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New Jersey State  
Department of Health  
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## SUBCHAPTER II DENTED CANS; SALVAGE OR DISTRESSED FOODS, ALCOHOL AND NONALCOHOLIC BEVERAGES AND INDUSTRIAL MISHANDLING

*Effective Date: March 17, 1978*

### FOREWORD

The Department of Health of the State of New Jersey, pursuant to authority vested in it under Title 24 of the revised statutes and supplements thereto, hereby establishes the following rules and regulations concerning the handling, control and disposition of dented cans; and methods for handling and disposition of salvaged and distressed food, alcoholic and non-alcoholic beverages. Any rules and regulations in these matters which have been adopted by the Department prior to the effective date of these regulations are hereby rescinded. (N.J.S.A. 24:2-1)

The following regulations shall be met by all establishments used in the production, preparation, manufacture, packaging, storage, transportation or handling of food intended for sale or distribution at the wholesale or retail levels.

#### 8:21-11.1 Definitions

The following words and terms, when used in this subchapter, shall have the following meanings unless the content clearly indicates otherwise.

**"Adulteration"** means the term "adulteration" as defined in N.J.S.A. 24:5-8.

**"Clean"** means free of visible soil and thoroughly cleaned to sight and touch.

**"Department"** or **"State Department"** means the New Jersey State Department of Health.

**"Distressed foods"** mean foods which have been subject to "natural" or "local disaster" situations. The term also applies to food which has been involved in railroad and highway accidents, long term bankruptcy proceedings, and foods which are otherwise suspected of being adulterated, misbranded or otherwise unsafe or unfit for human consumption.

**"Embargo"** means the term "embargo" as defined in N.J.S.A. 24:4-12.

**"Flipper"** means a container in which only one end is slack or slightly bulged. That end will remain flat if pressed in. Cans which bulge when sharply and squarely struck end-down on a flat surface are flippers, provided that the bulged end remains flat when pressed. Flippers result from a lack of vacuum.

**"Food"** means: 1. Articles used for food or drink for man or any other animal; 2. Chewing gum; and 3. Articles used for components of any such article. The term includes any raw, cooked or processed edible substance, beverage or

ingredient used or intended for use or for sale in whole or in part for food.

**"Food establishment"** means any place used in the production, preparation, manufacture, packaging, storage, transportation, service or handling of food intended for sale or distribution at the wholesale or retail levels.

**"Health officer"** means the duly appointed official in charge of the local board of health who holds a currently effective health officer's license issued by the department.

**"Industrial mishandling"** means damage to food containers through faulty manufacturing processes, faulty closure, denting of cans at the place of manufacture, mishandling during storage and transportation, damage caused at warehouse facilities and damage caused by mishandling at the retail level.

**"Inspector"** means a duly appointed official of the State department or the local health authority who holds a currently effective sanitary inspector license, grade I, issued by the department.

**"Leaker"** means a faulty hermetically sealed container which allows its contents to leak therefrom due to faulty seaming, rupture of the seal, industrial mishandling, severe denting, holes which develop in the container, and pressure which develops within the food container.

**"Local disaster"** means a fire, local flooding, disruption of electrical service, fuel shortage, leaking sprinkler system, faulty roofing, traffic accident, or similar conditions which may adversely affect the quality and safety of foods within a food establishment.

**"Local health authority"** means the local board or local board of health of any municipality or the boards, body or officers in such municipality lawfully exercising any of the powers of the local board of health under the laws governing such municipality, and includes any consolidated board of health or county local board of health created and established pursuant to law.

**"Misbranding"** means the term "misbranded" or "misbranding" as defined in N.J.S.A. 24:5-16, 17.

**"Natural disaster"** means a violent upheaval of nature in the form of heavy rainfall, tornado, hurricane, snow, hail, lightning, flood, wind, earthquake, or similar phenomena in which normal operations in a food establishment or foods during transit are disrupted.

