the fish are subjected and shall retain the records at the retail food establishment for 90 calendar days beyond the time of service or sale of the fish, except as specified in (d)2 above and (e)2 below.

2. If the fish are frozen by a supplier, a written agreement or statement from the supplier stipulating that the fish supplied are frozen to a temperature and for a time specified under (d) above may substitute for the records specified under (e)1 above.

(f) Cooked and refrigerated food that is prepared for immediate service in response to an individual consumer order, such as a roast beef sandwich au jus, may be served at any temperature.

(g) The following applies to reheating for hot holding:

1. Potentially hazardous food that is cooked, cooled, and reheated for hot holding shall be reheated so that all parts of the food reach a temperature of at least 165°F for 15 seconds, except as specified under (g)2, 3 and 5 below.

2. Potentially hazardous food reheated in a microwave oven for hot holding shall be reheated so that all parts of the food reach a temperature of at least 165°F and the food is rotated or stirred, covered, and allowed to stand covered for two minutes after reheating, except as specified in (g)3 below.

3. Ready-to-eat food taken from a commercially processed, hermetically sealed container, or from an intact package from a food processing plant that is inspected by the health authority that has jurisdiction over the plant, shall be heated to a temperature of at least 135°F for hot holding.

4. Reheating for hot holding shall be done rapidly and the time the food is between refrigeration temperatures and 165°F may not exceed two hours. Steam tables, bain maries, warmers, and similar hot holding facilities are prohibited for the rapid reheating of potentially hazardous foods.

5. Remaining unsliced portions of roasts of beef that are cooked may be reheated for hot holding using the oven parameters and minimum time and temperature conditions specified under (a)2 above.

8:24-3.5 Limitation of growth of organisms of public health concern

(a) Stored frozen foods shall be maintained frozen.

(b) Frozen food that is slacked to moderate the temperature shall be held:

1. Under refrigeration that maintains the food at refrigeration temperatures; or

2. At any temperature if the food remains frozen.

(c) Frozen food shall be thawed:

1. Under refrigeration that maintains the food at refrigeration temperatures;

2. Completely submerged under running water:

i. At a water temperature of 70°F or below;

ii. With sufficient water velocity to agitate and float off loose particles in an overflow; and

iii. For a period of time that does not allow thawed portions of ready-to-eat food to rise above refrigeration temperatures or for a period of time that does not allow thawed portions of a raw animal food requiring cooking to be above refrigeration temperatures for more than four hours, including:

(1) The time the food is exposed to the running water and the time needed for preparation for cooking; or

(2) The time it takes under refrigeration to lower the food temperature to refrigeration temperatures;

3. As part of a cooking process if the food that is frozen is cooked to safe cooking temperatures or thawed in a microwave oven and immediately transferred to conventional cooking equipment, with no interruption in the process; or

4. Using any procedure if a portion of frozen ready-to-eat food is thawed and prepared for immediate service in response to an individual consumer's order.

(d) The following requirements apply to the preparation of potentially hazardous foods which will be refrigerated:

1. If cooked, it shall be cooled:

i. Within 2 hours, from 135°F to 70°F; and

ii. Within 4 hours, from 70°F to refrigeration temperatures.

2. It shall be cooled within 4 hours to refrigeration temperatures if prepared from ingredients at ambient temperature, such as reconstituted foods and canned tuna.

3. If food specified at N.J.A.C. 8:24-3.2(f)1 and 2 are received above 41°F during shipment from the supplier, it shall be cooled within four hours to refrigeration temperatures.

(e) Cooling methods shall include the following:

1. Cooling shall be accomplished by using one or more of the following methods based on the type of food being cooled:

i. Placing the food in shallow pans;

ii. Separating the food into smaller or thinner portions;

iii. Using rapid cooling equipment;

iv. Stirring the food in a container placed in an ice water bath;

v. Using containers that facilitate heat transfer;

vi. Adding ice as an ingredient; or

vii. Other effective methods.

2. When placed in cooling or cold holding equipment, food containers in which food is being cooled shall be:

i. Arranged in the equipment to provide maximum heat transfer through the container walls; and

ii. Loosely covered, or uncovered if protected from overhead contamination during the cooling period to facilitate heat transfer from the surface of the food.

(f) Except during preparation, cooking, or cooling, or when time is used as the public health control as specified under (g) below, potentially hazardous food shall be maintained:

1. At 135°F or above, except that roasts cooked to safe cooking temperatures or reheated as specified under N.J.A.C. 8:24-3.4(g)5 may be held at a temperature of 130°F; or

2. At refrigeration temperatures.

(g) If time only, rather than time in conjunction with temperature, is used as the public health control for a working supply of potentially hazardous food before cooking, or for ready-to-eat potentially hazardous food that is displayed or held for service for immediate consumption:

1. The food shall be marked or otherwise identified to indicate the time that is four hours past the point in time when the food is removed from temperature control;

2. The food shall be cooked and served, served if ready-to-eat, or discarded, within four hours from the point in time when the food is removed from temperature control;

3. The food in unmarked containers or packages or marked to exceed a four hour limit shall be discarded; and

4. Written procedures shall be submitted to the health authority for approval prior to using time as a public health control and shall be maintained in the retail food establishment to ensure compliance with:

i. Paragraphs (g)1 through 3 above; and

ii. Subsection (d) above, for food that is prepared, cooked, and refrigerated before time is used as the public health control.

(h) A retail food establishment shall obtain approval from the health authority to conduct specialized food processing activities before engaging in any of the following activities:

1. Smoking food as a method of food preservation rather than as a method of flavor enhancement;

2. Curing food;

3. Using food additives or adding components such as vinegar:

i. As a method of food preservation rather than as a method of flavor enhancement; or

ii. To render a food so that it is not potentially hazardous;

4. Packaging food using a reduced oxygen packaging method except as specified under (i) below where a barrier to Clostridium botulinum in addition to refrigeration exists;

5. Operating a molluscan shellfish life-support system display tank used to store and display shellfish that are offered for human consumption;

6. Custom processing animals that are for personal use as food and not for sale or service in a retail food establishment;

7. Using time as a public health control; or

8. Preparing food by another method that is determined by the health authority to require approval for specialized processing.

(i) The criteria for reduced oxygen packaging shall include the following:

1. A retail food establishment that packages food using a reduced oxygen packaging method and *Clostridium botulinum* is identified as a microbiological hazard in the final packaged form shall ensure that there are at least 2 barriers in place to control the growth and toxin formation of Clostridium botulinum, except for a retail food establishment that obtains prior approval from the health authority as specified under (h) above.

2. A retail food establishment that packages food using a reduced oxygen packaging method and Clostridium botulinum is identified as a microbiological hazard in the final packaged form shall have a HACCP plan that contains the information specified under N.J.A.C. 8:24-9.1(e) and that:

i. Identifies the food to be packaged;

ii. Limits the food packaged to a food that does not support the growth of *Clostridium botulinum* because it has an aw of 0.91 or less; has a pH of 4.6 or less; is a meat or poultry product cured at a food processing plant regulated by the U.S.D.A., using substances specified in Use of Food Ingredients and Sources of Radiation, 9 CFR §424.21, incorporated herein by reference, as amended and supplemented, and is received in an intact package; or is a food with a high level of competing organisms such as raw meat or raw poultry;

iii. Specifies methods for maintaining food at 41°F or below;

iv. Describes how the packages shall be prominently and conspicuously labeled on the principal display panel in bold type on a contrasting background, with instructions to maintain the food at 41°F or below, and to discard the food if within 14 calendar days of its packaging it is not served for on-premises consumption, or consumed if served or sold for off-premises consumption;

v. Limits the shelf life to no more than 14 calendar days from packaging to consumption, except the time the product is maintained frozen, or the original manufacturer's "sell by" or "use by" date, whichever occurs first;

vi. Includes operational procedures that prohibit contacting food with bare hands; identify a designated area and the method by which physical barriers or methods of separation of raw foods and ready-to-eat foods minimize cross contamination, and how access to the processing equipment is restricted to responsible trained personnel familiar with the potential hazards of the operation; and delineate cleaning and sanitization procedures for food-contact surfaces; and

vii. Describes the training program that ensures that the individual responsible for the reduced oxygen packaging operation understands the concepts required for a safe operation; equipment and facilities; and the procedures specified under N.J.A.C. 8:24- 9.1(e).

3. A retail food establishment shall not package fish using a reduced oxygen packaging method, except for fish that is frozen before, during, and after packaging.

8:24-3.6 Food identity, presentation, and on-premises labeling

(a) Packaged food shall comply with standard of identity requirements in 21 CFR Parts 131 through 169, incorporated herein by reference, as amended and supplemented, herein by reference, as amended and supplemented, and the general food standards in 21 CFR Part 130, incorporated herein by reference, as amended and supplemented, and the general requirements in 9 CFR Part 319, Subpart A, incorporated herein by reference, as amended and supplemented.

(b) Food packaged in a retail food establishment shall be labeled in accordance with the following:

1. N.J.S.A. 24:5-17 "Food Misbranding";

2. Food Labeling, 21 CFR Part 101, incorporated herein by reference, as amended and supplemented, and Labeling, Marking Devices, and Containers, 9 CFR Part 317, incorporated herein by reference, as amended and supplemented; and

3. Food Labeling, 21 CFR Part 101, incorporated herein by reference, as amended and supplemented and Nutrition Labeling, 9 CFR Part 317, Subpart B, incorporated herein by reference, as amended and supplemented, except as exempted in the Federal Food, Drug, and Cosmetic Act, 21 U.S.C. §343(q)(3) through (5), incorporated herein by reference, as amended and supplemented.

(c) Bulk food that is available for consumer self-dispensing shall be prominently labeled with the following information in plain view of the consumer:

1. The manufacturer's or processor's label that was provided with the food; or

2. A card, sign, or other method of notification that includes the following:

i. The common name of the food or, absent a common name, an adequately descriptive identity statement;

ii. If made from two or more ingredients, a list of ingredients in descending order of predominance by weight, including a declaration of artificial color or flavor and chemical preservatives, if contained in the food; and

iii. Food Labeling, 21 CFR Part 101, incorporated herein by reference, as amended and supplemented, and Nutrition Labeling, 9 CFR 317 Subpart B, incorporated herein by reference, as amended and supplemented, except as exempted in the Federal Food, Drug, and Cosmetic Act 21 U.S.C. §343(q)(3) through (5), incorporated herein by reference, as amended and supplemented.

(d) Bulk, unpackaged foods such as bakery products and unpackaged foods that are portioned to consumer specification need not be labeled if:

1. A health, nutrient content, or other claim is not made; and

2. The food is manufactured or prepared on the premises of the retail food establishment or at another retail food establishment or a food processing plant that is owned by the same person and is regulated by the food regulatory agency that has jurisdiction.

8:24-3.7 Special requirements for highly susceptible populations

(a) In a retail food establishment that serves a highly susceptible population the following requirements must be met:

1. Prepackaged juice or a prepackaged beverage containing juice, that bears a warning label as specified in Food Labeling Warning, Notice, and Safe Handling Statements, 21 CFR §101.17(g), incorporated herein by reference, as amended and supplemented, shall not be served or offered for sale;

2. Food in an unopened original package shall not be re-served; and

3. The following foods shall not be served or offered for sale in a ready-to-eat form:

i. Raw animal food such as raw fish, raw-marinated fish, raw molluscan shellfish, and steak tartare;

ii. Partially cooked food such as lightly cooked fish, rare meat; soft-cooked eggs that are made from raw shell eggs, and meringue; and

iii. Seed sprouts.

Subchapter 4.

EQUIPMENT, UTENSILS, & LINENS

8:24-4.1 Materials for construction & repair

(a) Materials that are used in the construction of utensils and food-contact surfaces of equipment shall not allow the migration of deleterious substances or impart colors, odors, or tastes to food and under normal use conditions shall be safe; durable, corrosion-resistant, and nonabsorbent, sufficient in weight and thickness to withstand repeated warewashing; finished to have a smooth, easily cleanable surface; and resistant to pitting, chipping, crazing, scratching, scoring, distortion, and decomposition.

(b) Cast iron shall not be used for utensils or food-contact surfaces of equipment, except as specified below:

1. Cast iron may be used as a surface for cooking.

2. Cast iron may be used in utensils for serving food if the utensils are used only as part of an uninterrupted process from cooking through service.

