# **01-001 DEPARTMENT OF AGRICULTURE, CONSERVATION AND FORESTRY**

 **QUALITY ASSURANCE AND REGULATIONS**

**Chapter 346: RULES GOVERNING MEAT AND POULTRY INSPECTION AND LICENSING**

**Summary:** These Rules set standards for management and personnel, food operations, equipment, processing plants, and slaughter facilities; and provides for plan review, license issuance, inspection, employee restriction, and license suspension.

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**Section 1 - DEFINITIONS, PURPOSE, VARIANCES, AND HEALTH STATUS**

 **Subsection 1: Definitions**

 The following definitions apply to the terms used in these Rules:

 A. "Accredited Program" refers to the certification process and is a designation based upon an independent evaluation of factors such as the sponsor's mission; organizational structure; staff resources; policies; public information regarding program scope, eligibility requirements, re-certification, discipline and grievance procedures; and test development and administration.

B. "Administrative Meeting" means an informal meeting conducted by the Maine Department of Agriculture for the purpose of facilitating a mutually agreed upon plan of compliance for the license holder.

C. "Adulterated" has the same meaning as stated in 22 MRSA, chapter 562-A, sec. 2511.

D. "Animals" means, but is not limited to, livestock as defined in 9 CFR 301, *Definitions* (2002), poultry as defined in 9 CFR 381.1, *Definitions* (2002), exotic animals as defined in 9 CFR 352.1 (2002), Rabbits as defined in 9 CFR 354.1 (2002), and Poultry as defined in 9 CFR 362.1 (2002).

E. "Approved" means acceptable to the Department based on a determination of conformity with principles, practices, and generally recognized standards that protect public health.

F. "Aw" means water activity, which is a measure of free moisture in a food, is the quotient of the water vapor pressure of the substance divided by the vapor pressure of pure water at the same temperature, and is indicated by the symbol Aw.

G. "Carcass" means all or any part of a slaughtered animal, including viscera, which is capable of being used for human consumption.

H. "CFR" means the *Code of Federal Regulations*. Citations in this Regulation to the CFR refer sequentially to the Title, Part, and Section numbers, such as 9 CFR 306.4 refers to Title 9, Part 306, Section 4 (2002).

I. "Comminuted" means reduced in size by methods including chopping, flaking, grinding, or mincing. Comminuted includes meat products that are reduced in size and restructured or reformulated such as ground beef, and sausage; and a mixture of two or more types of meat that have been reduced in size and combined, such as sausages made from two or more meats.

J. "Commissioner" means the Commissioner of Maine Department of Agriculture, Conservation and Forestry or the Commissioner's designee.

K. "Confirmed disease outbreak," means a food borne disease outbreak in which laboratory analysis of appropriate specimens identifies a causative agent and epidemiological analysis implicates the food as the source of the illness.

L. "Consumer" means a person who is a member of the public, who takes possession of food, who is not functioning in the capacity of an operator of an establishment or processing plant and who does not offer the food for resale.

M. "Contaminant" means any foreign, chemical, radiological, or deleterious substance or matter in food.

N. "Contract Veterinarian" means a graduate of a school of veterinary medicine accredited by the American Veterinary Association who provides services for the Department under contract, and who is licensed to practice veterinary medicine in the State of Maine.

O. "Cooked," means food to which heat has been applied for preservation and/or to change the color, aroma, texture, and/or flavor of the product.

P. "Corrosion resistant material" means a material that maintains acceptable surface clean-ability characteristics under prolonged influence of the food to be contacted, the normal use of cleaning compounds and sanitizing solutions, and other conditions of use environment.

Q. "Critical control point" means a point of procedure in a specific food system where loss of control may result in an unacceptable health risk.

R. "Critical item or critical violation" means a provision of these Rules that, if in noncompliance, is more likely than other violations to contribute to food contamination, illness, or health hazard.

S. "Critical limit" means the maximum or minimum value to which a physical, biological, or chemical parameter must be controlled at a critical point to minimize the risk that the identified food safety hazard may occur.

