

New Mexico Food Code

NM Environment Department Manufactured Food Field Guide

Based on 7.6.2 NMAC



2016

GENERAL FOOD PROCESSING REQUIREMENTS

7.6.2.11

GENERAL FOOD PROCESSING REQUIREMENTS:

- A. Food processing plant permit requirements.**
- (1) All food processing plants shall comply with all applicable provisions of Chapters 1-8 of the Food Code.
 - (2) No person shall operate a food processing plant without a permit issued by the regulatory authority.
 - (3) When a food establishment has an adjunct/additional food processing plant, each such business may be permitted separately.
- B. Sale of adulterated or misbranded food.**
- (1) No person shall sell or offer, or expose for sale, or have in possession with intent to sell, any processed and packaged food product that is adulterated or misbranded.
 - (2) The term “adulterated” includes products that are defective, unsafe, filthy, or produced under unsanitary conditions (Section 25-2-10 NMSA 1978).
 - (3) “Misbranding” includes statements, designs, or pictures in labeling that are false or misleading, or failure to provide required information outlined in Paragraph (2) of Subsection D of 7.6.2.11 NMAC.
 - (4) Adulterated or misbranded food products shall be reconditioned, condemned or destroyed in accordance with Section 25-2-6 NMSA 1978.
- C. Labeling requirements.**
- (1) All packaged food shall be labeled in accordance with the applicable requirements of the Federal Food, Drug and Cosmetic Act as amended, the Fair Packaging and Labeling Act, regulations developed thereunder, and the New Mexico Food Act. Details concerning type, size and location of required labels are contained in FDA regulations covering the requirements of the federal acts (Code of Federal Regulation, Title 21, Part 101.)
 - (2) At least the following information shall appear on the label of any packaged food:
 - (a) the name, street address, city, state and zip code of either the manufacturer, packer, or distributor;
 - (b) an accurate statement of the net amount of food in the package, in terms of weight measure, volume measure (listed in both “English” and metric units) or numerical count;
 - (c) the common or usual name of the food contained in the package; and
 - (d) ingredients of the food, listed by their common names, in order of their predominance by weight.
 - (3) If the label of a food bears representation in a foreign language, the label must bear all the required statements in the foreign language, as well as in English. This requirement does not apply to Spanish names that are commonly used in New Mexico.
 - (4) Any food product that does not comply with all applicable labeling requirements shall be deemed to be misbranded.
- D. Standards of identity.**
- (1) Standards of identity define what a given food product is, its name and the ingredients that must be used, or are allowed to be used, and the ones that must be declared on the

label. FDA food standards govern both labeling and composition of such foods, and must be consulted for detailed specifications. The standards are published in the annual editions of the Code of Federal Regulations (CFR), Title 21, Parts 103 through 169.

- (2) Any food product that is represented as, or purports to be, a food for which a standard of identity has been promulgated, must comply with the specifications of the standard in every respect. A food product that does not comply fully with the applicable standard is misbranded, unless its label bears the word “imitation” or meets the descriptive label requirements in the CFR, Title 21, Part 101.

E. Low acid canned foods and acidified foods.

- (1) All processors of low acid canned foods or foods that have been acidified must comply with specific federal regulations contained in the CFR, Title 21, Parts 108, 113, and 114.
- (2) All processors of low acid canned foods and acidified foods are required by federal regulation to register their food processing plants and file processing information for all products with the FDA using appropriate forms. Registration and processing information forms are obtainable on request from: FDA, LACF Registration Coordinator (HFF-233), 200-C Street, SW, Washington, D.C. 20204.
- (3) Any low acid canned food product that does not comply with the federal requirements will be considered adulterated.