(c) Copper may be used as specified below:

1. Copper and copper alloys such as brass shall not be used in contact with a food that has a pH below six such as vinegar, fruit juice, or wine or for a fitting or tubing installed between a backflow prevention device and a carbonator, except as specified in (c)2 below.

2. Copper and copper alloys may be used in contact with beer brewing ingredients that have a pH below 6 in the prefermentation and fermentation steps of a beer brewing operation such as a brewpub or microbrewery.

(d) Galvanized metal shall not be used for utensils or food-contact surfaces of equipment that are used in contact with acidic food.

(e) Sponges shall not be used in contact with cleaned and sanitized or in-use food contact surfaces.

(f) Pewter alloys containing lead in excess of 0.05% shall not be used as a food contact surface.

(g) Solder and flux containing lead in excess of 0.2% shall not be used as a food-contact surface.

(h) Wood may be used as specified below:

1. Wood and wood wicker shall not be used as a food-contact surface, except as specified in (h)2, 3, and 4 below.

2. Hard maple or an equivalently hard, close-grained wood may be used for the following purposes:

i. Cutting boards; cutting blocks; bakers' tables; and utensils such as rolling pins, doughnut dowels, salad bowls, and chopsticks; and

ii. Wooden paddles used in confectionery operations for pressure scraping kettles when manually preparing confections at a temperature of 230°F or above.

3. Whole, uncut, raw fruits and vegetables, and nuts in the shell may be kept in the wood shipping containers in which they were received, until the fruits, vegetables, or nuts are used.

4. If the nature of the food requires removal of rinds, peels, husks, or shells before consumption, the whole, uncut, raw food may be kept in:

i. Untreated wood containers; or

ii. Treated wood containers if the containers are treated with a preservative that meets the requirements specified in Preservatives for wood, 21 CFR §178.3800, incorporated herein by reference, as amended and supplemented.

(i) Multiuse kitchenware, such as frying pans, griddles, sauce pans, cookie sheets, and waffle bakers that have a perfluorocarbon resin coating, shall be used with nonscoring or nonscratching utensils and cleaning aids.

(j) Non food-contact surfaces of equipment that are exposed to splash, spillage, or other food soiling or that require frequent cleaning shall be constructed of a corrosion resistant, nonabsorbent, and smooth material.

(k) Materials that are used to make single-service and single-use articles:

1. Shall be safe and clean; and

2. Shall not:

i. Allow the migration of deleterious substances; or

ii. Impart colors, odors, or tastes to food.

8:24-4.2 Design and construction

(a) Equipment and utensils shall be designed and constructed to be durable and to retain their characteristic qualities under normal use conditions.

(b) Multiuse food-contact surfaces shall be:

1. Smooth;

2. Free of breaks, open seams, cracks, chips, pits, and similar imperfections;

3. Free of sharp internal angles, corners, and crevices;

4. Finished to have smooth welds and joints; and

5. Accessible for cleaning and inspection by one of the following methods:

i. Without being disassembled;

ii. By disassembling without the use of tools; or

iii. By easy disassembling with the use of handheld tools commonly available to maintenance and cleaning personnel such as screwdrivers, pliers, open-end wrenches, and Allen wrenches. This paragraph does not apply to cooking oil storage tanks, distribution lines for cooking oils, or beverage syrup lines or tubes.

(c) Temperature measuring devices shall meet the following requirements:

1. Food temperature measuring devices shall be provided and readily accessible for use in ensuring attainment and maintenance of food temperatures as specified under N.J.A.C. 8:24-3.

2. A temperature measuring device with a suitable small-diameter probe that is designed to measure the temperature of thin masses shall be provided and readily accessible to accurately measure the temperature in thin foods such as meat patties and fish filets.

3. Food temperature measuring devices shall be designed to be easily readable and accurate to 2°F in the intended range of use and shall be calibrated in accordance with manufacturer's specifications as necessary to ensure their accuracy.

4. Food temperature measuring devices shall not have sensors or stems constructed of glass, except that thermometers with glass sensors or stems that are encased in a shatterproof coating such as candy thermometers may be used.

5. Ambient air temperature, water pressure, and water temperature measuring devices shall be maintained in good repair and be accurate within the intended range of use.

6. Ambient air and water temperature measuring devices shall be designed to be easily readable and accurate to 3°F in the intended range of use.

7. Cold or hot holding equipment used for potentially hazardous food shall be designed to include and shall be equipped with at least one integral or permanently affixed temperature measuring device that is located to allow easy viewing of the device's temperature display, except that this paragraph does not apply to equipment for which the placement of a temperature measuring device is not a practical means for measuring the ambient air surrounding the food because of the design, type, and use of the equipment, such as calrod units, heat lamps, cold plates, bain maries, steam tables, insulated food transport containers, and salad bars.

8. In a mechanically refrigerated or hot food storage unit, the sensor of a temperature measuring device shall be located to measure the air temperature in the warmest part of a mechanically refrigerated unit and in the coolest part of a hot food storage unit.

9. Food temperature measuring devices and water temperature measuring devices on warewashing machines shall have a numerical scale, printed record, or digital readout in increments no greater than 2°F in the intended range of use.

(d) CIP equipment shall be designed and constructed so that:

1. Cleaning and sanitizing solutions circulate throughout a fixed system and contact all interior food-contact surfaces;

2. The system is self-draining or capable of being completely drained of cleaning and sanitizing solutions; and

3. CIP equipment that is not designed to be disassembled for cleaning shall be designed with inspection access points to ensure that all interior food-contact surfaces throughout the fixed system are being effectively cleaned.

(e) "V" type threads may not be used on food-contact surfaces, except for hot oil cooking or filtering equipment.

(f) Hot oil filtering equipment shall be readily accessible for filter replacement and cleaning of the filter.

(g) Cutting or piercing parts of can openers shall be readily removable for cleaning and for replacement.

(h) Nonfood-contact surfaces shall be free of unnecessary ledges, projections, and crevices, and designed and constructed to allow easy cleaning and to facilitate maintenance.

(i) Kick plates shall be designed so that the areas behind them are accessible for inspection and cleaning such that they are:

1. Removable by one of the methods specified under (b)5 above or capable of being rotated open; and

2. Removable or capable of being rotated open without unlocking equipment doors.

(j) Filters or other grease extracting equipment shall be designed to be readily removable for cleaning and replacement if not designed to be cleaned in place.

(k) Exhaust ventilation hood systems in food preparation and warewashing areas including components such as hoods, fans, guards, and ducting shall be designed to prevent grease or condensation from draining or dripping onto food, equipment, utensils, linens, and single-service and single-use articles.

(l) Equipment openings, closures and deflectors shall meet the following requirements:

1. A cover or lid for equipment shall overlap the opening and be sloped to drain;

2. An opening located within the top of a unit of equipment that is designed for use with a cover or lid shall be flanged upward at least two-tenths of an inch;

3. Fixed piping, temperature measuring devices, rotary shafts, and other parts extending into equipment shall be provided with a watertight joint at the point where the item enters the equipment, except as specified under (l)4 below; and

4. If a watertight joint is not provided:

i. The piping, temperature measuring devices, rotary shafts, and other parts extending through the openings shall be equipped with an apron designed to deflect condensation, drips, and dust from openings into the food; and

ii. The opening shall be flanged as specified under (l)2 above.

(m) In equipment that dispenses or vends liquid food or ice in unpackaged form, the following requirements shall be met:

1. The delivery tube, chute, orifice, and splash surfaces directly above the container receiving the food shall be designed in a manner, such as with barriers, baffles, or drip aprons, so that drips from condensation and splash are diverted from the opening of the container receiving the food;

2. The delivery tube, chute, and orifice shall be protected from manual contact such as by being recessed;

3. The delivery tube or chute and orifice of equipment used to vend liquid food or ice in unpackaged form to self-service consumers shall be designed so that the delivery tube or chute and orifice are protected from dust, insects, rodents, and other contamination by a self-closing door if the equipment is:

i. Located in an outside area that does not otherwise afford the protection of an enclosure against the rain, windblown debris, insects, rodents, and other contaminants that are present in the environment; or

ii. Available for self-service during hours when it is not under the full-time supervision of a food employee; and

4. The dispensing equipment actuating lever or mechanism and filling device of consumer self-service beverage dispensing equipment shall be designed to prevent contact with the lip-contact surface of glasses or cups that are refilled.

(n) Equipment containing bearings and gears that require lubricants shall be designed and constructed so that the lubricant can not leak, drip, or be forced into food or onto food-contact surfaces.

(o) Beverage tubing and cold-plate beverage cooling devices shall not be installed in contact with stored ice. This subsection does not apply to cold plates that are constructed integrally with an ice storage bin.

(p) Liquid waste drain lines shall not pass through an ice machine or ice storage bin.

(q) If a condenser unit is an integral component of equipment, the condenser unit shall be separated from the food and food storage space by a dust proof barrier.

(r) Equipment compartments that are subject to accumulation of moisture due to conditions such as condensation, food or beverage drip, or water from melting ice shall be sloped to an outlet that allows complete draining.

(s) Equipment, such as dollies, pallets, racks, and skids used to store and transport large quantities of packaged food received from a supplier in a cased or overwrapped lot, shall be designed to be moved by hand or by conveniently available equipment such as hand trucks and forklifts.

(t) Food equipment that is certified or classified for sanitation by an American National Standards Institute (ANSI)-accredited certification program will be deemed to comply with N.J.A.C. 8:24-4.1 and 4.2.

8:24-4.3 Equipment, utensils, numbers and capacities

(a) Equipment for cooling and heating food, and holding cold and hot food, shall be sufficient in number and capacity to provide food temperatures as specified under N.J.A.C. 8:24-3, Food.

(b) Ventilation hood systems and devices shall be sufficient in number and capacity to prevent grease or condensation from collecting on walls and ceilings.

(c) If work clothes or linens are laundered on the premises, a mechanical clothes washer and dryer shall be provided and used, except that, if on-premises laundering is limited to wiping cloths intended to be used moist, or if wiping cloths are air-dried, a mechanical clothes washer and dryer need not be provided.

(d) A food-dispensing utensil shall be available for each container displayed at a consumer self-service unit such as a buffet or salad bar.

8:24-4.4 Equipment location & installation

(a) Except as specified in (b) below, cleaned and sanitized equipment, utensils, laundered linens, and single-service and single-use articles, or cabinets used for the storage of these items shall not be located:

1. In locker rooms; toilet rooms; garbage rooms; mechanical rooms; or

2. Under sewer lines that are not shielded to intercept potential drips; leaking water lines including leaking automatic fire sprinkler heads; lines on which water has condensed; open stairwells; or other sources of contamination.

(b) A storage cabinet used for linens or single-service or single-use articles may be stored in a locker room.

(c) If a mechanical clothes washer or dryer is provided, it shall be located so that the washer or dryer is protected from contamination and shall be located only where there is no exposed food, clean equipment, utensils, linens, and unwrapped single-service and single-use articles.

(d) Equipment that is fixed because it is not easily movable shall be installed so that it is:

1. Spaced to allow access for cleaning along the sides, behind, and above the equipment;

2. Spaced from adjoining equipment, walls, and ceilings a distance of not more than one millimeter or one thirty-second inch; or

3. Sealed to adjoining equipment or walls, if the equipment is exposed to spillage or seepage.

(e) Table-mounted equipment that is not easily movable shall be installed to allow cleaning of the equipment and areas underneath and around the equipment by being:

1. Sealed to the table; or

2. Elevated on legs that provide at least a four-inch clearance between the table and the equipment, except as specified in (f)4 below.

(f) Fixed equipment shall meet the following requirements for elevation or sealing:

1. Floor-mounted equipment that is not easily movable shall be sealed to the floor or elevated on legs that provide at least a six-inch clearance between the floor and the equipment, except as specified in (f)2 and 3 below.

2. If no part of the floor under the floor-mounted equipment is more than six inches from the point of cleaning access, the clearance space may be only four inches.

3. This subsection does not apply to display shelving units, display refrigeration units, and display freezer units located in the consumer shopping areas of a retail food store, if the floor under the units is maintained clean.

4. The clearance space between the table and table-mounted equipment may be:

i. Three inches, if the horizontal distance of the table top under the equipment is no more than 20 inches from the point of access for cleaning; or

ii. Two inches, if the horizontal distance of the table top under the equipment is no more than 3 inches from the point of access for cleaning.

8:24-4.5 Maintenance and operation

(a) Equipment and equipment components shall be maintained in a state of repair and condition that meets the requirements specified under N.J.A.C. 8:24-4.1 and 4.2.