T. "Cured," means meat to which specific no-meat ingredients have been incorporated by dry additions or use of aqueous solutions to affect preservation, safety, flavor, and/or color. The non-meat ingredients must include salt (sodium chloride), and most often include sodium nitrite or nitrate. In addition, sugar (sucrose) or other sweetening agents are frequently used.

U. "Custom carcass or meat" means carcasses, meat, meat food products or meat by-products that were slaughtered, dressed or otherwise processed by custom license holders.

V. "Department" means The Maine Department of Agriculture, Conservation and Forestry.

W. "Director" means the Director of the Maine Department of Agriculture, Conservation and Forestry, Division of Quality Assurance and Regulations, or his duly authorized representative.

X. "Disinfectant" means any oxidant, including but not limited to, chlorine, chlorine dioxide, chloramines and ozone added to water in any part of the treatment or distribution process that is intended to kill or inactivate pathogenic microorganisms.

Y. "Distressed merchandise" means any food:

1. For which the label has been lost;

2. Which has been subjected to possible damage due to accident, fire, flood, adverse weather, or to any other similar cause; or

3. Which may have been rendered unsafe or unsuitable for human or animal consumption or use.

Z. "Drinking water" means water that meets 40 CFR 141, *National Primary Drinking Water Regulations*, *State of Maine Rules Relating to Drinking Water* (Chapter 231, CMR 10-144), and 22 M.R.S.A., Chapter 601, *Water for Human Consumption* (1992 and Supp 2001);

1. Drinking water is known as potable water.

2. Drinking water includes the term "water", except where the term connotes that the water is not potable, such as boiler water, or mop water, rainwater, wastewater, and non-drinking water.

AA. "Easily cleanable" means a characteristic of a surface that:

1. Allows effective removal of soil by normal cleaning methods;

2. Is dependent on the material, design, construction, and installation of the surface;

3. Varies with the likelihood of the surface's role in introducing pathogenic or toxigenic agents or other contaminants into food based on the surface's approved placement, purpose, and use.

BB. "Easily moveable" means:

1. Portable; mounted on casters, gliders, or rollers; provided with a mechanical means to safely tilt a unit of equipment for cleaning; and

2. Having no utility connection, a utility connection that disconnects quickly, or a flexible utility line of sufficient length to allow the equipment to be moved for cleaning of the equipment and adjacent area.

CC. "Edible" means intended for use as human food.

DD. "Employee" means the license holder, person in charge, person having supervisory or management duties, person on the payroll, family member, volunteer, person performing work under contractual agreement, or other person working in an establishment or processing plant.

EE. "EPA" means the U.S. Environmental Protection Agency.

FF. "Equipment" means an article that is used in the operation of a food establishment such as a freezer, grinder, hood, meat block, mixer, oven, reach-in refrigerator, scale, sink, slicer, stove, table, or temperature-measuring device for ambient air.

1. Equipment does not include items used for handling or storing large quantities of packaged foods that are received from a supplier in a cased or over wrapped lot, such as hand trucks, forklifts, dollies, pallets, racks, and skids.

GG. "Establishment" means and includes any place or any area in which meat or poultry products are displayed for sale, manufactured, processed, packed, held, or stored. This includes but is not limited to retail stores, meat and poultry slaughter, and processing plants.

HH. "Establishment number" means an official number assigned by the Commissioner to each meat and poultry establishment and included on the inspection legend and label to identify all inspected and passed carcasses, meat, meat food products, and meat by-products handled in that establishment.

II. "Exotic animal" means any reindeer, elk, deer, antelope, water buffalo, or bison.

JJ. "Federal inspection" means the meat and poultry inspection service conducted by the United States Department of Agriculture.

KK. "Federal Meat Inspection Act" means the act of congress approved March 4, 1907, as amended and extended and the imported meat provisions of subsections 306 (b) and (c) of the *Tariff Act of 1930*, 19 U.S.C. 1306 (b) and (c), as amended.

LL. "Federal Poultry Products Inspection Act" means the act of congress approved August 28, 1957, as amended by the *Wholesome Poultry Products Act*.

MM. "Food" means: articles used as food or drink for humans, including meat and ice intended for human consumption.

