



Adulterated Foods: What Food Service Operators Need to Know

Adulterants are additives, colorants and other substances **not** approved by the New York State (NYS) Department of Health, NYS Department of Agriculture and Markets, U.S. Food and Drug Administration (FDA) or U.S. Department of Agriculture to be added to food.

What substances are food adulterants?

Many substances are considered adulterants and cannot be added to food. Some examples include:

- Activated charcoal
- Cannabinoids such as cannabidiol (CBD), and cannabis that has more than 0.3% tetrahydrocannabinol (THC), in any form
 - A business must have a specific license from NYS Office of Cannabis Management (OCM) to produce, to sell or to offer foods with CBD or cannabis.
 - Food service establishments (FSEs) cannot produce or offer food containing CBD or cannabis. FSEs cannot add CBD or cannabis to food.
 - FSEs may **not** allow on-site consumption of CBD or cannabis.
 - Foods containing these substances may only be sold by businesses licensed to sell CBD or cannabis products. CBD and cannabis must be tested at an NYS-approved laboratory, packaged and labeled following NYS requirements and obtained from a distributor or processor with a NYS OCM license.
- Synthetic cannabinoids, such as delta-8, also known as delta-8-THC
- Dietary supplements for humans or animals to include multimineral, multivitamins, vitamins, proteins, minerals, hormone activators, oil supplements and herbs, such as Kava Kava
- Dry ice and liquid nitrogen
 - Solid dry ice cannot be served.
 - All liquid nitrogen must be evaporated or drained from food before it is served.
 - Dry ice or liquid nitrogen cannot be added to food before service if there will be fog or smoke when the food is served or being eaten.
- Kratom (mitragynine and 7-hydroxymitragynine). The FDA has no approved uses for kratom and continues to warn consumers not to use any products labeled as containing the botanical substance kratom or its psychoactive compounds.

For more information about which substances can be added to food, visit [fda.gov/food/food-additives-petitions/food-additive-status-list](https://www.fda.gov/food/food-additives-petitions/food-additive-status-list). This list is updated regularly.

For more information on cannabinoid licensing and the NYS OCM, visit [cannabis.ny.gov](https://www.cannabis.ny.gov).

What should I do if I do not know whether a substance is an adulterant?

Contact the New York City Department of Health and Mental Hygiene’s (NYC Health Department) Office of Food Safety and Community Sanitation at 646-632-6001 or infobfscs@health.nyc.gov.

How does the NYC Health Department check for adulterants during inspections?

Inspectors check ingredients, food labels and menus for substances that are not approved to be added to food. If an inspector finds any adulterated food or beverage, the food or beverage will be discarded.

Can I receive a violation for having adulterated food in my FSE?

Yes. If you adulterate food or have adulterated food in your FSE, you may receive a summons subject to fines as well as violation points that count toward your letter grade.

Can my establishment be closed for selling adulterated food or beverages?

Yes. If you do not discard the food or beverage following the NYC Health Department Inspector instructions, or you have repeated violations for selling or offering adulterated food or beverages, the NYC Health Department may close your establishment.

For more information, visit nyc.gov/health and search for **adulterated food**.