**"Person"** means an individual, a firm, partnership, company, corporation, trustee, association, or any public or private entity.

**“Reconditioning”** means subjecting “distressed foods” to inspection, examination and treatment by washing, cleaning, buffing, sanitizing and any other process that will render the foods free from contamination and safe for use as food.

**“Salvage food”** means food which has been subjected to a “natural” or “local disaster” or suspected of being adulterated, misbranded, or otherwise unsafe for human consumption. The term also applies to “distressed foods.” Foods in this category are subject to complete and thorough examination and/or sampling by the State department or the local board of health to determine if they are fit for consumption.

**“Sanitize”** means effective bactericidal treatment of clean surfaces by a process which has been approved by the department as being effective in destroying microorganisms, including pathogens.

**“Springers”** means containers in which one end of the can bulges. Manual pressure of the bulged end forces the opposite end out or the same end will spring out when released of pressure. If both ends bulge but only one end remains flat when pressed, the can is a springer. Springers result from a moderate positive pressure within the can. Bulging or extensive denting of the side walls may produce a springer.

**“Swells”** means containers in which both ends of the can are bulged. Neither end will remain flat without pressure. Soft swells yields to manual pressure, but no impression can be made manually on hard swells. Swells result from positive pressure in the can usually because of spoilage of the contents. Some swells, especially in acidic products, may result from chemical reaction between the contents and the container.

**“Wholesome”** means in sound condition, clean, free from adulteration, and otherwise safe and suitable for use as food.

### 8:21-11.2 Damaged cans unsuitable for sale

- (a) No person shall offer for sale or hold with the intent to sell any can or jar with bulged ends, or containers which are swells, springers, or flippers; this requirement include cans with bulged lids caused by severe dents. Provided, however, that beer or carbonated beverage containers which appear to be slightly bulged due to naturally occurring gas would be exempt from this provision and further provided that foods subjected to industrial mishandling may be sold to a salvage or distressed food dealer for segregation and reconditioning purposes.
- (b) No person shall offer for sale any hermetically sealed can, jar or containers with visible evidence of product leakage.
- (c) No person shall offer for sale any pull top container which contains obvious fractures of the lip scorelines or glass containers showing any evidence of loosening or opening of the closure or other condition which affects the integrity of the seal.
- (d) No person shall offer for sale any badly rusted and/or severely pitted container which cannot be properly cleaned and reconditioned by a moderate buffing

procedure.

- (e) No person shall offer for sale any severely dented can in which the end seam is pulled out of position to such an extent that the malposition is readily noticeable and that there is evidence that the end seam may have been placed under tension.
- (f) No person shall offer for sale any severely dented can which contains a very deep, sharp, angular dent with very acute crimping of the body wall.
- (g) No person shall offer for sale any severely dented can in which the end seam has been forced out of position to such an extent that the countersink has been buckled which materially affects or is likely to affect the safety and usability of the container.
- (h) No person shall offer for sale any container in which there is an improper end seam closure whereby a portion of the cover or body flange has not been tucked properly into the end seam.
- (i) No person shall offer for sale any food container which is not properly labeled or has lost its identity to “natural disaster” and/or “local disaster” conditions and cannot be properly reidentified.
- (j) No person shall offer for sale foods in paper, plastic, or similar food containers or wrappings which have been damaged by penetration to such an extent that the product contained therein has been contaminated or adulterated.

**Note:** A pictorial guide entitled “Visual Aids for Inspection of Damaged Food Containers” has been developed to correspond to the requirements contained in sections 2 and 3 of this subchapter and will serve to clarify some of the terminology used in the regulations. This guide is available from the New Jersey State Department of Health.