(b) Cutting or piercing parts of can openers shall be kept sharp to minimize the creation of metal fragments that can contaminate food when the container is opened.

(c) Surfaces such as cutting blocks and boards that are subject to scratching and scoring shall be resurfaced if they can no longer be effectively cleaned and sanitized, or discarded if they are not capable of being resurfaced.

(d) Utensils shall be maintained in a state of repair or condition that complies with the requirements specified under N.J.A.C. 8:24-4.1 and 4.2 or shall be discarded.

(e) A retail food establishment without facilities for cleaning and sanitizing kitchenware and tableware shall provide only single-use kitchenware, single-service articles and single-use articles for use by food employees and single-service articles for use by consumers.

(f) The following applies to the use of single-service and single-use articles:

1. Single-service and single-use articles may not be reused; and

2. The bulk milk container dispensing tube shall be cut on the diagonal leaving no more than one inch protruding from the chilled dispensing head.

(g) Mollusk and crustacea shells may not be used more than once as serving containers.

8:24-4.6 Cleaning of equipment & utensils

(a) Equipment food-contact surfaces and utensils shall be clean to sight and touch.

(b) The food-contact surfaces of cooking equipment and pans shall be kept free of encrusted grease deposits and other soil accumulations.

(c) Non food-contact surfaces of equipment shall be kept free of an accumulation of dust, dirt, food residue, and other debris.

(d) Equipment food-contact surfaces and utensils shall be cleaned:

1. Before each use with a different type of raw animal food such as beef, fish, lamb, pork, or poultry, except as specified in (e) below;

2. Each time there is a change from working with raw foods to working with ready-to-eat foods;

3. Between uses with raw fruits and vegetables and with potentially hazardous food;

4. Before using or storing a food temperature measuring device; and

5. At any time during the operation when contamination may have occurred.

(e) Paragraph (d)1 above does not apply if the food-contact surface or utensil is in contact with a succession of different raw animal foods each requiring a higher cooking temperature than the previous food, such as preparing raw fish followed by cutting raw poultry on the same cutting board.

(f) If used with potentially hazardous food, equipment food-contact surfaces and utensils shall be cleaned throughout the day at least every four hours, except that;

1. In storage, containers of potentially hazardous food and their contents shall be maintained at temperatures specified under N.J.A.C. 8:24-3 and the containers shall be cleaned when they are empty;

2. Utensils and equipment used to prepare food in a refrigerated room or area shall be cleaned at the frequency indicated in the following chart depending upon the corresponding ambient temperature of the refrigerated room or area, also indicated in the following chart:

Temperature	Cleaning Frequency
41°F or less	24 hours
> than 41°F to 45°F	20 hours
> than 45°F to 50°F	16 hours
> than 50°F to 55°F	10 hours

i. The cleaning frequency based on the ambient temperature of the refrigerated room or area shall be documented in the retail food establishment.

3. Containers in serving situations such as salad bars, delis, and cafeteria lines which hold ready-to-eat potentially hazardous food that is maintained at the temperatures specified under N.J.A.C. 8:24-3, may be intermittently combined with additional supplies of the same food that is at the required temperature, and the containers shall be cleaned at least every 24 hours;

4. Temperature measuring devices may be maintained in contact with food, such as when left in a container of deli food or in a roast, held at temperatures specified under N.J.A.C. 8:24-3;

5. Equipment used for storage of packaged or unpackaged food such as a reach-in refrigerator shall be cleaned at a frequency necessary to preclude accumulation of soil residues;

6. The cleaning schedule is approved based on consideration of:

i. Characteristics of the equipment and its use;

ii. The type of food involved;

iii. The amount of food residue accumulation; and

iv. The temperature at which the food is maintained during the operation and the potential for the rapid and progressive multiplication of pathogenic or toxigenic microorganisms that are capable of causing foodborne disease; or

7. In-use utensils may be intermittently stored in a container of water in which the water is maintained at 135°F or more and the utensils and container are cleaned at least every 24 hours or at a frequency necessary to preclude accumulation of soil residues.

(g) Except when dry cleaning methods are used as specified under (k) below, surfaces of utensils and equipment contacting food that is not potentially hazardous shall be cleaned in the following manner:

1. At any time when contamination may have occurred;

2. At least every 24 hours for iced tea dispensers and consumer self-service utensils such as tongs, scoops, or ladles;

3. Before restocking consumer self-service equipment and utensils such as condiment dispensers and display containers; and

4. In equipment such as ice bins and beverage dispensing nozzles and enclosed components of equipment such as ice makers, cooking oil storage tanks and distribution lines, beverage and syrup dispensing lines or tubes, coffee bean grinders, and water vending equipment:

i. At a frequency specified by the manufacturer; or

ii. Absent manufacturer specifications, at a frequency necessary to preclude accumulation of soil or mold.

(h) The food-contact surfaces of cooking and baking equipment shall be cleaned at least every 24 hours. This subsection does not apply to hot oil cooking and filtering equipment if it is cleaned as specified in (f)6 above.

(i) The cavities and door seals of microwave ovens shall be cleaned at least every 24 hours by using the manufacturer's recommended cleaning procedure.

(j) Non food-contact surfaces of equipment shall be cleaned at a frequency necessary to preclude accumulation of soil residues.

(k) If used, dry cleaning methods such as brushing, scraping, and vacuuming shall contact only surfaces that are soiled with dry food residues that are not potentially hazardous. Cleaning equipment used in dry cleaning food-contact surfaces may not be used for any other purpose.

(l) Food debris on equipment and utensils shall be scraped over a waste disposal unit, scupper, or garbage receptacle or shall be removed in a warewashing machine with a prewash cycle. If necessary for effective cleaning, utensils and equipment shall be preflushed, presoaked, or scrubbed with abrasives.

(m) Soiled items to be cleaned in a warewashing machine shall be loaded into racks, trays, or baskets or onto conveyors in a position that:

1. Exposes the items to the unobstructed spray from all cycles; and

2. Allows the items to drain.

(n) Equipment food-contact surfaces and utensils shall be effectively washed to remove or completely loosen soils by using the manual or mechanical means necessary such as the application of detergents containing wetting agents and emulsifiers; acid, alkaline, or abrasive cleaners; hot water; brushes; scouring pads; high-pressure sprays; or ultrasonic devices. The washing procedures selected shall be based on the type and purpose of the equipment or utensil, and on the type of soil to be removed.

(o) Washed utensils and equipment shall be rinsed so that abrasives are removed and cleaning chemicals are removed or diluted through the use of water or a detergent sanitizer solution by using one of the following procedures:

1. Use of a distinct, separate water rinse after washing and before sanitizing if using the following:

i. A three-compartment sink;

ii. Alternative manual warewashing equipment equivalent to a three-compartment sink as specified in N.J.A.C. 8:24-4.8(a)3; or

iii. A three-step washing, rinsing, and sanitizing procedure in a warewashing system for CIP equipment;

2. Use of a detergent-sanitizer as specified under N.J.A.C. 8:24-4.8(m) if using the following:

i. Alternative warewashing equipment as specified in N.J.A.C. 8:24-4.8(a)3 that is approved for use with a detergent-sanitizer; or

ii. A warewashing system for CIP equipment;

3. Use of a nondistinct water rinse that is integrated in the hot water sanitization immersion step of a two-compartment sink operation;

4. If using a warewashing machine that does not recycle the sanitizing solution as specified under 5 below, or alternative manual warewashing equipment such as sprayers, use of a nondistinct water rinse that is:

i. Integrated in the application of the sanitizing solution; and

ii. Wasted immediately after each application; or

5. If using a warewashing machine that recycles the sanitizing solution for use in the next wash cycle, use of a nondistinct water rinse that is integrated in the application of the sanitizing solution.

(p) Returned empty containers intended for cleaning and refilling with food shall be cleaned and refilled in a regulated food processing plant, except as specified in (p)1 and 2 below:

1. A food-specific container for beverages may be refilled at a retail food establishment if the following requirements are met:

i. Only a beverage that is not a potentially hazardous food is used;

ii. The design of the container and of the rinsing equipment and the nature of the beverage, when considered together, allow effective cleaning at home or in the retail food establishment;

iii. Facilities for rinsing before refilling returned containers with fresh, hot water that is under pressure and not recirculated are provided as part of the dispensing system;

iv. The consumer-owned container returned to the retail food establishment for refilling is refilled for sale or service only to the same consumer; and

v. The container is refilled by either an employee of the retail food establishment or the owner of the container if the beverage system includes a contamination-free transfer process that cannot be bypassed by the container owner.

2. Consumer-owned containers that are not food-specific may be filled at a water vending machine or system.

8:24-4.7 Sanitization of equipment and utensils

(a) Equipment food-contact surfaces and utensils shall be sanitized.

(b) Utensils and food-contact surfaces of equipment shall be sanitized before use after cleaning.

(c) After being cleaned, equipment food-contact surfaces and utensils shall be sanitized in the following manner:

1. Hot water manual operations by immersion for at least 30 seconds and as specified under N.J.A.C. 8:24-4.8(g);

2. Hot water mechanical operations by being cycled through equipment that is set up as specified under N.J.A.C. 8:24-4.9(h), (j), and (l) and achieving a utensil surface temperature of 160°F as measured by an irreversible registering temperature indicator; or

3. Chemical manual or mechanical operations, including the application of sanitizing chemicals by immersion, manual swabbing, brushing, or pressure spraying methods, using a solution as specified under N.J.A.C. 8:24-4.8(j) by providing:

i. An exposure time of at least 10 seconds for a chlorine solution specified under N.J.A.C. 8:24-4.8(j)1;

ii. An exposure time of at least seven seconds for a chlorine solution of 50 mg/L that has a pH of 10 or less and a temperature of at least 100°F or a pH of 8 or less and a temperature of at least 75°F;

iii. An exposure time of at least 30 seconds for other chemical sanitizing solutions; or

iv. An exposure time used in relationship with a combination of temperature, concentration, and pH that, when evaluated for efficacy, yields sanitization as defined in N.J.A.C. 8:24-1.5.

8:24-4.8 Manual warewashing equipment

(a) Manual warewashing, sink compartment requirements shall include the following:

1. A sink with at least three compartments shall be provided for manually washing, rinsing, and sanitizing equipment and utensils, except as specified in (a)3 below.

2. Sink compartments shall be large enough to accommodate immersion of the largest equipment and utensils. If equipment or utensils are too large for the warewashing sink, a warewashing machine or alternative equipment as specified in (a)3 below shall be used.

3. Alternative manual warewashing equipment may be used when there are special cleaning needs or constraints, such as described in (a)2 above. Alternative manual warewashing equipment may include the following:

i. High-pressure detergent sprayers;

ii. Low- or line-pressure spray detergent foamers;

iii. Other task-specific cleaning equipment;

iv. Brushes or other implements;

v. Two-compartment sinks as specified under (a)4 and 5 below; or

vi. Receptacles that substitute for the compartments of a multi-compartment sink.

4. The Department or health authority with jurisdiction shall approve the operator's use of a two-compartment sink when the operator meets the following requirements:

i. The nature of warewashing shall be limited to batch operations for cleaning kitchenware such as between cutting one type of raw meat and another or cleanup at the end of a shift;

ii. The number of items to be cleaned shall be limited;

iii. The cleaning and sanitizing solutions shall be made up immediately before use and drained immediately after use; and

iv. A detergent-sanitizer shall be used to sanitize and shall be applied as specified under (m) below or a hot water sanitization immersion step may be used.

5. A two-compartment sink shall not be used for warewashing operations where cleaning and sanitizing solutions are used for a continuous or intermittent flow of kitchenware or tableware in an ongoing warewashing process.

(b) The limitations on warewashing sinks include the following:

1. A warewashing sink shall not be used for handwashing.

2. If a warewashing sink is used to wash wiping cloths, wash produce, or thaw food, the sink shall be cleaned before and after each time it is used to wash wiping cloths or wash produce or thaw food. Sinks used to wash or thaw food shall be sanitized before and after using the sink to wash produce or thaw food.

(c) When used for warewashing, the wash compartment of a sink, mechanical warewasher, or wash receptacle of alternative manual warewashing equipment as specified in (a)3 above, shall contain a wash solution of soap, detergent, acid cleaner, alkaline cleaner, degreaser, abrasive cleaner, or

other cleaning agent according to the cleaning agent manufacturer's label instructions.

(d) The wash, rinse, and sanitize solutions shall be maintained clean.

