

SUBSTANTIVE CHANGES PROPOSED FOR
MAINE FOOD CODE 10-144 CMR 200

GENERAL PROPOSED CHANGES THROUGHOUT MAINE FOOD CODE:

1. In these proposed changes, both DHHS and Department of Agriculture, Conservation and Forestry agreed to specify that Department of Agriculture, Conservation and Forestry oversees Food Establishments and DHHS HIP oversees Eating Establishments, to reflect Maine statute and make it clearer to the regulated community and the regulators. Therefore, throughout the Maine Food Code, it is proposed that in sections that refer to both Eating Establishments and Food Establishments, both kinds will be specified, rather than the current 2001 Maine Food Code and 2009 Federal Food Code, which refers to all establishments as Food Establishments.
2. HIP added dates and editions to any referenced laws or materials providing guidance to the regulation of eating or food establishments, as a result of recommendations from the AAG's representing Maine CDC and the Department of Agriculture, Conservation & Forestry.

CHAPTER 1 DEFINITIONS:

1. HIP proposes adding the following 2009 U.S. Food Code definitions:
 - Balut
 - Casing
 - Commingle
 - Conditional Employee
 - Counter-Mounted
Equipment
 - Critical Limit
 - Cut Leafy Greens
 - Dealer
 - Disclosure
 - Egg
 - Egg Product
 - *E. Coli*
 - Exclude
 - FDA
 - Handwashing Sink
 - Major Food Allergen
 - Mechanically Tenderized
 - Non-Continuous Cooking
 - Ratite
 - Ready-to-Eat Food
 - Reminder
 - Re-Service
 - Restrict
 - Restricted Egg
 - Risk
 - Shiga-Toxin Producing *E. coli*
2. HIP proposes adding the following definitions:
 - Bulk Food
 - Certified Food Protection Manager (CFPM)
 - Eating Establishment
 - Health Inspector
 - Health Practitioner
 - Service Animal

- Sporting-Recreational Camp
2. HIP proposes to expand the definition of “Bed & Breakfast” to more accurately capture those B&B’s that are regulated by HIP.
 3. HIP (and Dept. of Agriculture, Conservation & Forestry) propose changing the definition of “Food Establishment” to reflect the definition within Maine statute at 22 M.R.S. §2152(4-A).
 4. HIP proposes expanding the definition of “Imminent Health Hazard” to list specific instances when an imminent health hazard is presented.
 5. HIP proposes to adopt the expanded definition of “Potentially Hazardous Food”, as it is adopted in the Federal Model Food Code.
 6. In the definition of “Poultry”, the 2001 Maine Food Code stated that poultry did not include ratites. HIP proposes that it does, to reflect the Federal Food Code.
 7. HIP proposes expanding the definition of “Restricted Use Pesticide” to include a reference to the 2011 Code of Federal Regulations at 40 CFR 152.175. Maine’s Pesticide Control Board recommended to HIP that the requirement for Pesticides classified for restricted use reflect Maine law and be limited to use by or under the direct supervision of a certified applicator. 22 M.R.S. §1471-C (23) was amended in 2011.
 8. The definition of “Service Animal” was expanded to reflect Maine statute regarding restrictions of service animals at eating establishments in Maine. (See 5 M.R.S. §4553(9-E)(Amended 2011) and 17 M.R.S. §3966, which was also amended in 2011).
 9. HIP changed “Temporary Food Establishment” to “Temporary Eating Establishment” to reflect the distinction between “eating” and “food” establishments within the Code.

CHAPTER 2 MANAGEMENT & PERSONNEL:

HIP proposes the following major additions, in order to maintain consistency with the 2009 U.S. Food Code and 2011 U.S. Food Code Supplement:

- Certified Food Protection Manager Sections 2-102.12 & 2-102.20.
- Responsibilities of Person In Charge for Ill Employees (Restrictions and Exclusions in Sections 2-201.11, 2-201.12 & 2-201.13);
- Cleaning Procedures in Section 2-301.12
- Responding to Contamination Events in Section 2-5

CHAPTER 3 FOOD:

1. HIP proposes incorporation of the following sections from the 2009 US Food Code & 2011 U.S. Food Code Supplement:
 - Juice Treated at 3-202.110
 - Food Employee contact with bare hands 3-301.11(E)
 - Heat Temperature of Food Table 3-401.11
 - Non-Continuous Cooking of Raw Animal Foods 3-401.14
 - Date Marking of Ready-to-Eat Potentially Hazardous Foods 3-501.17
 - Time as Public Health Control 3-501.19
 - Reduced Oxygen Packaging, Criteria 3-502.12
 - Juice Criteria 3-801.11
2. HIP & Dept. of Agriculture, Conservation & Forestry propose updating Section 3-201.13 Fluid Milk and Milk Products and 3-202.14 Eggs and Milk Products, Pasteurized, to more accurately refer to the appropriate Maine statutes governing the Department of Agriculture, Conservation and Forestry's regulation of milk and milk products. Instead of the outdated 7 MRSA §§ 2910 & 2904-A, the proposed reference in Section 3-201.13 is 22 M.R.S. §2902-B, Sub-§§ 3 & 5, which was amended in 2005. And in Section 3-202.14, the proposed changes more accurately capture when pasteurized milk products may be served according to Maine law specifically.
3. HIP proposes to incorporate language regarding Wild Mushrooms into 3-201.16, in accordance with Maine statute and what is currently in effect regarding wild mushroom regulation. Part A is reserved for when there is a Wild Mushroom Harvesting Certification Program established under 22 M.R.S §2175.

CHAPTER 4 EQUIPMENT, UTENSILS, AND LINENS:

1. HIP removed the language limiting lead use in 4-101.13, because it was determined that the restrictions were intended for manufacturers and distributors.
2. HIP incorporated major Federal Food Code additions into the following sections:
 - Auto-Dispensing of Detergents & Sanitizers Section 4-204.117;
 - Warewashing Cleaning Section 4-301.12; and
 - Warewashing Equipment, Sanitizers & Sanitizer Concentration Range Table Section 4-501.114.

CHAPTER 5 WATER, PLUMBING, AND WASTE:

1. HIP revised sampling requirements to be consistent with the Maine Rules Relating to Drinking Water (10-144 CMR 231) at Maine Food Code, Section 5-1.

2. HIP added Federal Food Code language for Backflow Prevention Device, Carbonator Section 5-203.15.

CHAPTER 6 PHYSICAL FACILITIES:

HIP revised the requirement for the minimum number of toilets and urinals in Section 6-302.10

CHAPTER 7 POISONOUS OR TOXIC MATERIALS:

1. HIP incorporated major additional language, to be consistent with the 2009 Federal Food Code and 2011 Federal Food Code Supplement:
 - Chemicals Section 7-204
 - Drying Agents, Criteria, Section 7-204.14
2. HIP revised 7-202.12 (C) for compliance with Maine Board of Pesticide laws.

CHAPTER 8 COMPLIANCE AND ENFORCEMENT:

HIP added proposed language regarding inspection frequency, based on changes to Maine statute.

- Inspections will be minimally every 2 years, with more frequent inspections occurring, if the inspector deems it necessary as a result of various risk factors, Section 8-401.10;
- Aggrieved parties are allowed 30 days to appeal agency decisions, rather than 10 days. This change was intended to comply with the Maine Administrative Procedures Act.