F. Operational plans.

- (1) Food processing plants shall, at the time of application for a permit for review and acceptance by the regulatory authority, provide the following information for the product(s) to be manufactured and distributed:
 - (a) names of the ingredient(s);
 - (b) the final product pH if appropriate;
 - (c) the final product water activity (a_w) if appropriate;
 - (d) names of preservative(s);
 - (e) the type of packaging to be used and whether the packaging is integral to product stability (e.g. the vacuum packing of fresh meat); and
 - (f) the complete operational procedure for product formulation, using a flow chart to show at what stage(s) each ingredient is added.
- (2) Food processing plants shall, at the time of application for a permit for review and acceptance by the regulatory authority, provide the following information about product distribution:
 - (a) the intended distribution and use condition of the product;
 - (b) if the product is to be distributed at ambient, refrigerated or frozen temperature;
 - (c) the expected shelf life during distribution, retail storage, and in the hands of the ultimate consumer;
 - (d) how the product should be prepared for consumption; and
 - (e) what mishandling of the product might occur in the merchandising channels or in the hands of the consumer.
- (3) Food processing plants shall, at the time of application for a permit for review and acceptance by the regulatory authority, state the intended process (cooking time and temperatures). This information may be included in the flow chart required in Subparagraph (f) of Paragraph (1) of Subsection F of 7.6.2.11 NMAC. Consideration must be given to those steps that lead to the destruction or inhibition of disease causing or spoilage organisms if done properly, or the growth of such organisms if done improperly.
- (4) Food processing plants shall, at the time of application for a permit for review and acceptance by the regulatory authority, submit product labels that comply with all requirements of Subsection C of 7.6.2.11 NMAC.
- (5) Prior to adding any new product to the product line, or changing the manufacturing process or product distribution for any existing product in the product line, the food processor shall provide to the regulatory authority:

- (a) for each new product, the same information as specified for the initial application in Paragraphs (1), (2), (3) and (4) of Subsection F of 7.6.2.11 NMAC; and
 - (b) for each existing product for which a change will be made in the manufacturing process or product distribution, the applicable changes to the information previously submitted pursuant to Paragraphs (1), (2), (3) and (4) of Subsection F of 7.6.2.11 NMAC.
- (6) All food processing plants shall design, maintain and use a coding system that will identify the date and place of manufacture of each product on the product label, or securely affixed to the body of the container. A description of the proposed coding system shall be included in the application.
 - (7) The regulatory authority may require that the food processing plant's processes be reviewed by a competent process authority to approve all critical factors of public health significance as defined in the CFR, Title 21, Sections 114.83 and 114.89.
 - (8) In lieu of a process authority, the regulatory authority may accept those processes which comply with Paragraphs (1) and (2) of Subsection E of 7.6.2.11 NMAC.
 - (9) Recall procedures shall be prepared and must be on file at the food processing plant. Procedures shall include plans for recalling products which may be injurious to human health; for identifying products which may be injurious to human health; for identifying, collecting, warehousing, and controlling products; for determining the effectiveness of recalls; for notifying the regulatory authority, FDA, and United States department of agriculture (USDA) of any recalls; and for implementing recall programs.
 - (10) Whenever the regulatory authority finds or has probable cause to believe that any food processing plant's product fails to meet standards or is adulterated with any substance that may be injurious to human health, the suspected lot of product shall be embargoed or detained at the food processing plant, if not yet distributed to consumers or retail outlets, until a determination of ultimate disposition is made.
 - (11) If the suspected lot has been distributed, the food processing plant shall be given the opportunity to recall the product voluntarily at the processor's expense.
 - (12) If a food processing plant refuses to conduct a voluntary recall, the secretary of the New Mexico environment department may order a mandatory recall of the suspected product lot at the processor's expense.
 - (13) When any food product is found, by examination or laboratory analysis, to be in violation of the standards of Subsections B, D or E, of 7.6.2.11 NMAC, the secretary of the New Mexico environment department may order condemnation and disposal of the product lot at the food processing plant's expense.