(e) The temperature of the wash solution in manual warewashing equipment shall be maintained at not less than 110°F or the temperature specified on the cleaning agent manufacturer's label instructions.

(f) Drainboards, utensil racks, or tables large enough to accommodate all soiled and cleaned items that may accumulate during hours of operation shall be provided for necessary utensil holding before cleaning and after sanitizing.

(g) If immersion in hot water is used for sanitizing in a manual operation, the temperature of the water shall be maintained at 171°F or above.

(h) If hot water is used for sanitization in manual warewashing operations, the sanitizing compartment of the sink shall be:

1. Designed with an integral heating device that is capable of maintaining water at a temperature not less than 171°F; and

2. Provided with a rack or basket to allow complete immersion of equipment and utensils into the hot water.

(i) In manual warewashing operations, a temperature-measuring device shall be provided and readily accessible for frequently measuring the washing and sanitizing temperatures.

(j) A chemical sanitizer used in a sanitizing solution for a manual or mechanical operation at exposure times specified under N.J.A.C. 8:24-4.7(c) shall be listed in Tolerance exemptions for active and inert ingredients for use in antimicrobial formulations, 40 CFR §180.940, incorporated herein by reference, as amended and supplemented, shall be used in accordance with the EPA-approved manufacturer's label use instructions, and shall be used as follows:

1. A chlorine solution shall have a minimum temperature based on the concentration and pH of the solution as listed in the following chart:

Min. Concentration mg/L	**Minimum Temperature** pH 10 or less	pH 8 or less
25	120°F	120°F
50	100°F	75°F
100	55°F	55°F

2. An iodine solution shall have a:

i. Minimum temperature of 75°F;

ii. pH of 5.0 or less or a pH no higher than the level for which the manufacturer specifies the solution is effective; and

iii. Concentration between 12.5 mg/L and 25 mg/L;

3. A quaternary ammonium compound solution shall:

i. Have a minimum temperature of 75°F;

ii. Have a concentration as specified under N.J.A.C. 8:24-7.2(f) and as indicated by the manufacturer's use directions included in the labeling; and

iii. Be used only in water with 500 mg/L hardness or less or in water having a hardness no greater than specified by the manufacturer's label;

4. If another solution of a chemical specified under (j)1 through 3 above is used, the operator shall demonstrate to the health authority that the solution achieves sanitization and the use of the solution shall be approved; or

5. If a chemical sanitizer other than chlorine, iodine, or a quaternary ammonium compound is used, it shall be applied in accordance with the manufacturer's use directions included in the labeling.

(k) A test kit or other device that accurately measures the concentration in mg/L of sanitizing solutions shall be provided.

(l) Concentration of the sanitizing solution shall be accurately determined by using a test kit or other device.

(m) If a detergent-sanitizer is used to sanitize in a cleaning and sanitizing procedure where there is no distinct water rinse between the washing and sanitizing steps, the agent applied in the sanitizing step shall be the same detergent-sanitizer that is used in the washing step.

(n) If washing in sink compartments or a warewashing machine is impractical such as when the equipment is fixed or the utensils are too large, washing shall be done by using alternative manual warewashing equipment as specified in (a)3 above in accordance with the following procedures:

1. Equipment shall be disassembled as necessary to allow access of the detergent solution to all parts;

2. Equipment components and utensils shall be scraped or rough cleaned to remove food particle accumulation; and

3. Equipment and utensils shall be washed as specified under N.J.A.C. 8:24-4.6(m).

8:24-4.9 Mechanical warewashing equipment

(a) A warewashing machine shall be provided with an easily accessible and readable data plate affixed to the machine by the manufacturer that indicates the machine's design and operating specifications, including the following:

1. Temperatures required for washing, rinsing, and sanitizing;

2. Pressure required for the fresh water sanitizing rinse unless the machine is designed to use only a pumped sanitizing rinse; and

3. Conveyor speed for conveyor machines or cycle time for stationary rack machines.

(b) Warewashing machine wash and rinse tanks shall be equipped with baffles, curtains, or other means to minimize internal cross contamination of the solutions in wash and rinse tanks.

(c) A warewashing machine shall be equipped with a temperature measuring device that indicates the temperature of the water:

1. In each wash and rinse tank; and

2. As the water enters the hot water sanitizing final rinse manifold or in the chemical sanitizing solution tank.

(d) A warewashing machine that uses a chemical for sanitization and that is installed after the effective date of this chapter, shall be equipped with a device that indicates audibly or visually when more chemical sanitizer needs to be added.

(e) Warewashing machines that provide a fresh hot water sanitizing rinse shall be equipped with a pressure gauge or similar device such as a transducer that measures and displays the water pressure in the supply line immediately before entering the warewashing machine, and if the flow pressure-measuring device is upstream of the fresh hot water sanitizing rinse control valve, the device shall be mounted in a one-fourth inch iron pipe size (IPS) valve.

1. This subsection does not apply to a machine that uses only a pumped or recirculated sanitizing rinse.

(f) Sinks and drainboards of warewashing sinks and machines shall be self-draining.

(g) A warewashing machine; the compartments of sinks, basins, or other receptacles used for washing and rinsing equipment, utensils, or raw foods, or laundering wiping cloths; and drainboards or other equipment used to substitute for drainboards shall be cleaned:

1. before use;

2. throughout the day at a frequency necessary to prevent recontamination of equipment and utensils and to ensure that the equipment performs its intended function; and

3. If used, at least every 24 hours.

(h) A warewashing machine and its auxiliary components shall be operated in accordance with the machine's data plate and other manufacturer's instructions. A warewashing machine's conveyor speed or automatic cycle times shall be maintained accurately timed in accordance with manufacturer's specifications.

(i) The temperature of the wash solution in spray type warewashers that use hot water to sanitize shall not be less than:

1. For a stationary rack, single temperature machine, 165°F;

2. For a stationary rack, dual temperature machine, 150°F;

3. For a single tank, conveyor, dual temperature machine, 160°F; or

4. For a multi-tank, conveyor, multi-temperature machine, 150°F.

(j) The temperature of the wash solution in spray-type warewashers that use chemicals to sanitize shall not be less than 120°F.

(k) In a mechanical operation, the temperature of the fresh hot water sanitizing rinse as it enters the manifold may not be more than 194°F, or less than:

1. For a stationary rack, single temperature machine, 165°F; or

2. For all other machines, 180°F.

(l) The flow pressure of the fresh hot water sanitizing rinse in a warewashing machine may not be less than 15 pounds per square inch or more than 25 pounds per square inch as measured in the water line immediately downstream or upstream from the fresh hot water sanitizing rinse control valve.

(m) Pressure measuring devices that display the pressures in the water supply line for the fresh hot water sanitizing rinse shall have increments of one pound per square inch or smaller and shall be accurate to two pounds per square inch in the 15 to 25 pounds per square inch range.

8:24-4.10 Laundering

(a) Clean linens shall be free from food residues and other soiling matter.

(b) Specifications for linens shall include the following:

1. Linens that do not come in direct contact with food shall be laundered between operations if they become wet, sticky, or visibly soiled;

2. Cloth gloves shall be laundered before being used with a different type of raw animal food such as beef, lamb, pork, and fish;

3. Linens and napkins that are used as specified under N.J.A.C. 8:24-3.3(l) and cloth napkins shall be laundered between each use;

4. Wet wiping cloths shall be laundered daily; and

5. Dry wiping cloths shall be laundered as necessary to prevent contamination of food and clean serving utensils.

(c) Soiled linens shall be kept in clean, nonabsorbent receptacles or clean, washable laundry bags and stored and transported to prevent contamination of food, clean equipment, clean utensils, and single-service and single-use articles.

(d) Linens shall be mechanically washed, except that in retail food establishments in which only wiping cloths are laundered, the wiping cloths may be laundered in a mechanical washer, sink designated only for laundering wiping cloths, or a warewashing or food preparation sink that is cleaned as specified under N.J.A.C. 8:24-4.9(g).

(e) Laundry facilities on the premises of a retail food establishment shall be used only for the washing and drying of items used in the operation of the establishment, except that separate laundry facilities located on the premises for the purpose of general laundering such as for institutions providing boarding and lodging may also be used for laundering retail food establishment items.

8:24-4.11 Protection of Clean Items

(a) After cleaning and sanitizing, equipment and utensils:

1. Shall be air-dried or used after adequate draining as specified in Sanitizing Solutions 21 CFR §178.1010(A), incorporated herein by reference, as amended and supplemented, before contact with food; and

2. Shall not be cloth dried.

(b) Wiping cloths laundered in a retail food establishment that does not have a mechanical clothes dryer shall be air-dried in a location and in a manner that prevents contamination of food, equipment, utensils, linens, and single-service and single-use articles and the wiping cloths. This subsection does not apply if wiping cloths are stored after laundering in a sanitizing solution.

(c) Lubricants shall be applied to food-contact surfaces that require lubrication in a manner that does not contaminate food-contact surfaces.

(d) Equipment shall be reassembled so that food-contact surfaces are not contaminated.

(e) Equipment, utensils, linens, and single-service and single-use articles protection requirements shall include the following:

1. Except as specified in (e)4 below, cleaned equipment and utensils, laundered linens, and single-service and single-use articles shall be stored:

i. In a clean, dry location;

ii. Where they are not exposed to splash, dust, or other contamination; and

iii. At least 6 inches above the floor.

2. Clean equipment and utensils shall be stored:

i. In a self-draining position that allows air drying; and

ii. Covered or inverted.

3. Single-service and single-use articles shall be kept in the original protective package or stored by using other means that afford protection from contamination until used.

4. Items that are kept in closed packages may be stored less than six inches above the floor on dollies, pallets, racks, and skids that are designed as specified under N.J.A.C. 8:24-4.2(s).

(f) Single-service and single-use articles and cleaned and sanitized utensils shall be handled, displayed, and dispensed so that contamination of food- and lip-contact surfaces is prevented. Knives, forks, and spoons that are not prewrapped shall be presented so that only the handles are touched by employees and by consumers if consumer self-service is provided.

(g) Soiled tableware shall be removed from consumer eating and drinking areas and handled so that clean tableware is not contaminated.

8:24-4.12 Vending machines

(a) Potentially hazardous food dispensed through a vending machine shall be in the package in which it was placed at the retail food establishment or food processing plant at which it was prepared.

(b) Condiments at a vending machine location shall be in individual packages or provided in dispensers that are filled at an approved location, such as the retail food establishment that provides food to the vending machine location, a food processing plant that is regulated by the agency that has jurisdiction over the operation, or a properly equipped facility that is located on the site of the vending machine location.

(c) The dispensing compartment of a vending machine including a machine that is designed to vend prepackaged snack food that is not potentially hazardous such as chips, party mixes, and pretzels shall be equipped with a self-closing door or cover if the machine is:

1. Located in an outside area that does not otherwise afford the protection of an enclosure against the rain, windblown debris, insects, rodents, and other contaminants that are present in the environment; or

2. Available for self-service during hours when it is not under the full-time supervision of a food employee.

(d) Cutting or piercing parts of can openers on vending machines shall be protected from manual contact, dust, insects, rodents, and other contamination.

(e) A machine vending potentially hazardous food shall have an automatic control that prevents the machine from vending food under the following circumstances:

1. If there is a power failure, mechanical failure, or other condition that results in an internal machine temperature that cannot maintain food temperatures as specified under N.J.A.C. 8:24-3, until the machine is serviced and restocked with food that has been maintained at temperatures specified under N.J.A.C. 8:24-3.

(f) When the automatic shutoff within a machine vending potentially hazardous food is activated:

1. In a refrigerated vending machine, the ambient temperature may not exceed refrigeration temperatures for more than 30 minutes immediately after the machine is filled, serviced, or restocked; or

2. In a hot holding vending machine, the ambient temperature may not be less than 135°F for more than 2 hours immediately after the machine is filled, serviced, or restocked.

(g) Vending machines designed to store beverages that are packaged in containers made from paper products shall be equipped with diversion devices and retention pans or drains for container leakage.

(h) Vending machine doors and access opening covers to food and container storage spaces shall be tight-fitting so that the space along the entire interface between the doors or covers and the cabinet of the machine, if the doors or covers are in a closed position, is no greater than one-sixteenth inch.

(i) The requirement in (h) above shall be accomplished by ensuring that vending machine doors and access opening covers to food and container storage spaces:

1. Are covered with louvers, screens, or materials that provide an equivalent opening of not greater than one-sixteenth inch. Screening of 12 or more mesh to one inch meets this requirement;

2. Are effectively gasketed;

3. Have interface surfaces that are at least one-half inch wide; or

4. Have jambs or surfaces used to form an L-shaped entry path to the interface.

(j) Vending machine service connection openings through an exterior wall of a machine shall be closed by sealants, clamps, or grommets so that the openings are no larger than one sixteenth inch.