### 8:21-11.3 Damaged food containers suitable for sale

- (a) Any food container which contains a body dent which forces the end seams inward to such an extent that the countersink is involved but no sharp edges are evident.
- (b) Any food container which contains moderately deep angular indentations with moderately acute crimping of the body wall.
- (c) Any food container which contains a moderately deep, sharp, angular indentation with moderately acute crimping of the body wall. The end seam malposition is so slight that it could be detected only by use of a straight edge or flat surface.
- (d) Any food container which contains deep, sharp vertical or side rim dents on the double seam, but not severe enough to cause the lid to bulge or buckle noticeably. Provided however, in instances where the dent is severe and the continuity of the seam is disrupted or a rise is noted in the end plate of the site of the rupture, the can would be unsuitable for sale for food purposes.
- (e) Any food container which contains slight rust, easily removable by cleaning or moderate buffing.
- (f) Any paper, plastic or similar food container or wrapping which contains only slight damage such as crushing and there is no evidence of penetration into the interior of the container or exposure of the foods contained therein.

**8:21-11.4 Salvage of food, drugs, devices or cosmetics associated with natural or local disasters or distressed food conditions or industrial mishandling**

(a) General provisions are:

1. All food, drugs and cosmetics and devices in establishments affected by polluted water, smoke, chemicals or other contaminating substance shall be promptly placed under written embargo until such time as their disposition can be supervised.
2. Complete instructions shall be issued to local health authorities by the department regarding our policy and procedures to be used during the disaster.
3. All adversely affected perishable foods should be ordered destroyed immediately by incineration or burial unless an approved salvage plan is available.
4. All articles which have lost their identity and cannot be reidentified shall be destroyed or disposed of in a manner approved by the department or local health authority.
5. Inventory lists should be made of all embargoes and destroyed materials as soon as possible under the supervision of the department or local health authority representative. If quantities of affected articles are such that inventory cannot be taken immediately, a blanket embargo shall be placed on the contents of the room, building or other place affected.
6. Complete instructions shall be issued to the establishment operator with special emphasis on maintaining embargoes until articles are released by the department or local health authority.
7. All affected food, drugs and cosmetics in containers other than hermetically sealed cans are to be destroyed either by incineration, denaturing and burial or approved for industrial use. Containers sealed by rubber gaskets, crimping or other similar means which do not permit proper sanitization or decontamination, should be destroyed.

(b) Rules concerning sanitizing hermetically sealed containers are:

1. Food, drugs, devices and cosmetics in hermetically sealed containers may be salvaged if:
  - i. They are thoroughly washed in a solution of soap or detergent and clean water.
  - ii. Sanitized by immersion in a solution of chlorine of at least 200 parts per million (ppm) strength for at least five minutes or by the use of equivalent solutions of quarternary ammonium compounds, iodine compounds or other chemicals that produce the same result.
  - iii. Rinsed in clean water, air dried or hand dried promptly and stored under embargo in a dry clean place for 15 days, provided however, that foods subjected to intense heat such as in a fire shall be stored for 30 days.
  - iv. Upon expiration of the 15 or 30 day holding period, reconditioned goods should be examined by department or local health authority personnel and may be released if found in satisfactory condition.

(c) Rules concerning frozen and refrigerated foods and drugs are:

1. Frozen or refrigerated food and drugs should be handled in accordance with instructions in subsections (a) and (b) of this section except for those foods not subject to contamination but stored in places where power failures have occurred.
  - i. Potentially hazardous foods in cold storage rooms where temperatures have risen above 45 degrees F. for an extended period of time should be destroyed. (Loss of power for less than 24 hours duration usually will not affect food and drugs if doors are not opened too frequently.)
  - ii. Frozen foods that have partially or wholly defrosted should be cooked immediately or destroyed and should not be refrozen unless cooked. (Loss of power for less than 48 hours duration usually will not affect the foods if doors are not opened too frequently.)

(d) Rules concerning malt, fermented or distilled alcoholic beverages are:

1. Hermetically sealed cans of beer and soda may be salvaged in accordance with subsection (b) of this section.
2. Whiskies, wines, liquors, and so forth, can only be salvaged for redistillation to commercial grade alcohol. (See N.J.A.C. 8:21-11.4 (a) 1., 4., 5. and 6.)
3. No contaminated containers of alcoholic beverages are to be destroyed without permission of State Department of Health. (Hasty destruction may result in inability to recover taxes or replacement of stock.)