G. Compliance with accepted operational procedures.

- (1) A copy of the accepted process and procedures shall be on file at the food processing plant. It shall be available for review by the regulatory authority at all times. A food processing plant shall not deviate from the accepted process and operational procedures without written consent of the regulatory authority.
- (2) Samples of ingredients, materials obtained from selected points during the course of processing or handling, and final products shall be examined for pathogenic microorganisms as often as necessary for quality assurance. Food products may also be tested for organisms that are indicative of the possible presence of pathogens or for specific spoilage organisms. The secretary of the New Mexico environment department may request that certain foods be examined for specific pathogenic microorganisms or their toxins.
- (3) Routine inspections of facilities, equipment and operations will be conducted as specified in this section. In addition, HACCP evaluations will be conducted by the regulatory authority or the food processing plant as needed to identify hazards, critical control points, and daily monitoring requirements.

12 MANUFACTURED FOOD REQUIREMENTS

- 7.6.2.12 JERKY MANUFACTURED FOOD REQUIREMENTS:**
- A.** In addition to complying with the requirements specified in 7.6.2.11 NMAC, food processing plants that produce jerky shall comply with the requirements specified in this section.
 - B.** Food processing plants that produce jerky shall have the appropriate approved equipment to measure and monitor food safety factors related to the production of jerky.
 - C.** Cooking. The following parameters shall be achieved in a sealed oven, for a minimum of one hour, and no less than fifty percent of the cooking time, during the jerky cooking process:
 - (1)** a minimum internal temperature of 145 degrees Fahrenheit for four minutes for meat and 165 degrees Fahrenheit instantaneous for poultry; and
 - (2)** maintain a steady or increasing relative humidity level throughout the cooking process.
 - D.** In lieu of complying with the cooking parameters specified in Subsection C of 7.6.2.12 NMAC the regulatory authority may approve alternative methods for treating product provided that the proposed method is scientifically-based and adequately documented by data developed according to an experimental protocol.
 - E.** Food establishments that produce jerky shall:
 - (1)** meet the requirements of Subsections B and C of 7.6.2.12 NMAC;
 - (2)** have an approved operational plan for each product produced;
 - (3)** keep the operational plan on file at the food establishment;
 - (4)** follow the approved operational plan and not deviate from it without approval from the regulatory authority; and
 - (5)** monitor and record food safety factors, including but not limited to, time, temperature, and humidity and make the records available to the regulatory authority.

BOTTLED DRINKING WATER MANUFACTURED FOOD REQUIREMENTS

7.6.2.13

BOTTLED DRINKING WATER MANUFACTURED FOOD REQUIREMENTS:

- A. In addition to meeting the requirements specified in 7.6.2.11 NMAC, food processing plants that produce bottled drinking water shall comply with the requirements specified in this section.
- B. Bottled drinking water processing operational requirements and standards.
 - (1) The bottled drinking water plant shall follow generally accepted good manufacturing practice such as contained in 21 CFR Part 129 or the international bottled water association bottled water code of practice.
 - (2) Bottled drinking water which is bottled through lines or equipment used for food or milk products shall demonstrate (assure) that the cleaning process prevents adulteration of the bottled water. Bottled drinking water shall not be transported or stored in bulk tanks used for any non-food product, nor processed or bottled through equipment or lines used for any non-food product.
- C. Bottled drinking water labeling requirements. All bottled drinking water labels shall meet the requirements specified in Subsection C of 7.6.2.11 NMAC.
- D. Analytical requirements. Unless otherwise provided, samples shall be collected, prepared, and examined using the most current methods for the examination of drinking water listed in 40 CFR Part 141 or by other methods for the examination of drinking water approved by the United States environmental protection agency. Examination of samples shall be performed by an approved laboratory.
- E. Monitoring requirements.
 - (1) Bottled drinking water plants shall be required to submit one microbiological sample per finished product per week. A copy of the microbiological analysis report shall be submitted within 10 working days of analysis to the regulatory authority. Any coliform or fecal coliform positive result shall require the plant owner or operator to notify the regulatory authority within 24 hours and to submit to resampling guidelines specified in 20.7.10 NMAC.
 - (2) Bottled drinking water plants that know that a maximum contaminant level, as specified in 20.7.10 NMAC, has been exceeded or who have reason to believe circumstances exist that may adversely affect the safety of bottled drinking water, including but not limited to source contamination, spills, accidents, natural disasters, or breakdowns in treatment, shall notify the regulatory authority within 24 hours.