(k) A refuse receptacle shall not be located within a vending machine, except that a receptacle for beverage bottle crown closures may be located within a vending machine.

(l) If located outside, a machine used to vend food shall be provided with overhead protection except that machines vending canned beverages need not meet this requirement.

Subchapter 5.

WATER, PLUMBING, & WASTE

8:24-5.1 Water

(a) Drinking water shall be obtained from an approved source that is:

1. A public water system that is constructed, maintained, and operated in accordance with the NJSDWA; or

2. A non-public water system that is constructed, maintained, and operated in accordance with the NJSDWA.

(b) A drinking water system shall be flushed and disinfected before being placed in service after construction, repair, or modification and after an emergency situation, such as a flood, that may introduce contaminants to the system.

(c) Bottled drinking water used or sold in a retail food establishment shall be obtained from approved sources in accordance with N.J.A.C. 8:21-5, Rules Governing the Manufacture, Storage, Distribution and Handling of Bottled Water.

(d) Water from a public water system and water from a non-public water system shall meet the requirements of the NJSDWA.

(e) A non-drinking water supply shall be used only if its use is approved by the Department of Environmental Protection and complies fully with N.J.A.C. 8:24-5.2 and the non-drinking water supply is not used in such a manner as to bring it into contact directly or indirectly, with food, food equipment, or utensils. Non-drinking water shall be used only for nonculinary purposes, such as air conditioning, non-food equipment cooling, fire protection, and irrigation.

(f) Water from a non-public water system shall be sampled and tested at least annually and as required by the NJSDWA, except when used as specified under (e) above.

(g) The most recent sample report for the non-public water system shall be retained on file in the retail food establishment or the report shall be maintained in accordance with the NJSDWA.

(h) The water source and system shall be of sufficient capacity to meet the peak water demands of the retail food establishment. Hot water generation and distribution systems shall be sufficient to meet the peak hot water demands throughout the retail food establishment.

(i) Water under pressure shall be provided to all fixtures, equipment, and nonfood equipment that are required to use water, except that water supplied as specified under (k) below to a temporary retail food establishment or in response to a temporary interruption of a water supply is not required to be under pressure.

(j) Water shall be received from the source through the use of:

1. A public or non-public water supply system which is constructed, protected, operated, and maintained in conformance with the NJSDWA, specifically N.J.A.C. 7:10-10.1 through 10 and local ordinances and rules; or

2. One or more of the following that shall be constructed, maintained, and operated in a sanitary manner whereby the water will not become contaminated:

i. Non-public water main, water pumps, pipes, hoses, connections, and other appurtenances;

ii. Water transport vehicles; and

iii. Water containers.

(k) Water meeting the requirements specified under this section shall be made available for a mobile facility, for a temporary retail food establishment without a permanent water supply, and for a retail food establishment with a temporary interruption of its water supply using one of the following means:

1. A supply of containers of commercially bottled drinking water;

2. One or more closed portable water containers;

3. An enclosed vehicular water tank;

4. An on-premises water storage tank; or

5. Piping, tubing, or hoses connected to an adjacent approved source.

8:24-5.2 Plumbing system

(a) A plumbing system shall be:

1. Repaired in accordance with N.J.A.C. 5:23, New Jersey Uniform Construction Code; and

2. Maintained in good repair.

(b) A plumbing system and hoses conveying water shall be constructed and repaired with approved materials in accordance with N.J.A.C. 5:23, New Jersey Uniform Construction Code. A water filter shall be made of safe materials.

(c) All plumbing systems shall be designed, constructed, installed and maintained in accordance with N.J.A.C. 5:23, New Jersey Uniform Construction Code. A plumbing fixture such as a handwashing facility, toilet, or urinal shall be easily cleanable.

(d) An air gap between the water supply inlet and the flood level rim of the plumbing fixture, equipment, or non-food equipment shall be at least twice the diameter of the water supply inlet and may not be less than one inch.

(e) A backflow or backsiphonage prevention device installed on a water supply system shall meet the requirements of N.J.A.C. 7:10-10.1 through 10 for construction, installation, maintenance, inspection, and testing for that specific application and type of device.

(f) A water filter, screen, and other water-conditioning device installed on water lines shall be designed to facilitate disassembly for periodic servicing and cleaning. A water filter element shall be of the replaceable type

(g) At least one service sink or one curbed cleaning facility equipped with a floor drain shall be provided and conveniently located for the cleaning of mops or similar wet floor cleaning tools and for the disposal of mop water and similar liquid waste.

(h) Through providing an air gap as specified under (d) above or by installing an approved backflow prevention device as specified under (e) above, a plumbing system shall be installed to preclude back-flow of a solid, liquid, or gas contaminant into the water supply system at each point of use at the retail food establishment, including on a hose bibb if a hose is attached or on a hose bibb if a hose is not attached and backflow prevention is required by law.

(i) A backflow prevention device shall be located so that it may be serviced and maintained.

(j) A water filter, screen, and other water-conditioning device installed on water lines shall be located to facilitate disassembly for periodic servicing and cleaning.

(k) A person may not create a cross connection by connecting a pipe or conduit between the drinking water system and a non-drinking water system or a water system of unknown quality. The piping of a non-drinking water system shall be durably identified so that it is readily distinguishable from piping that carries drinking water.

(l) The requirements for the water reservoir of fogging devices shall include the following:

1. A reservoir that is used to supply water to a device such as a produce fogger shall meet the following requirements:

i. It shall be maintained in accordance with manufacturer's specifications; and

ii. It shall be cleaned in accordance with manufacturer's specifications or according to the procedures specified under (l)2 below, whichever is more stringent.

2. Cleaning procedures shall include at least the following steps and shall be conducted at least once a week:

i. Draining and complete disassembly of the water and aerosol contact parts;

ii. Brush-cleaning the reservoir, aerosol tubing, and discharge nozzles with a suitable detergent solution;

iii. Flushing the complete system with water to remove the detergent solution and particulate accumulation; and

iv. Rinsing by immersing, spraying, or swabbing the reservoir, aerosol tubing, and discharge nozzles with at least 50 mg/L hypochlorite solution.

8:24-5.3 Mobile water tank & mobile retail food establishment water tank

(a) Materials that are used in the construction of a mobile water tank, mobile retail food establishment water tank, and appurtenances shall be:

1. Safe;

2. Durable, corrosion-resistant, and nonabsorbent; and

3. Finished to have a smooth, easily cleanable surface.

(b) A mobile water tank shall be:

1. Enclosed from the filling inlet to the discharge outlet; and

2. Sloped to an outlet that allows complete drainage of the tank.

(c) If a water tank is designed with an access port for inspection and cleaning, the opening shall be in the top of the tank and meet the following requirements:

1. The opening shall be flanged upward at least one-half inch; and

2. The opening shall be equipped with a port cover assembly that is:

i. Provided with a gasket and a device for securing the cover in place; and

ii. Flanged to overlap the opening and sloped to drain.

(d) A fitting with "V" type threads on a water tank inlet or outlet shall be allowed only when a hose is permanently attached to the fitting.

(e) If provided, a water tank vent shall terminate in a downward direction and shall be covered with:

1. Sixteen mesh to one-inch screen or equivalent when the vent is in a protected area; or

2. A protective filter when the vent is in an area that is not protected from windblown dirt and debris.

(f) A water tank and its inlet and outlet shall be sloped to drain. A water tank inlet shall be positioned so that it is protected from contaminants such as waste discharge, road dust, oil, or grease.

(g) A hose used for conveying drinking water from a water tank shall be:

1. Safe;

2. Durable, corrosion-resistant, and nonabsorbent;

3. Resistant to pitting, chipping, crazing, scratching, scoring, distortion, and decomposition;

4. Finished with a smooth interior surface; and

5. Clearly and durably identified as to its use if not permanently attached.

(h) A filter that does not pass oil or oil vapors shall be installed in the air supply line between the compressor and drinking water system when compressed air is used to pressurize the water tank system.

(i) A cap and keeper chain, closed cabinet, closed storage tube, or other effective protective cover or device shall be provided for a water inlet, outlet, and hose.

(j) A mobile retail food establishment's water tank inlet shall be:

1. Three-fourths inch in inner diameter or less; and

2. Provided with a hose connection of a size or type that will prevent its use for any other service.

(k) A water tank, pump, and hoses shall be flushed and sanitized before being placed in service after construction, repair, modification, and periods of non-use.

(l) A person shall operate a water tank, pump, and hoses so that backflow and other contamination of the water supply are prevented.

(m) If not in use, a water tank and hose inlet and outlet fitting shall be protected using a cover or device as specified under (i) above.

(n) A water tank, pump, and hoses used for conveying drinking water shall be used for no other purpose, except that water tanks, pumps, and hoses used for conveying liquid foods may be used for conveying drinking water if they are cleaned and sanitized before they are used to convey water.

8:24-5.4 Sewage, other liquid waste, and rainwater

(a) A sewage holding tank in a mobile retail food establishment shall be:

1. Sized 15% larger in capacity than the water supply tank; and

2. Sloped to a drain that is one inch in inner diameter or greater, equipped with a shut-off valve.

(b) Retail food establishment drainage systems, including grease traps that convey sewage, shall be designed and installed in accordance with N.J.A.C. 5:23, New Jersey Uniform Construction Code.

(c) Backflow prevention requirements include the following:

1. A direct connection shall not exist between the sewage system and a drain originating from equipment in which food, portable equipment, or utensils are placed, except as specified in (c)2 and 3 below.

2. A warewashing machine may have a direct connection between its waste outlet and a floor drain when the machine is located within five feet of a trapped floor drain and the machine outlet is connected to the inlet side of a properly vented floor drain trap.

3. The pot washing compartment in a warewashing sink may have a direct connection if approved in accordance with N.J.A.C. 5:23, New Jersey Uniform Construction Code.

(d) If used, a grease trap shall be located so as to be easily accessible for cleaning.

(e) Sewage shall be conveyed to the point of disposal through an approved sanitary sewage system or other system, including use of sewage transport vehicles, waste retention tanks, pumps, pipes, hoses, and connections that are constructed, maintained, and operated in accordance with N.J.A.C. 5:23, New Jersey Uniform Construction Code.

(f) Sewage and other liquid wastes shall be removed from a mobile retail food establishment at an approved waste servicing area or by a sewage transport vehicle in such a way that a public health hazard or nuisance is not created.

(g) A tank for liquid waste retention shall be thoroughly flushed and drained in a sanitary manner during the servicing operation.

(h) Sewage shall be disposed through an approved facility that is:

1. A public sewage treatment plant; or

2. An individual sewage disposal system that is sized, constructed, maintained, and operated in accordance with N.J.A.C. 7:9A, Standards for Individual Subsurface Sewage Disposal Systems; N.J.A.C. 7:14, the New Jersey Water Pollution Control Act Regulations; and local laws, ordinances and regulations.

(i) Condensate drainage and other non-sewage liquids and rainwater shall be drained from point of discharge to disposal in accordance with applicable local laws, ordinances and regulations.

8:24-5.5 Refuse, recyclables, and returnables

(a) If located within the retail food establishment, a storage area for refuse, recyclables, and returnables shall meet the requirements specified under N.J.A.C. 8:24-6.

(b) An outdoor storage surface for refuse, recyclables, and returnables shall be constructed of nonabsorbent material such as concrete or asphalt and shall be smooth, durable, and sloped to drain.

(c) If used, an outdoor enclosure for refuse, recyclables, and returnables shall be constructed of durable and cleanable materials.

(d) Receptacles and waste handling units for refuse, recyclables, and returnables and for use with materials containing food residue shall be durable, cleanable, insect-resistant, rodent-resistant, leakproof, and nonabsorbent, except that plastic bags and wet strength paper bags may be used to line receptacles for storage inside the retail food establishment, or within closed outside receptacles.

(e) Receptacles and waste handling units for refuse, recyclables, and returnables used with materials containing food residue and used outside the retail food establishment shall be designed and constructed to have tight-fitting lids, doors, or covers.

(f) Receptacles and waste handling units for refuse and recyclables such as an on-site compactor shall be installed so that accumulation of debris and insect and rodent attraction and harborage are minimized and effective cleaning is facilitated around and, if the unit is not installed flush with the base pad, under the unit.