(e) Rules concerning paper, plastic or similar type food containers, wrappings or utensils are:

1. Paper, plastic or similar food containers, wrappings or utensils which have been exposed to natural or local disasters or industrial mishandling; and have been contaminated by flood or other contaminated water or chemicals during a fire shall be condemned for food purposes and caused to be destroyed. Provided, however, that the paper, plastic or similar food containers with multiple layers which have been slightly dampened with water and the inner layers remain dry, and the foods contained therein not adversely affected, may be salvaged by stripping the outer layers and properly repackaging and labeling.
2. Single service food containers, utensils and wrapping materials which have been exposed to natural or local disasters or industrial mishandling shall be destroyed for use on or with foods.

(f) Rules concerning utensils, equipment and work surfaces are:

1. Food, drug and cosmetic establishments affected by a "natural" or "local disaster" shall not resume operations until all utensils, equipment and work surfaces have been thoroughly cleaned and subjected to sanitization procedures acceptable to the department or local health authority and permission to resume operations has been granted by the department or the local health authority.

- (g) All mud, debris and other soil shall be removed from floors, sidewalls and ceilings of a food, drug or cosmetic establishment, be flushed with clean water, treated with a hypochloride solution, be thoroughly ventilated, and then allowed to dry.
- (h) Every food establishment shall provide a single designated area (morgue) identified by a sign in which damaged or distressed food containers shall be placed pending proper disposition.
- (i) All food, drug, and cosmetic establishments utilizing a private water supply system shall contact the Department of Environmental Protection or the local health authority relative to a sanitary survey of the entire water supply system and for directions for disinfecting the water supply and water supply system.

#### **8:21-11.5 Disposal of distressed foods**

- (a) All disaster or distressed food shall be disposed of in the following manner:
  - 1. All foods and food containers which have been subject to a natural or local disaster or industrial mishandling shall be embargoed until such time that the department or the local health authority has determined that the foods are safe, wholesome and free from adulteration. Every effort shall be made to provide proper security for embargoed food during the entire period of the embargo.
  - 2. Upon completion of the sorting and reconditioning process, the department or the local health authority shall examine the embargoed food and determine if the foods are safe for consumption or are condemned for use as food.
  - 3. Upon determination by the department or the local health authority that the embargoed foods are safe, wholesome and free from adulteration, an embargo release shall be issued and the foods released for sale. No embargoed foods shall be moved or otherwise disposed without permission of the department, the local health authority or the court.
- 4. Upon determination that foods under embargo are unfit for consumption, the department, local health authority or the court shall condemn such foods and cause or order the foods to be destroyed for food purposes.
- 5. Condemned foods shall be destroyed under the direct observation of the department or the local health authority.
- 6. Condemned foods shall be disposed of in a manner satisfactory to the department or the local health authority.
- 7. Small lots of condemned foods may be denatured or decharacterized and disposed of by a method in which there is no possible way the foods can be recovered and re-enter food channels.
- 8. Large lots of foods shall be disposed of by incineration or disposal in a sanitary landfill. The condemned foods shall be under constant observation of the department or the local health authority during loading, transportation and eventual disposition at the incinerator or sanitary landfill. Condemned foods to be disposed of in a sanitary landfill shall be discharged upon a hard surface, thoroughly crushed by a bulldozer or similar type of equipment, pushed into the active part of the landfill and covered with soil to a depth which would preclude the possibility of scavenging.
- 9. Distressed embargoed foods may be disposed of in any other manner acceptable to the department or the local health authority.
- 10. In no instance shall any poisonous, toxic or other dangerous food which may have an adverse environmental impact be disposed of without prior permission from the Department of Environmental Protection.