Chapter

14

SHELLFISH REQUIREMENTS

- 7.6.2.14 **SHELLFISH REQUIREMENTS:** Adoption of national shellfish sanitation program (NSSP) guide for control of molluscan shellfish. Except as otherwise provided, the 2013 NSSP guide for control of molluscan shellfish is hereby adopted and incorporated in its entirety.

Chapter

15

HOME-BASED FOOD PROCESSING

- 7.6.2.15 **HOME-BASED FOOD PROCESSING:**
- A. **Plan review, permitting, inspection, and training requirements.**
- (1) No person shall operate a home-based food processing operation without a permit.
 - (2) In addition to meeting the applicable requirements of Chapters 1-8 of the Food Code and 7.6.2.11 NMAC, home-based food processing operations shall comply with the requirements specified in this section.
 - (3) Home-based food processing operations shall meet the specifications of Part 2-1 of the Food Code.
 - (4) The permit issued shall be displayed at the home-based food processing operation. A copy of the permit shall be displayed at places at which the operator sells food at times when the operator is selling the home-based processed foods.
- B. **Food protection requirements.**
- (1) Home-based processed food products and components shall be stored separate and apart from residential foods and protected from contamination, insects, rodents, pests, water leaks, dust, dirt and other contaminants.
 - (2) Home-based food processing operations must keep a sample of each processed food batch for 14 days. The samples shall be labeled with the production date and time.
 - (3) Vehicles used in transporting home-based processed food products shall be maintained in a safe and sanitary manner. Vehicle compartments used to transport animals shall not be used for transporting home-based processed foods.
- C. **Exceptions and limitations.**
- (1) The following provisions from the Food Code shall not apply to home-based food processing operations:
 - (a) 8-407.11;
 - (b) 4-301.12(A);
 - (c) 5-501.11;
 - (d) 4-903.11;
 - (e) 4-803.11;

- (f) 6-202.112;
 - (g) 4-803.13(A);
 - (h) 4-402.11;
 - (i) 4-402.12;
 - (j) 4-205.10;
 - (k) 8-101.10(B);
 - (l) 6-202.14;
 - (m) 6-201.14;
 - (n) 6-201.13;
 - (o) 4-701.10;
 - (p) 5-204.11;
 - (q) 6-301.12(A);
 - (r) 2-401.11;
 - (s) 6-501.115; and
 - (t) 5-501.10.
- (2) Food products processed by home-based food processing operations shall not be potentially hazardous foods and shall be approved by the regulatory authority.
 - (3) Home-based food processing operations shall only sell their products at farmer’s markets, roadside stands, festivals, or other venues in which the producer sells directly to the consumer.
 - (4) Products processed by a home-based food processing operation shall not be sold, used, or offered for consumption in food establishments including, but not limited to, restaurants, grocery stores and convenience stores, by internet sales, or sold in interstate commerce.
 - (5) Pets shall not be permitted in the kitchen and shall be kept out of food preparation areas during home-based food processing related activities.
 - (6) Non-employees shall not be allowed entry into the kitchen during home-based food processing related activities. Home-based food processing operations shall not wash out or clean pet cages, pans or similar items in the kitchen.
 - (7) Household cooking may not occur in the kitchen during home-based food processing-related activities.
 - (8) The following provisions from the Food Code are applicable to home-based food processing operations only during home-based food processing related activities:
 - (a) 3-304.11;
 - (b) 5-205.11;
 - (c) 6-301.12;
 - (d) 2-401.11;
 - (e) 6-501.115; and
 - (f) 5-501.13.
 - (9) Home-based food processing operations shall submit a detailed procedure to be used to clean and sanitize the kitchen sink before and during home-based food processing related activities.
 - (10) Home-based food processing operations shall comply with Section 5-402.11 of the Food Code unless an alternative method is approved.

D. Home-based food labeling. A home-based food processing operation shall properly label all foods in accordance with Subsection C of 7.6.2.11 NMAC and include the words “home produced” in bold conspicuous 12 point type on the principal display panel.