(g) Requirements for storage areas, rooms, and receptacles, capacity and availability shall include the following:

1. An inside storage room and area and outside storage area and enclosure, and receptacles shall be of sufficient capacity to hold refuse, recyclables, and returnables that accumulate.

2. A receptacle shall be provided in each area of the retail food establishment or premises where refuse is generated or commonly discarded, or where recyclables or returnables are placed.

3. If disposable towels are used at handwashing sinks, a waste receptacle shall be located at each sink or group of adjacent sinks.

(h) Suitable cleaning implements and supplies such as high pressure pumps, hot water, steam, and detergent shall be provided as necessary for effective cleaning of receptacles and waste handling units for refuse, recyclables, and returnables, except off-premises based cleaning services may be used if on-premises cleaning implements and supplies are not provided.

(i) Requirements for the location of storage areas, redeeming machines, receptacles and waste handling units shall include the following:

1. An area designated for refuse, recyclables, returnables, and, except as specified in (i)2 below, a redeeming machine for recyclables or returnables shall be located so that it is separate from food, equipment, utensils, linens, and single-service and single-use articles, and a public health hazard or nuisance is not created.

2. A redeeming machine may be located in the packaged food storage area or consumer area of a retail food establishment if food, equipment, utensils, linens, and single-service and single-use articles are not subject to contamination from the machines, and a public health hazard or nuisance is not created.

3. The location of receptacles and waste handling units for refuse, recyclables, and returnables shall not create a public health hazard or nuisance or interfere with the cleaning of adjacent space.

(j) Refuse, recyclables, and returnables shall be stored in receptacles or waste handling units so that they are inaccessible to insects and rodents.

(k) Storage areas, enclosures, and receptacles for refuse, recyclables, and returnables shall be maintained in good repair.

(l) Outside storage prohibitions shall include the following:

1. Refuse receptacles that are not rodent-resistant, unprotected plastic bags and paper bags, or baled units that contain materials with food residue may not be stored outside, except as specified in (l)2 below.

2. Cardboard or other packaging material that does not contain food residues and that is awaiting regularly scheduled delivery to a recycling or disposal site may be stored outside without being in a covered receptacle if it is stored so that it does not create a rodent harborage problem.

(m) Receptacles and waste handling units for refuse, recyclables, and returnables shall be kept covered under the following circumstances:

1. Inside the retail food establishment if the receptacles and units:

i. Contain food residue and are not in continuous use; or

ii. After they are filled; and

2. With tight-fitting lids or doors if kept outside the retail food establishment.

(n) Drains in receptacles and waste handling units for refuse, recyclables, and returnables shall have drain plugs in place.

(o) A storage area and enclosure for refuse, recyclables, or returnables shall be maintained free of unnecessary items, as specified under N.J.A.C. 8:24-6.5(j), and shall be clean.

(p) Requirements for cleaning receptacles shall include the following:

1. Receptacles and waste handling units for refuse, recyclables, and returnables shall be thoroughly cleaned in a way that does not contaminate food, equipment, utensils, linens, or single-service and single-use articles, and waste water shall be disposed of as specified under N.J.A.C. 8:24-5.4(e).

2. Soiled receptacles and waste handling units for refuse, recyclables, and returnables shall be cleaned at a frequency necessary to prevent them from developing a buildup of soil or becoming attractants for insects and rodents.

(q) Refuse, recyclables, and returnables shall be removed from the premises at a frequency that will minimize the development of objectionable odors and other conditions that attract or harbor insects and rodents.

(r) Refuse, recyclables, and returnables shall be removed from the premises by way of:

1. Portable receptacles that are constructed and maintained in accordance with N.J.A.C. 7:26, Solid Waste; or

2. A transport vehicle that is constructed, maintained, and operated in accordance with N.J.A.C. 7:26, Solid Waste.

(s) Solid waste not disposed of through the sewage system, such as through grinders and pulpers, shall be recycled or disposed of in a public or private community recycling or refuse facility; or solid waste shall be disposed of in an individual refuse facility such as a landfill or incinerator which is sized, constructed, maintained, and operated in accordance with N.J.A.C. 7:26, Solid Waste.

Subchapter 6.

PHYSICAL FACILITIES

8:24-6.1 Materials for construction and repair

(a) Indoor surface characteristics shall include the following:

1. Except as specified in (a)2 below, materials for indoor floor, wall, and ceiling surfaces under conditions of normal use shall be:

i. Smooth, durable, and easily cleanable for areas where retail food establishment operations are conducted;

ii. Closely woven and easily cleanable carpet for carpeted areas; and

iii. Non-absorbent for areas subject to moisture such as food preparation areas, walk-in refrigerators, warewashing areas, toilet rooms, mobile retail food establishment servicing areas, and areas subject to flushing or spray cleaning methods.

2. In a temporary retail food establishment:

i. If graded to drain, a floor may be concrete, machine-laid asphalt, or dirt or gravel if it is covered with mats, removable platforms, duckboards, or other suitable approved materials that are effectively treated to control dust and mud; and

ii. Walls and ceilings may be constructed of a material that protects the interior from the weather and windblown dust and debris.

(b) Outdoor surface characteristics shall include the following:

1. The outdoor walking and driving areas shall be surfaced with concrete, asphalt, or gravel or other materials that have been effectively treated to minimize dust, facilitate maintenance, and prevent muddy conditions.

2. Exterior surfaces of buildings and mobile retail food establishments shall be of weather resistant materials and shall comply with law.

3. Outdoor storage areas for refuse, recyclables, or returnables shall be of materials specified under N.J.A.C. 8:24-5.5(b) and (c).

8:24-6.2 Design, construction, and installation

(a) The floors, floor coverings, walls, wall coverings, and ceilings shall be designed, constructed, and installed so that they are smooth and easily cleanable, except as specified under (d) below and except that antislip floor coverings or applications may be used for safety reasons.

(b) Utility line requirements shall include the following:

1. Utility service lines and pipes shall not be unnecessarily exposed.

2. Exposed utility service lines and pipes shall be installed so they do not obstruct or prevent cleaning of the floors, walls, or ceilings.

3. Exposed horizontal utility service lines and pipes may not be installed on the floor.

(c) Floor and wall juncture requirements shall include the following:

1. In retail food establishments in which cleaning methods other than water flushing are used for cleaning floors, the floor and wall junctures shall be covered and closed to no larger than one thirty-second inch.

2. The floors in retail food establishments in which water flush cleaning methods are used shall be provided with drains and be graded to drain, and the floor and wall junctures shall be covered and sealed.

(d) Floor carpeting, restrictions and installation requirements shall include the following:

1. A floor covering such as carpeting or similar material shall not be installed as a floor covering in food preparation areas, walk-in refrigerators, warewashing areas, toilet room areas where handwashing sinks, toilets, and urinals are located, refuse storage rooms, or other areas where the floor is subject to moisture, flushing, or spray cleaning methods.

2. If carpeting is installed as a floor covering in areas other than those specified under (a) above, it shall be:

i. Securely attached to the floor with a durable mastic, by using a stretch and tack method, or by another method; and

ii. Installed tightly against the wall under the coving or installed away from the wall with a space between the carpet and the wall and with the edges of the carpet secured by metal stripping or some other means.

(e) Mats and duckboards shall be designed to be removable and easily cleanable.

(f) Wall and ceiling covering materials shall be attached so that they are easily cleanable, except that in areas used only for dry storage, concrete, porous blocks, or bricks used for indoor wall construction shall be finished and sealed to provide a smooth, nonabsorbent, easily cleanable surface.

(g) Requirements for attachments to walls and ceilings shall include the following:

1. Attachments to walls and ceilings such as light fixtures, mechanical room ventilation system components, vent covers, wall mounted fans, decorative items, and other attachments shall be easily cleanable, except as specified in (g)2 below.

2. In a consumer area, wall and ceiling surfaces and decorative items and attachments that are provided for ambiance need not meet this requirement if they are kept clean.

(h) Studs, joists, and rafters shall not be exposed in areas subject to moisture. This requirement does not apply to temporary retail food establishments.

(i) Requirements for protective shielding to light bulbs shall include the following:

1. Light bulbs shall be shielded, coated, or otherwise shatter-resistant in areas where there is exposed food; clean equipment, utensils, and linens; or unwrapped single-service and single-use articles, except as specified in (i)2 below.

2. Shielded, coated, or otherwise shatter-resistant bulbs need not be used in areas used only for storing food in unopened packages, if:

i. The integrity of the packages cannot be affected by broken glass falling onto them; and

ii. The packages are capable of being cleaned of debris from broken bulbs before the packages are opened.

3. An infrared or other heat lamp shall be protected against breakage by a shield surrounding and extending beyond the bulb so that only the face of the bulb is exposed.

(j) Heating, ventilating, and air conditioning systems shall be designed and installed so that make-up air intake and exhaust vents do not cause contamination of food, food-contact surfaces, equipment, or utensils.

(k) The presence of insects, rodents, and other pests shall be controlled to minimize their presence on the premises by:

1. Routinely inspecting incoming shipments of food and supplies;

2. Routinely inspecting the premises for evidence of pests;

3. Using methods, if pests are found, such as trapping devices or other means of pest control as specified under N.J.A.C. 8:24-7.2(c), (l), and (m); and

4. Eliminating harborage conditions.

(l) Dead or trapped birds, insects, rodents, and other pests shall be removed from control devices and the premises at a frequency that prevents their accumulation, decomposition, or the attraction of pests.

(m) Requirements for design and installation of insect control devices shall include the following:

1. Insect control devices that are used to electrocute or stun flying insects shall be designed to retain the insect within the device.

2. Insect control devices shall be installed so that:

i. The devices are not located over a food preparation area; and

ii. Dead insects and insect fragments are prevented from being impelled onto or falling on exposed food; clean equipment, utensils, and linens; and unwrapped single-service and single-use articles.

(n) Requirements for the protection of outer openings shall include the following:

1. Except as specified in (n)2 and 3 below, outer openings of a retail food establishment shall be protected against the entry of insects and rodents by:

i. Filling or closing holes and other gaps along floors, walls and ceilings;

ii. Closed, tight-fitting windows; and

iii. Solid self-closing, tight-fitting doors.

2. Paragraph (n)1 above does not apply if a retail food establishment opens into a larger structure, such as a mall, airport, or office building, or into an attached structure, such as a porch, and the outer openings from the larger or attached structure are protected against the entry of insects and rodents.

3. Except as specified in (n)2 above and (n)4 below, if the windows or doors of a retail food establishment, or of a larger structure within which a retail food establishment is located, are kept open for ventilation or other purposes or a temporary retail food establishment is not provided with windows and doors as specified under (n)1 above, the openings shall be protected against the entry of insects and rodents by:

i. Sixteen mesh to one-inch screens;

ii. Properly designed and installed air curtains; or

iii. Other effective means.

4. Paragraph (n)3 above does not apply if flying insects and other pests are absent due to the location of the establishment, the weather, or other limiting condition.

(o) Perimeter walls and roofs of a retail food establishment shall effectively protect the establishment from the weather and the entry of insects, rodents, and other animals.

(p) Servicing areas shall be provided with overhead protection except that areas used only for the loading of water or the discharge of sewage and other liquid waste, through the use of a closed system of hoses, need not be provided with overhead protection.

(q) Exterior walking and driving surfaces shall be graded to drain.

(r) Outdoor refuse areas shall be curbed and graded to drain to collect and dispose of liquid waste that results from the refuse and from cleaning the area and waste receptacles.

(s) A private home, a room used as living or sleeping quarters, or an area directly opening into a room used as living or sleeping quarters may not be used for conducting retail food establishment operations.

(t) Living or sleeping quarters located on the premises of a retail food establishment such as those provided for lodging registration clerks or resident managers shall be separated from rooms and areas used for retail food establishment operations by complete partitioning and solid self-closing doors.

8:24-6.3 Lighting, ventilation, and dressing areas

(a) Lighting intensity shall be:

1. At least 110 lux (10 foot candles) at a distance of 30 inches above the floor, in walk-in refrigeration units and dry food storage areas and in other areas and rooms during periods of cleaning;

2. At least 220 lux (20 foot candles):

i. At a surface where food is provided for consumer self-service such as buffets and salad bars or where fresh produce or packaged foods are sold or offered for consumption;

ii. Inside equipment such as reach-in and under-counter refrigerators; and

iii. At a distance of 30 inches above the floor in areas used for handwashing, warewashing, and equipment and utensil storage, and in toilet rooms; and

3. At least 540 lux (50 foot candles) at a surface where a food employee is working with food or working with utensils or equipment such as knives, slicers, grinders, or saws, where employee safety is a factor.