NN. "Food borne disease outbreak" means the occurrence of two or more cases of a similar illness resulting from the ingestion of a common food.

OO. "Food-contact surface" means a surface of equipment or a utensil with which food normally comes into contact.

PP. "Food employee" means an individual working with unpackaged food, food equipment or utensils, or food-contact surfaces.

QQ. "Game animals" means any big game animal, elk, deer, mountain sheep, wild goat, antelope, moose, or bear.

RR. "General use pesticide" has the same meaning as stated in 22 M.R.S.A. sections 1471-C (11-B) (1992 supp-2001).

SS. "HACCP plan" means a written document that delineates the formal procedures for following the Hazard Analysis and Critical Control Point principles developed by the National Advisory Committee on Microbiological Criteria for Foods.

TT. "Hazard" means a biological, chemical, or physical, property that may cause an unacceptable consumer health risk.

UU. "Imminent health hazard" means a significant threat or danger to health that is considered to exist when there is evidence sufficient to show that a product, practice, circumstance, or event creates a situation that requires immediate correction or cessation of operation to prevent injury based on:

1. The number of potential injuries; and

2. The nature, severity, and duration of the anticipated injury.

VV. "Injected" means manipulating a meat so that infectious or toxigenic microorganisms may be introduced from its surface to its interior through tenderizing with deep penetration or injecting the meat such as with juices which may be referred to as "injecting," "pinning," or "stitch Pumping."

WW. "Law" means applicable local, state, and federal statutes, rules regulations and ordinances.

XX. "License" means the document issued by the Department that authorizes a person to operate an establishment or a processing plant.

YY. "License holder" means the entity that:

1. Is legally responsible for the operation of the establishment or processing plant such as the owner, the owner's agent or other person; and

2. Possesses a valid license to operate an establishment or processing plant.

ZZ. "Maine condemned" or abbreviation thereof, means the animal so marked has been inspected and found to be in dying condition, or to be affected with any other condition or disease that would require condemnation of its carcass.

AAa. "Maine inspected and condemned" or abbreviation thereof means that the carcass, meat, meat food product, meat by-product so marked or so identified, is unwholesome or adulterated and shall be disposed of in the manner prescribed by the Commissioner.

BBb. "Maine inspected and passed" or abbreviation thereof, means that the carcass, meat, meat food product or meat by-product so marked or so identified, was at the time it was so marked or so identified found to be wholesome.

CCc. "Maine retained" means that the Commissioner or Veterinarian, to determine its disposal, holds the carcass, meat, meat food product so identified for further examination.

DDd. "Maine suspect" means that any animal so marked and identified is suspected of being affected with a disease or condition which may require its condemnation, in whole or in part, when slaughtered, and is subject to further examination by the Commissioner or Veterinarian to determine its disposal.

EEe. "Manufactured" means meat which has been processed by curing, smoking, canning, cooking, freezing, dehydration, production of intermediate moisture products, and/or the use of certain additives, chemicals, and enzymes, into a product different from the starting raw material. This definition shall not include simple grinding, cutting, or mixing

FFf. "Meat" has the meaning as stated in 22 M.R.S.A., chapter 562-A, §2511(27)(1992 and supp. 2001).

GGg. "Misbranding" has the meaning stated in 22 M.R.S.A., chapter 562-A, §2511 (29) (1992 and supp. 2001)

HHh. "Non-salvageable merchandise" means distressed merchandise, which cannot be safely or practically reconditioned.

IIi. "Official establishment" means any slaughtering, cutting, boning, meat canning, curing, smoking, salting, packing, rendering, or similar establishments at which inspection is maintained under the authority of the Department and these Rules.

JJj. "Official inspection legend" means any inspection symbol prescribed by the Commissioner showing that an article was inspected and passed in accordance with these Rules.

KKk. "Official inspection mark" means any symbol prescribed by the Commissioner for the purpose of identifying the inspection status of any article so inspected.

LLl. "Packaged" means bottled, canned, cartoned, securely bagged, or securely wrapped, whether packaged in an establishment or processing plant.

