

# Adulterated Food: What Food Service Operators Need To Know

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# What You Will Learn

- What is considered food
- What is adulterated food
- What are prohibited substances
- Examples of prohibited substances that adulterate foods
- The public health risks associated with offering food that contains a prohibited substance
- Understanding the 4P violation:
  - Food containing a prohibited substance that is held, kept, offered, prepared, processed, packaged or served.

# NYC Health Code's Definition of Food

- Any raw, cooked or processed edible substance
- Beverages
- Ingredients
- Ice, or water used or intended for use or for sale in whole or in part for human consumption
- Chewing gum



# What Are Food Additives and Food Colorants?

- Food **additives**: Substances that are added to food.
- Food **colorants**: Substances that impart color to food.



# Who Regulates Food Additives and Food Colorants in NYC?

- Food additives and food safety are the responsibility of several state and federal agencies.
- The Food and Drug Administration (FDA) has the most visible role in safeguarding the U.S. food supply.
- Numerous other federal, state and local agencies also play roles.



# What Is Adulterated Food?

- Food is adulterated if it contains substances, including additives and colorants, prohibited by the:
  - New York State Department of Health (NYS DOH)
  - New York City Department of Health and Mental Hygiene (NYC Health Department)
  - FDA
  - NYS Department of Agriculture and Markets
  - U.S. Department of Agriculture (USDA)

# What Is a Prohibited Substance?

- Any additive, colorant or other substance not approved to be added to food by regulatory agencies.





# What Is Generally Recognized as Safe (GRAS)?

- An FDA designation that a substance added to food is considered safe for a specific intended use.
  - If a substance is designated as GRAS, its presence in food is deemed not harmful to health.
  - GRAS determinations are made by qualified experts to be safe for use in food.
  - The GRAS list is updated every month.
    - Substances can be added or removed.





# Where Can I Find More Information From the FDA?

- [SCOGS \(Select Committee on GRAS Substances\)](#)



- [Regulatory Status of Food Additives](#)



- [Regulatory Status of Color Additives](#)



# Examples of Prohibited Substances That Adulterate Food

# Activated Charcoal



- Only approved to filter food; not approved as a food colorant or food additive
  - May cause nausea, vomiting, diarrhea or constipation.
  - May reduce the absorption of certain nutrients or medication.

# Cannabinoids



- Food service establishments (FSEs) cannot produce or offer food with cannabinoids or synthetic cannabinoids.
- FSEs must have an NYS Cannabinoid Hemp Retailer License to sell prepackaged cannabidiol (CBD) products from the NYS Office of Cannabis Management.
- Products with tetrahydrocannabinol (THC) can affect the brain, behavior, mood and thoughts and can be intoxicating.
- Cannabis can be harmful to children and pets because edible products can be confused with food.

# Dietary Supplements and Vitamins

- Includes human or animal multivitamins, vitamins, proteins, minerals, hormone activators, and oil supplements
- Even if supplements are GRAS:
  - FSEs cannot add them to food.
  - They are for personal use only.
  - They may be harmful or even life-threatening if used improperly.



<b>Supplement Facts</b>		
Serving Size 1 Tablet		
	Amount Per Serving	% Daily Value
Vitamin A (as retinyl acetate and 50% as beta-carotene)	5000 IU	100%
Vitamin C (as ascorbic acid)	60 mg	100%
Vitamin D (as cholecalciferol)	400 IU	100%
Vitamin E (as dl-alpha tocopheryl acetate)	30 IU	100%
Thiamin (as thiamin mononitrate)	1.5 mg	100%
Riboflavin	1.7 mg	100%
Niacin (as niacinamide)	20 mg	100%
Vitamin B <sub>6</sub> (as pyridoxine hydrochloride)	2.0 mg	100%
Folate (as folic acid)	400 mcg	100%
Vitamin B <sub>12</sub> (as cyanocobalamin)	6 mcg	100%
Biotin	30 mcg	10%
Pantothenic Acid (as calcium pantothenate)	10 mg	100%

Other ingredients: Gelatin, lactose, magnesium stearate, microcrystalline cellulose, FD&C Yellow No. 6, propylene glycol, propylparaben, and sodium benzoate.

**Supplement facts image source:** U.S. Food and Drug Administration. Dietary Supplement Labeling Guide: Chapter IV. Nutrition Labeling. April 2005. Accessed May 9, 2024. <https://www.fda.gov/food/dietary-supplements-guidance-documents-regulatory-information/dietary-supplement-labeling-guide-chapter-iv-nutrition-labeling>

# Kava or Kava Kava (Piper Methysticum)

- Approved by the FDA as a dietary supplement only
- Not GRAS for use in food
- Linked to at least 25 cases of liver toxicity, including hepatitis, cirrhosis and liver failure





# Kratom (Mitragynine and 7-Hydroxymitragynine)

- A tropical tree native to southeast Asia
- No FDA-approved uses
- The FDA issued a warning to not use products labeled as containing kratom or its active compounds.
- This substance may be addictive and mind-altering and can cause nausea, vomiting, liver damage and death.
- For more information, visit [fda.gov/news-events/public-health-focus/fda-and-kratom](https://www.fda.gov/news-events/public-health-focus/fda-and-kratom) or scan the QR code.





# Expressed Mustard Oil

- The FDA issued an import warning due to expressed mustard oil containing 20 to 40% erucic acid.
- Product labels indicate expressed mustard oil is for external use only.
- Expressed mustard oil caused nutritional deficiencies and cardiac lesions in test animals.



# Dry Ice



- Solid dry ice cannot be:
  - Served
  - Added to food before service if there will be fog or smoke when the food is served or being eaten
- Extremely cold temperature may cause severe damage to:
  - Skin if touched
  - Internal organs if swallowed
- Dry ice may cause death by suffocation.

# Liquid Nitrogen

- All liquid nitrogen must be evaporated or drained from food before it is served.
- Liquid nitrogen cannot be added to food before service if there will be fog or smoke when the food is served or being eaten.
- Extremely cold temperature may cause severe damage to:
  - Skin if touched
  - Internal organs if swallowed
- Liquid nitrogen may cause death by suffocation.



# Inspection Violation

Appendix 23-A: Food Service Establishment & Non-Retail Food Processing Establishment Inspection Worksheet						
Critical Violations	Conditions					Score
	I	II	III	IV	V	
<b>Food Protection</b>						
4P Food containing a prohibited substance held, kept, offered, prepared, processed, packaged, or served.	–	–	–	10	28	

**Adapted from:** Current New York City Charter and Administrative Code, Rules of the City of New York. Chapter 23, Appendix A: Food Service Establishment and Non-Retail Food Processing Establishment Inspection Worksheet. American Legal Publishing. <https://codelibrary.amlegal.com/codes/newyorkcity/latest/NYCrules/0-0-0-136908>

# NYC Health Department Enforcement

- For failing to correct any condition of a public health hazard at the time of inspection:
  - The inspector will call the office to discuss closing or other enforcement measures.
  - Your business' permit may be suspended or revoked.
- No "A" letter grade
- Penalty up to \$1,200

# Risks of Using Prohibited Substances in Food

- Customer injury, illness and death
- Financial, legal and reputation damage to your business

# What if You Do Not Know if a Substance Is Prohibited?

- Do not keep it in your establishment, add it to food or sell it to customers.
- Contact the NYC Health Department's Office of Food Safety and Community Sanitation at 212-676-1600 or [infobfscs@health.nyc.gov](mailto:infobfscs@health.nyc.gov).



# Questions?