(b) If necessary to keep rooms free of excessive heat, steam, condensation, vapors, obnoxious odors, smoke, and fumes, mechanical ventilation of sufficient capacity shall be provided.

(c) Dressing area and locker requirements include the following:

1. Dressing rooms or dressing areas shall be designated if employees routinely change their clothes in the establishment.

2. Lockers or other suitable facilities shall be provided for the orderly storage of employees' clothing and other possessions.

(d) Designated area requirements include the following:

1. Areas designated for employees to eat, drink, and use tobacco, in compliance with the New Jersey Smoke-Free Air Act at N.J.S.A. 26:3D-55 through 3D-64 and the rules promulgated thereunder, shall be located so that food, equipment, linens, and single-service and single-use articles are protected from contamination.

2. Lockers or other suitable facilities shall be located in a designated room or area where contamination of food, equipment, utensils, linens, and single-service and single-use articles cannot occur.

8:24-6.4 Segregation and location of distressed merchandise

Products that are held by the operator for credit, redemption, or return to the distributor, such as damaged, spoiled, or recalled products, shall be segregated and held in designated areas that are separated from food, equipment, utensils, linens, and single-service and single-use articles.

8:24-6.5 Maintenance and operation

(a) The physical facilities shall be maintained in good repair.

(b) The physical facilities shall be cleaned as often as necessary to keep them clean.
Cleaning shall be done during periods when the least amount of food is exposed such as after closing. This requirement does not apply to cleaning that is necessary due to a spill or other accident.

(c) Only dustless methods of cleaning shall be used, such as wet cleaning, vacuum cleaning, mopping with treated dust mops, or sweeping using a broom and dust-arresting compounds, except that spills or drippage on floors that occur between normal floor cleaning times may be cleaned:

1. Without the use of dust-arresting compounds; and

2. In the case of liquid spills or drippage, with the use of a small amount of absorbent compound such as sawdust or diatomaceous earth applied immediately before spot cleaning.

(d) Intake and exhaust air ducts shall be cleaned and filters changed so that they are not a source of contamination by dust, dirt, and other materials. If vented to the outside, ventilation systems shall not create a public health hazard or nuisance or unlawful discharge.

(e) Food preparation sinks, handwashing sinks, and warewashing equipment shall not be used for the cleaning of maintenance tools, the preparation or holding of maintenance materials, or the disposal of mop water and similar liquid wastes.

(f) After use, mops shall be placed in a position that allows them to air-dry without soiling walls, equipment, or supplies.

(g) Sawdust, wood shavings, granular salt, baked clay, diatomaceous earth, or similar materials shall not be used on floors, except as specified in (c)1 and 2 above.

(h) Dressing rooms shall be used by employees if the employees regularly change their clothes in the establishment. Lockers or other suitable facilities shall be used for the orderly storage of employee clothing and other possessions.

(i) Maintenance tools such as brooms, mops, vacuum cleaners, and similar items shall be stored:

1. So that they do not contaminate food, equipment, utensils, linens, and single-service and single-use articles; and

2. In an orderly manner that facilitates cleaning the area used for storing the maintenance tools.

(j) The premises shall be free of items that are unnecessary to the operation or maintenance of the establishment such as equipment that is non-functional or no longer used, and litter.

(k) Requirements for prohibiting animals shall include the following:

1. Live animals shall not be allowed on the premises of a retail food establishment, except as specified in (k)2 and 3 below.

2. Live animals may be allowed in the following situations if the contamination of food; clean equipment, utensils, and linens; and unwrapped single-service and single-use articles cannot result:

i. Edible fish or decorative fish in aquariums, shellfish or crustacea on ice or under refrigeration, and shellfish and crustacea in display tank systems;

ii. Patrol dogs accompanying police or security officers in offices and dining, sales, and storage areas, and sentry dogs running loose in outside fenced areas;

iii. In areas that are not used for food preparation such as dining and sales areas, service animals such as guide dogs that are trained to assist an employee or other person who is handicapped, are controlled by the handicapped employee or person, and are not allowed to be on seats or tables; and

iv. Pets in the common dining areas of group residences at times other than during meals if effective partitioning and self-closing doors separate the common dining areas from food storage or food preparation areas; if condiments, equipment, and utensils are stored in enclosed cabinets or removed from the common dining areas when pets are present; and if dining areas including tables, countertops, and similar surfaces are effectively cleaned before the next meal service.

3. Live or dead fish bait may be stored if contamination of food; clean equipment, utensils, and linens; and unwrapped single-service and single-use articles cannot result.

8:24-6.6 Toilet facilities

(a) Each retail food establishment shall be provided with adequate, conveniently located toilet facilities accessible to the employees at all times.

(b) All new establishments shall provide toilets for the public in accordance with the requirements of N.J.A.C. 5:23, New Jersey Uniform Construction Code.

(c) Toilet facilities shall be installed in accordance with N.J.A.C. 5:23, New Jersey Uniform Construction Code.

(d) When a common toilet is used for employees and patrons, access shall not be through food preparation, food storage and utensils and equipment washing areas.

(e) Water closets and urinals shall be of a sanitary design and be cleanable.

(f) A toilet room located on the premises shall be completely enclosed and provided with a tight-fitting and self-closing door, except that this requirement does not apply to a toilet room that is located outside a retail food establishment and does not open directly into the retail food establishment such as a toilet room that is provided by the management of a shopping mall.

(g) Toilet room doors shall not be left open except during cleaning or maintenance.

(h) Toilet facilities, including toilet rooms and fixtures, shall be kept clean and in good repair, and free of objectionable odors. If vestibules are provided, they shall be kept in a clean condition and in good repair.

(i) A supply of toilet tissue shall be provided at each toilet at all times.

(j) Handwashing signs stating "Wash Hands Before Resuming Work" or words of similar meaning shall be posted conspicuously in all toilet rooms and at each separate sink facility in a retail food establishment. It is also recommended that a statement concerning disease transmission be included in the handwashing sign.

(k) Easily cleanable receptacles shall be provided for waste materials, and such receptacles in toilet rooms for women shall be covered. Such receptacles shall be emptied at least once a day, and more frequently when necessary to prevent excessive accumulation of waste material.

8:24-6.7 Handwashing facilities

(a) Handwashing facilities shall be adequate in size and number and shall be so located and maintained as to permit convenient and expeditious use by all employees.

(b) Handwashing facilities shall be constructed and maintained in accordance with N.J.A.C. 5:23, New Jersey Uniform Construction Code.

(c) Handwashing facilities shall be located within or immediately adjacent to all toilet rooms or vestibules.

(d) In all new establishments, and establishments which are extensively altered or change ownership, employee handwashing facilities shall also be located within the area where food is prepared.

(e) A handwashing sink shall be equipped to provide water at a temperature range of between 90°F and 110°F through a mixing valve or combination faucet.

(f) A steam-mixing valve shall not be used at a handwashing sink.

(g) A self-closing, slow-closing, or metering faucet shall provide a flow of water for at least 15 seconds without the need to reactivate the faucet.

(h) The Department or health authority with jurisdiction shall approve the operator's substitution of automatic handwashing facilities for handwashing sinks in a retail food establishment that already has at least one handwashing sink, if the automatic handwashing facilities comply with the following requirements:

1. The automatic handwashing facility shall be capable of removing the types of soils encountered in the food operations involved; and

2. The automatic handwashing facility shall be installed in accordance with manufacturer's instructions.

(i) Each handwashing sink or group of two adjacent sinks shall be provided with a supply of hand cleaning liquid, powder, or bar soap.

(j) Each handwashing sink or group of adjacent sinks shall be provided with the following:

1. Individual, disposable towels;

2. A continuous towel system that supplies the user with a clean towel; or

3. A heated-air hand-drying device.

(k) Common towels are prohibited.

(l) A handwashing sink or group of adjacent sinks that is provided with disposable towels shall be provided with a waste receptacle.

(m) A sign or poster that notifies food employees to wash their hands shall be provided at all handwashing sinks used by food employees and shall be clearly visible to food employees.

(n) A handwashing facility shall be maintained so that it is accessible at all times for employee use.

(o) A handwashing facility may not be used for purposes other than handwashing.

(p) A sink used for food preparation or utensil washing, or a service sink or curbed cleaning facility used for the disposal of mop water or similar wastes, shall not be provided with the handwashing aids and devices required for a handwashing sink.

(q) All components of the handwashing facilities shall be kept clean and in good repair.

Subchapter 7.

POISONOUS or TOXIC MATERIALS

8:24-7.1 Labeling and identification

(a) Containers of poisonous or toxic materials and personal care items shall bear a legible manufacturer's label.

(b) Working containers used for storing poisonous or toxic materials, such as cleaners and sanitizers taken from bulk supplies, shall be clearly and individually identified with the common name of the material.

8:24-7.2 Operational supplies and applications

(a) Poisonous or toxic materials shall be stored in the following manner so that they cannot contaminate food, equipment, utensils, linens, and single-service and single-use articles:

1. Separating the poisonous or toxic materials by spacing or partitioning; and

2. Locating the poisonous or toxic materials in an area that is not above food, equipment, utensils, linens, and single-service and single-use articles. This paragraph does not apply to equipment and utensil cleaners and sanitizers that are stored in warewashing areas for availability and convenience if the materials are stored to prevent contamination of food, equipment, utensils, linens, and single-service and single-use articles.

(b) Only those poisonous or toxic materials that are required for the operation and maintenance of a retail food establishment, such as for the cleaning and sanitizing of equipment and utensils and the control of insects and rodents, shall be allowed in a retail food establishment; except that this subsection does not apply to packaged poisonous or toxic materials that are for retail sale.

(c) Poisonous or toxic materials shall be used according to the following:

1. This chapter;

2. Manufacturer's use directions included in labeling, and, for a pesticide, manufacturer's label instructions that state that use is allowed in a retail food establishment;

3. The conditions of certification, if certification is required, for use of the pest control materials; and

4. Additional conditions that may be established by the health authority.

(d) A restricted-use pesticide shall be applied only by an applicator certified, as defined in 7 U.S.C. §136(e), Certified Applicator, of the Federal Insecticide, Fungicide and Rodenticide Act, or a person under the direct supervision of a certified applicator and only if the following requirements are met:

1. A hazard to employees or other persons is not constituted; and

2. Contamination including toxic residues due to drip, drain, fog, splash or spray on food, equipment, utensils, linens, and single-service and single-use articles is prevented, and for a restricted-use pesticide, this is achieved by taking the following actions prior to application of the restricted-use pesticide and cleaning and sanitizing equipment and utensils after the application of the restricted-use pesticide:

i. Removing the items;

ii. Covering the items with impermeable covers; or

iii. Taking other appropriate preventive actions.

(e) A container previously used to store poisonous or toxic materials may not be used to store, transport, or dispense food.

(f) Chemical sanitizers and other chemical antimicrobials applied to food-contact surfaces shall

meet the requirements specified in Tolerance exemptions for active and inert ingredients for use in antimicrobial formulations, 40 CFR §180.940.

(g) Chemicals used to wash or peel raw, whole fruits and vegetables shall meet the requirements specified in Chemicals used in washing or to assist in the peeling of fruits and vegetables, 21 CFR §173.315, incorporated herein by reference, as amended and supplemented.

(h) Chemicals used as boiler water additives shall meet the requirements specified in Boiler Water Additives, 21 CFR §173.310, incorporated herein by reference, as amended and supplemented.

(i) Drying agents used in conjunction with sanitization shall contain only components that are listed as one of the following:

1. Generally recognized as safe for use in food as specified in Substances Generally Recognized as Safe, 21 CFR Part 182, or Direct Food Substances Affirmed as Generally Recognized as Safe, 21 CFR Part 184;

2. Generally recognized as safe for the intended use as specified in Indirect Food Substances Affirmed as Generally Recognized as Safe, 21 CFR Part 186;

3. Approved for use as a drying agent under a prior sanction specified in Prior-Sanctioned Food Ingredients, 21 CFR Part 181, incorporated herein by reference, as amended and supplemented;

4. Specifically regulated as an indirect food additive for use as a drying agent as specified in 21 CFR Parts 175 through 178, incorporated herein by reference, as amended and supplemented; or

5. Approved for use as a drying agent under the threshold of regulation process established by Threshold of Regulation for Substances Used in Food-contact Articles, 21 CFR §170.39.