MMm. "Perishable" means there exists a significant risk of spoilage or deterioration when a product has not been properly refrigerated or handled.

NNn. "Person" means an individual, partnership, corporation, association, other legal entity, government, or governmental subdivision or entity.

OOo. "Person in charge" means the individual present, that has been designated in writing by the owner, at an establishment or processing plant who is responsible for the operation at the time of inspection.

PPp. "Personal care items" means items or substances that may be poisonous, toxic, or a source of contamination and which are used to maintain or enhance a person's health, hygiene, or appearance.

QQq. "pH" means the symbol for the negative logarithm of the hydrogen ion concentration, which is a measure of the degree of acidity or alkalinity of a solution. Values between zero and seven indicate acidity and values between seven and fourteen indicate alkalinity.

RRr. "Physical facilities" means the structure and interior surfaces of an establishment including accessories such as soap and towel dispensers and attachments such as light fixtures and heating or air conditioning system vents.

SSs. "Plumbing system" means the water supply and distribution pipes; plumbing fixtures and traps; vent pipes; sanitary and storm sewers and building drains, including their respective connections, devices and appurtenances within the premises; and water treating equipment.

TTt. "Poisonous or toxic materials" means substances that are not intended for ingestion and are included in the following four categories:

1. Cleaners and sanitizers, which include cleaning and sanitizing agents and agents such as caustics, acids, polishes, and other chemicals;

2. Pesticides except sanitizers, which include substances such as insecticides and rodenticides;

3. Substances necessary for the operation and maintenance of the establishment such as nonfood grade lubricants and personal care items that may be deleterious to health; and

4. Substances that are not necessary for the operation and maintenance of the establishment and are on the premises for retail sale, such as petroleum products and paints.

UUu. "Potentially hazardous food" means a food that is natural or synthetic and that requires temperature control because it is in a form capable of supporting the rapid and progressive growth of infectious or toxigenic microorganisms.

VVv. "Poultry'" means any domesticated bird (chickens, turkeys, ducks, geese, guineas, ratites, or squabs, also termed young flightless pigeons), whether live or dead, as defined in 9 CFR 381, *Poultry Products Inspection Regulations*, (2002); and

1. "Poultry'" means any migratory water fowl or game bird, whether dead or alive, as defined in 9 CFR 362, *Voluntary Poultry Inspection Program*, (2002).

WWw. "Premises" means a physical facility, its contents, and the contiguous land or property under the control of the license holder.

XXx. "Primal cut" means a basic major cut into which carcasses and sides of meat are separated, such as a beef round, pork loin, lamb flank, or veal breast.

YYy. "Processed" as applied to meat products means fresh meat, which has been altered to affect preservation and or manufacture of meat products, except for simple grinding, cutting, or mixing. This includes curing, smoking, canning, cooking, freezing, dehydration, production of intermediate moisture products and the use of certain additives, chemicals, or enzymes. Processed does not include otherwise unprocessed meats that are sold in a frozen state.

ZZz. "Processing Plant" means a commercial plant that manufactures, packages, or labels food for human consumption and may provide food directly to a consumer.

AAaa. "Ratite" means a group of flightless birds including ostriches, cassowaries, kiwis, emus, etc., having undeveloped wings and a breastbone without a keel.

BBbb. "Ready-to-eat food" means food that is in a form that is edible without washing, cooking, or additional preparation by the establishment or the consumer and that is reasonably expected to be consumed in that form.

CCcc. "Reconditioning," means any appropriate process or procedure by which distressed merchandise can be brought into compliance with the standards of the Department for consumption or use by the public.

DDdd. "Restricted use pesticide" shall have the same meaning as stated in 22 MRSA, §1471-C (23) (1992 and supp. 2001).

EEee. "Safe materials" means an article manufactured from or composed of materials that may not reasonably be expected to result, directly or indirectly, in their becoming a component or otherwise affecting the characteristics of any food.

FFff. "Salvaged merchandise," means distressed merchandise that has been reconditioned.

GGgg. "Sanitation" means the application of cumulative heat or chemicals on clean food-contact surfaces that, when evaluated for efficacy, is sufficient to yield a reduction of five logs, which is equal to a ninety nine and nine hundred ninety nine thousandths percent reduction, of representative disease microorganisms of public health importance.