(j) When sanitization is with chemicals, the approval required under (i)3 or 5 above or the regulation as an indirect food additive required under (i)4 above, shall be specifically for use with chemical sanitizing solutions.

(k) Lubricants shall meet the requirements specified in Lubricants with Incidental Food Contact, 21 CFR §178.3570, incorporated herein by reference, as amended and supplemented, if they are used on food-contact surfaces, on bearings and gears located on or within food-contact surfaces, or on bearings and gears that are located so that lubricants may leak, drip, or be forced into food or onto food-contact surfaces.

(l) Restricted-use pesticides specified under (d) above shall meet the requirements specified in Classification of Pesticides, 40 CFR Part 152, Subpart I, incorporated herein by reference, as amended and supplemented.

(m) Rodent bait shall be contained in a covered, tamper-resistant bait station.

(n) A tracking powder pesticide may not be used in a retail food establishment. If used, a nontoxic tracking powder such as talcum or flour may not contaminate food, equipment, utensils, linens, and single-service and single-use.

(o) The following applies to the restriction and storage of medicine:

1. Only those medicines that are necessary for the health of employees shall be allowed in a retail food establishment. This paragraph does not apply to medicines that are stored or displayed for retail sale.

2. Medicines that are in a retail food establishment for the employees' use shall be labeled as specified under N.J.A.C. 8:24-7.1(a) and located to prevent the contamination of food, equipment, utensils, linens, and single-service and single-use articles.

(p) Medicines belonging to employees or to children in a day care center that require refrigeration and are stored in a food refrigerator shall be:

1. Stored in a package or container and kept inside a covered, leakproof container that is identified as a container for the storage of medicines; and

2. Located so they are inaccessible to children.

(q) First aid supplies that are in a retail food establishment for the employees' use shall be:

1. Labeled as specified under N.J.A.C. 8:24-7.1(a); and

2. Stored in a kit or a container that is located to prevent the contamination of food, equipment, utensils, linens, and single-service and single-use articles.

(r) Except as specified under (p) and (q) above, employees shall store their personal care items in facilities as specified under N.J.A.C. 8:24-6.3(c)2.

8:24-7.3 Stock and retail sale

(a) Poisonous or toxic materials shall be stored and displayed for retail sale by the following means so that they cannot contaminate food, equipment, utensils, linens, and single-service and single-use articles:

1. Separating the poisonous or toxic materials by spacing or partitioning; and

2. Locating the poisonous or toxic materials in an area that is not above food, equipment, utensils, linens, and single-service and single-use articles.

Subchapter 8.

ENFORCEMENT PROVISIONS

8:24-8.1 Legal authority

All retail food establishments shall be operated in compliance with the provisions of this chapter and Title 24, Revised Statutes of New Jersey.

8:24-8.2 Inspection of retail food establishments

(a) The Department or health authority shall inspect every retail food establishment as often as it deems necessary.

(b) The person operating a retail food establishment shall permit access by representatives of the Department or health authority to all parts of the establishment.

8:24-8.3 Examination of records

Upon request, the Department or health authority shall be permitted to examine the health and sanitary records of a retail food establishment to obtain information pertaining to food and supplies purchased, received or used and persons employed.

8:24-8.4 Examination and condemnation of unwholesome, contaminated or adulterated food and drink

(a) The Department or health authority may take and examine samples of food, drink and other substances as often as it deems necessary for the detection of unwholesomeness, adulteration or contamination.

(b) At the time such samples are taken, a receipt shall be delivered to the person in charge of the retail food establishment.

(c) The Department or health authority may forbid the sale or use of any food or drink which is, or is suspected of being, unwholesome, adulterated or contaminated as defined by N.J.S.A. 24:5-8.

(d) The Department or health authority may forbid the use of any equipment or utensils which have not been properly sanitized.

8:24-8.5 Retail food establishments outside jurisdiction

(a) Food from a retail food establishment outside the jurisdiction of the Department or health authority shall not be sold or otherwise distributed if adulterated or misbranded.

(b) Determination of whether food is adulterated or misbranded shall be based upon the provisions of N.J.S.A. 24:5-8 and 24:5-17.

(c) The Department or health authority may accept and rely upon reports from other government officials responsible for administration of laws relating to public health and food and drugs as an aid to it in determining compliance with this section.

8:24-8.6 Emergency occurrences

The operator or person in charge shall immediately take necessary remedial action and notify the health authority if an imminent health hazard may exist because of an emergency such as a fire, flood, extended interruption of electrical or water service, sewage backup, misuse of poisonous or toxic materials, onset of an apparent foodborne illness outbreak, gross insanitary occurrence or condition, or other circumstance that may endanger public health, except that the person in charge need not discontinue operations in an area of the establishment that is unaffected by the imminent health hazard.

8:24-8.7 Salvaged foods

Only those salvaged foods which comply with N.J.A.C. 8:21-11, Dented Cans: Salvaged or Distressed Foods, Alcohol and Nonalcoholic Beverages and Industrial Mishandling, may be used or offered for sale.

8:24-8.8 Closure for infection

(a) When the Department or health authority has reason to suspect that any retail food establishment is or may be a source of foodborne infection, it shall advise the owner, manager or employees thereof accordingly and order appropriate action to be taken which will eliminate the source of infection.

(b) In the event that such action is not taken immediately, the Department or health authority may cause an order to be issued requiring the establishment to be closed in order to protect the public health.

(c) The order in (b) above will provide the alleged violator an opportunity to be heard within a reasonable time not to exceed 15 days while the order remains in effect.

(d) The Department or health authority which suspects that an employee of any retail food establishment is ill or infected with a disease which may be transmitted through food, or that the employee may be a carrier of a disease which may be transmitted through food, may order him or her to leave the establishment and refrain from returning to work in or about such establishment and order the employer to prohibit such employee from returning to work, until permission is granted to return by the Department or health authority.

8:24-8.9 Penalties

Any person who shall violate any provision of this chapter or who shall refuse to comply with a lawful order or direction of the Department or health authority, shall be liable for penalties as provided by N.J.S.A. 26:1A-10 or an injunctive action as provided by law, or both.

8:24-8.10 Report of inspections

(a) Whenever a health authority makes an inspection of a retail food establishment, the findings shall be recorded on an inspection report form. The inspection report form shall identify in a narrative form the violations of this chapter and shall be cross-referenced to the section of the chapter being violated.

(b) The health authority shall present the inspection report form to the owner, person in charge, or in their absence, any employee of the establishment at the completion of each inspection.

8:24-8.11 Evaluation of reports

(a) Immediately upon the conclusion of the inspection, the health authority shall issue an evaluation placard of the establishment and leave the original copy of the inspection report form with the person in charge or as set forth in N.J.A.C. 8:24-8.10(b). The evaluation placard shall identify that the establishment is one of the following:

1. "Satisfactory": The establishment is found to be operating in substantial compliance with this chapter and food service personnel have demonstrated that they are aware of and are practicing sanitation and food safety principles as outlined in this chapter;

2. "Conditionally Satisfactory": At the time of the inspection the establishment was found not to be operating in substantial compliance with this chapter and was in violation of one or more provisions of this chapter. Due to the nature of these violations, a reinspection shall be scheduled. The reinspection shall be conducted at an unannounced time. A full inspection shall be conducted. Opportunity for reinspection shall be offered within a reasonable time and shall be determined by the nature of the violation; or

3. "Unsatisfactory": Whenever a retail food establishment is operating in violation of this chapter, with one or more violations that constitute gross insanitary or unsafe conditions, which pose an imminent health hazard, the health authority shall issue an unsatisfactory evaluation. The health authority shall immediately request the person in charge to voluntarily cease operation until it is shown on reinspection that conditions which warrant an unsatisfactory evaluation no longer exists. The health authority shall institute necessary measures provided by law to assure that the establishment does not prepare or serve food until the establishment is reevaluated. These measures may include embargo, condemnation and injunctive relief.

8:24-8.12 Public posting of inspection reports

The operator of every retail food establishment shall post the evaluation placard of the most recent evaluation made by the health authority. The evaluation placard shall be posted immediately in a conspicuous place near the public entrance of the establishment in such a manner that the public may view the placard.

8:24-8.13 Public availability of inspection records

(a) The most recent inspection report shall be maintained by the operator of each retail food establishment on the premises for review by the public, upon request. Inspection reports shall be maintained on the premises for review for a minimum of two years.

(b) Records of inspections of retail food establishments maintained by the health authority shall be made available to the public upon request.

8:24-8.14 Interpretations

For the purpose of uniform enforcement, the Department, at its discretion, will issue statements regarding the interpretation of portions of this chapter. The interpretations shall be regarded by local health authorities as statements of Statewide policy regarding the interpretation of this chapter.

Subchapter 9.

REVIEW OF PLANS

8:24-9.1 Plan submission and approval

(a) A permit applicant or operator shall submit to the health authority properly prepared plans and specifications for review and approval before:

1. The construction of a retail food establishment;

2. The conversion of an existing structure for use as a retail food establishment; or

3. The remodeling of a retail food establishment or a change of type of retail food establishment or food operation if the health authority determines that plans and specifications are necessary to ensure compliance with these rules.

(b) The plans and specifications for a retail food establishment shall include, as required by the health authority based on the type of operation, type of food preparation, and foods prepared, the following information to demonstrate conformance with rule provisions:

1. The intended menu;

2. The anticipated volume of food to be stored, prepared, and sold or served;

3. The proposed layout, mechanical schematics, construction materials, and finish schedules;

4. The proposed equipment types, manufacturers, model numbers, locations, dimensions, performance capacities, and installation specifications;

5. Proposed program of training for the persons in charge and food employees pertaining to protecting public health and the safety and integrity of food; and

6. Other information that may be required by the health authority for the proper review of the proposed construction, conversion or modification, and procedures for operating a retail food establishment.

(c) The health authority shall review these plans and respond accordingly within 30 days of the date of submission. No retail food establishment shall be constructed, renovated, or converted except in accordance with plans and specifications previously submitted to and approved by the appropriate health and construction authorities.

(d) Prior to engaging in an activity that requires a HACCP plan, an operator shall submit to the health authority for approval a properly prepared HACCP plan as specified under (e) below and the relevant provisions of this chapter if:

1. Approval for specialized processing is required as specified under N.J.A.C. 8:24-3.5(h); or

2. The health authority determines that approval for specialized processing is required based on the plans submitted under (b) above, an inspectional finding, or request for specialized processing as specified under N.J.A.C. 8:24-3.5(h) and (i).

(e) For a retail food establishment that is required under (d) above to have a HACCP plan, the plan and specifications shall indicate:

1. A categorization of the types of potentially hazardous foods that are specified in the menu such as soups and sauces, salads, and bulk, solid foods such as meat roasts, or of other foods that are specified by the health authority;

2. A flow diagram by specific food or category type identifying critical control points and providing information on the following:

i. Ingredients, materials, and equipment used in the preparation of that food; and

ii. Formulations or recipes that delineate methods and procedural control measures that address the food safety concerns involved;

3. Food employee and supervisory training plan that addresses the food safety issues of concern;

4. A statement of standard operating procedures for the plan under consideration including clearly identifying:

i. Each critical control point;

ii. The critical limits for each critical control point;

iii. The method and frequency for monitoring and controlling each critical control point by the food employee designated by the person in charge;

iv. The method and frequency for the person in charge to routinely verify that the food employee is following standard operating procedures and monitoring critical control points;

v. Action to be taken by the person in charge if the critical limits for each critical control point are not met; and

vi. Records to be maintained by the person in charge to demonstrate that the HACCP plan is properly operated and managed; and

5. Additional scientific data or other information, as required by the health authority, supporting the determination that food safety is not compromised by the proposal.

8:24-9.2 Pre-operational inspection

Whenever plans and specifications are required by N.J.A.C. 8:24-9.1 to be submitted to the health authority, the health authority shall inspect the retail food establishment prior to the start of operations, to determine compliance with the requirements of this chapter.

Subchapter 10. ADDITIONAL REQUIREMENTS

8:24-10.1 Choking prevention posters

Choking prevention posters shall be conspicuously displayed in restaurants as defined and required by N.J.S.A. 26:3E-1 and 26:3E-2.

8:24-10.2 Smoking in restaurants and food stores

All retail food establishments shall comply with the New Jersey Smoke-Free Air Act, as applicable, at N.J.S.A. 26:3D-55 through 3D-64 and the rules promulgated thereunder.