HHhh. "Sealed" means free of cracks or other openings that allow the entry or passage of moisture.

IIii. "Sewage" means liquid waste containing animal or vegetable matter in suspension or solution and may include liquids containing chemicals in solution.

JJjj. "Shipping container or outside container" means the box, bag, barrel, crate, or other receptacle or covering enclosing any product packed in one or more immediate or true containers.

KKkk. "Slacking" means the process of moderating the temperature of a food such as allowing a food to gradually increase from a temperature of -10 degrees F. to 25 degrees F.

LLll. "Slaughterhouse" shall include all buildings, structures and facilities used in the slaughtering or dressing of animals for human consumption.

MMmm. "Smooth" means:

1. A food contact surface that has a surface free of pits and inclusions with a cleanability equal to or exceeding that of one hundred grit number three stainless steel;

2. A non-food contact surface of equipment having a surface equal to that of commercial grade hot-rolled steel free of visible scale; and

3. A floor, wall, or ceiling having an even or level surface with no roughness or projections that renders it difficult to clean.

NNnn. "Table mounted equipment" means equipment that is not portable and is designed to be mounted off the floor on a table, counter, or shelf.

OOoo. "Temperature measuring device" means a thermometer, thermocouple, or other device that indicates the temperature of food, air, or water.

PPpp. "Unwholesome" means any animal, or carcass, meat, meat food product which:

1. Is unsound, injurious to health, contains any biological residue not permitted under these rules, or is otherwise unfit for human consumption;

2. Consists in whole or in part of any filthy, putrid, or decomposed substance;

3. Was processed, prepared, packed, or held under unsanitary conditions so that the same may have become contaminated or may have become injurious to health or;

4. Was produced, in whole or in part, from animals that died other than by slaughter.

QQqq. "USDA" means the United States Department of Agriculture.

RRrr. "Variance" means a written document issued by the Maine Department of Agriculture that authorizes a modification or waiver of one or more requirements of these Rules if, in the opinion of the Department, a health hazard or nuisance will not result from the modification or waiver.

SSss. "Ware-washing," means the cleaning and sanitizing of food contact surfaces of equipment and utensils.

TTtt. "Whole muscle intact beef" means any whole muscle beef that is not injected, mechanically tenderized, reconstructed, or scored and marinated, from which beefsteaks may be cut.

UUuu. "Wholesome" means sound, healthful, clean and otherwise fit for human consumption.

 **Subsection 2: Authority**

 These Rules are promulgated in accordance with the authority vested in the Department of Agriculture, Conservation and Forestry pursuant to 22 MRSA, ch. 562-A. (hereinafter referred to as the "Department")

 **Subsection 3: Maine Meat and Poultry Inspection Rule**

 These provisions shall be known as the *Maine Meat and Poultry Inspection Rule*, (hereinafter referred to as the "Rule").

 **Subsection 4: Statement of Purpose**

 The purpose of these Rules are to safeguard public health and assure consumers safe food that is unadulterated and honestly presented.

 **Subsection 5: Public Health Protection**

 A. The Department of Agriculture shall apply these Rules to promote its underlying purpose of safeguarding the public health and assuring that food is safe, unadulterated, and honestly presented when offered to the consumer.

 B. In enforcing the provisions of these Rules, the Department shall assess existing facilities or equipment that were in use before the effective date of these Rules based on the following considerations:

 1. Whether the facility is in good repair and capable of being maintained in a sanitary condition;

 2. Whether food contact surfaces comply with Section 6, Subsection 2;

 3. Whether the capabilities or cooling, heating, and holding equipment are sufficient; and

 4. The existence of a written agreement with the license holder that the facilities or equipment will be replaced as specified under Section 2, Subsection 11(A), (7), or upgraded or replaced as specified under Section 2, Subsection 11(A), (7), (a).

 **Subsection 6: Variances and Waivers**

 The Department may grant a variance from or waive the requirements of these Rules if, in the opinion of the Department, a health hazard or nuisance will not result from the variance or waiver. If a variance or waiver is granted, the Department shall retain the information specified under Section 1, Subsection 7, (Documentation of Proposed Variance or Waiver and Justification) in its records for the establishment or processing plant.

 **Subsection 7: Documentation of Proposed Variance or Waiver and Justification**

 A. Before a variance from, or a waiver of, a requirement of these Rules is approved, the person requesting the variance or waiver must, at a minimum, provide the following information to the Department, which information must be retained in the Department's file on the establishment or processing plant:

1. A statement of the proposed variance or waiver of the Rule requirement citing relevant Rule part numbers;

2. An analysis of how the potential public health hazards and nuisances addressed by the relevant Rule parts for which a variance of waiver is sought will be alternately addressed by the proposal; and

3. A HACCP plan, if required, as specified under Section 10, Subsection 1(A), that includes the information specified under Section 10, Subsection 2, as it is relevant to the variance or waiver requested.

 **Subsection 8: Variance and Waiver Requirements**

 A. If the Department grants a variance or waiver, as specified in Section 1, Subsection 7, or a HACCP plan is otherwise required as specified under Section 10, Subsection 1, the license holder shall:

1. Comply with the HACCP plan and procedures that are submitted as specified under Section 10, Subsection 2, and approved as a basis for the variance or waiver; and

2. Maintain and provide to the Department, upon request, records specified under Section 10, Subsection 2(A), (4), and (5) that demonstrate that the following are routinely employed:

a. Procedures for monitoring critical control points;

b. Monitoring of the critical control points;

c. Verification of the effectiveness of an operation or process; and

d. Necessary corrective actions if there is a failure at a critical control point.

 **Subsection 9: Person in Charge Requirements**

 The license holder shall be the person in charge, or shall designate in writing a person in charge and shall ensure that a person in charge is present at the establishment or processing plant during all hours of operation.

 **Subsection 10: Health Status of Food Employees and Applicants**

 The license holder shall require food employee applicants to whom a conditional offer of employment is made and food employees to report to the person in charge information about their health and activities as they relate to diseases that are transmissible through food. A food employee or applicant shall report the information in a manner that allows the person in charge to prevent the likelihood of food borne disease transmission.

 **Subsection 11: Adoption of Federal Regulations**

 A. These Rules are to incorporate by reference, those provisions of the *Code of Federal Regulations* that are applicable to meat and poultry inspection, as such regulations may be amended and that are necessary to remain in compliance with the federal requirements for the State’s meat and poultry products inspection and licensing program, insofar as they are not inconsistent with the laws of the State of Maine.

**Section 2 - REQUIREMENTS FOR PLAN SUBMISSION; LICENSE APPLICATION AND ISSUANCE; INSPECTION**

 **Subsection 1: Prerequisite for Operation**

 A. A person may not operate an establishment or processing plant engaged in commerce in the business of buying, selling, preparing, processing, packing, storing, transporting, or otherwise handling meat, meat food products or poultry products unless that person holds a valid license issued by the Department of Agriculture. The license is not transferable and shall be permanently displayed.

1. When a person engages in activities requiring a license under these Rules at two or more locations, and those locations are not on the same premises in this state, a separate license is required for each location.

2. A person engaging in two or more operations on the same premise in this state, which involve activities requiring a license under these Rules, may operate under one license.

 **Subsection 2: Submission and Contents of the License Application**

 A. A written application for a new license shall be made on a form approved by the Commissioner and provided by the Commissioner and shall be signed by the applicant.

 1. The application shall include:

 a. The name, mailing address, telephone number, and signature of the person applying for the license; the name, mailing address, and telephone number of the registered agent; the name, mailing address, and location of the establishment or processing plant; and statement specifying whether the establishment or processing plant:

 I. Is mobile, stationary, temporary, or permanent;

 II. Prepares potentially hazardous food in advance using a food preparation method that involves two or more steps which may include combining potentially hazardous ingredients; cooking; cooling; reheating; hot or cold holding; freezing; or thawing;

 III. Prepares food for delivery to and consumption at a location off the premises of the establishment where it is prepared;

 IV. Prepares food for service to a highly susceptible population.

 b. Information specifying whether an association, corporation, individual, partnership, or other such entity owns the establishment or processing plant and, if so, identifying the entity.

 c. A statement signed by the applicant that:

 I. Certifies to the accuracy of the information provided in the application; and

 II. Affirms that the applicant will:

 i. Comply with these Rules; and

 ii. Allow the Department access to the establishment as specified under Section 2, Subsection 20, and to the records specified under Section 10, Subsection 2(A)(4).

 **Subsection 3: Qualifications and Responsibilities of Applicants**

 A. To qualify for a license, the applicant must:

 1. Be an owner or other person legally in charge of the establishment or processing plant;

2. Comply with the requirements of these Rules;

3. As specified under Section 2, Subsection 20, agree to allow access to the establishment or processing plant and to provide required information; and

4. Pay the applicable license fees at the time the application is submitted.

 **Subsection 4: Issuance of License**

 A. For establishments or processing plants that are required to submit plans as specified under Section 2, Subsection 5, the Department shall issue a license to the applicant after:

1. A properly completed application is completed;

2. The required fee is submitted;

3. The required plans, specifications, and information are reviewed and approved; and

4. A pre-operational inspection shows that the establishment or processing plant is built or remodeled in accordance with the approved plans and specifications and that the establishment is in compliance with these Rules.

 B. The Department may renew a license for an existing establishment or processing plant or may issue a license to a new owner of an existing establishment or processing plant after:

 1. A properly completed application is submitted, reviewed, and approved;

 2. The required fees are submitted; and

 3. An inspection shows that the establishment or processing plant is in compliance with these Rules.

 **Subsection 5: Requirement for Plans and Specifications**

 A. A license applicant or license holder shall submit to the Department properly prepared plans and specifications for review and approval before:

1. The construction of an establishment or processing plant;

2. The conversion of an existing structure for use as an establishment or processing plant; or

3. The remodeling of an establishment or processing plant, or a change of type of the establishment or processing plant as specified under Section 2, Subsection 6, if the Department determines that plans and specifications are necessary to ensure compliance with these Rules.

 **Subsection 6: Contents of the Plans and Specifications**

 A. The plans and specifications for an establishment or processing plant, including an establishment or processing plant specified under Section 10, Subsection 1, shall include, as required by the Department based on the type of operation, type of food preparation, and foods prepared, the following information to demonstrate conformance with Rule provisions:

 1. Intended menu;

 2. Anticipated volume of food to be stored, prepared, and sold or served;

 3. Proposed layout, mechanical schematics, construction materials, and finish schedules;

 4. Proposed equipment types, manufacturers, model numbers, locations, dimensions, performance capacities, and installations specifications;

 5. Evidence that standard procedures that ensure compliance with the requirements of these Rules are developed or are being developed; and

 6. Other information that may be required by the Department for the proper review of the proposed construction, conversion or modification, and procedures for operating as establishment or processing plant.

 **Subsection 7: Approval of Plans and Specifications**

 A. The Department shall review all plans and specifications to determine if they are in compliance with these Rules. After reviewing the plans and specifications, the Department shall complete a plan review sheet.

 B. If the plans and specifications are approved the Department shall submit a copy of the plan review sheet denoting such approval to the license applicant or license holder.

 C. If the plans and specifications are disapproved, a copy of the plan review sheet stating the reason for disapproval shall be sent to the license applicant or license holder.

 **Subsection 8: Pre-Operational Inspections**

 A. The Department may conduct one or more pre-operational inspections to verify that the establishment or processing plant is constructed and equipped in accordance with the approved plans and approved modifications of those plans and is in compliance with law and these Rules.

 B. The Department may conduct a pre-opening inspection prior to issuance of a license.

 **Subsection 9: Application for Official Inspection, Granting Inspection, Official Numbers, and Withdrawal of Inspection**

 A. State of Maine Inspectors, as authorized by 9 CFR 321, *Cooperation with States and Territories*, shall perform inspections at official establishments.

 B. To qualify for official inspection, as specified in 9 CFR 304, *Application for Inspection; Grant of Inspection*, an applicant shall:

1. Submit a completed license application on the form furnished by the Commissioner;

2. Comply with the requirements of these Rules in addition to 9CFR 304, *Application for Inspection; Grant of Inspection*;

3. Comply with the requirements of 9 CFR 304.3, *Conditions for Receiving Inspection*, including:

a. Developing written Sanitation Standard Operating Procedures, as specified in 9 CFR 416, *Sanitation*;

b. Conduct a hazard analysis and have developed and validated a HACCP plan, as required in 9 CFR 417, *Hazard Analysis and Critical Control Point (HACCP) Systems*; and

4. Comply with the requirements of 9 CFR 305.3, *Sanitation and Adequate Facilities*;

 C. To each official establishment granted inspection, the Commissioner or his designee shall:

 1. Give notice in writing to each applicant;

 2. Assign an official number to each official establishment as specified in 9 CFR 305.1, *Official Numbers; Subsidiaries and Tenants*,

a. Such numbers shall be used to identify all inspected and passed products prepared in the establishment;

b. More than one number may not be assigned to an establishment; and

c. Numbers designating all establishments shall be determined by the Commissioner or his designee, and appropriately placed on all of the inspection stamps designed for each establishment.

 D. Each official establishment granted inspection should be separate and distinct from any unofficial establishment as specified in 9 CFR 305.2, *Separation of Official Establishments*.

 E. To each official establishment granted inspection, the Commissioner or his designee shall assign inspection, as specified in 9 CFR 305.4, *Inauguration of Inspection*, and 9 CFR 306, *Assignment and Authorities of Program Employees*.

 F. As specified in 9 CFR 307.4, *Schedule of Operations*, no operation requiring inspection shall be conducted except under the supervision of the Commissioner or his designee.

 G. All slaughtering of animals and preparation of products produced under inspection shall be done within reasonable hours and with reasonable speed, considering the official establishment's facilities.

 **Subsection 10: Denial of License Application, Notice**

 A. The Commissioner or his designee may deny a license application if he finds:

 1. The applicant has made false statements on the license application;

 2. The applicant has failed to comply with any provision of 22 M.R.S.A., Chapter 562-A (1992 and supp. 2001) or these Rules.

 B. If a license application is denied, the Department shall provide the applicant with a notice that includes:

 1. The specific reasons and rule citations for the license application denial;

 2. The actions, if any, that the applicant must take to qualify for a license application;

 3. Notice of the applicant's right to request a hearing before the Commissioner;

 4. The time, place, and nature of the hearing;

 5. The legal authority under which the hearing will be held; and

 6. A short plain statement of the matters asserted.

 C. The applicant must request a hearing within twenty days of receipt of the Commissioner's notice.

 D. If a hearing is requested the Commissioner shall schedule a time and a place for the hearing, to be held not later than thirty days from the date of the request unless a later date is agreed to by the parties.

 E. If the applicant supplies evidence that all the reasons for the license denial have been corrected, and if all other license requirements have been met, a license shall be issued.

 F. The applicant shall be notified of the time, date and place of the hearing at least seven days prior to the hearing date.

 **Subsection 11: Responsibilities of the License Holder**

 A. Upon acceptance of the license issued by the Department, the license holder in order to retain the license shall:

1. Post the license in a location in the establishment or processing plant that is conspicuous to consumers;

2. Comply with the provisions of these Rules including the conditions of a granted variance as specified in Section 1, Subsection 6, and approved plans as specified under Section 2, Subsection 7;

3. Comply with the plan as specified under Section 1, Subsection 1, if an establishment or processing plant is required under Section 10, Subsection 1, to operate under a HACCP plan;

4. Immediately contact the Department and any other applicable regulatory authority to report an illness of a food employee applicant or food employee;

5. Immediately discontinue operations and notify the Department and any other applicable regulatory authority, if an imminent health hazard may exist as specified under Section 2, Subsection 12;

6. Allow representatives of the Department access to the establishment as specified under Section 2, Subsection 20;

7. Replace existing facilities and equipment, with facilities and equipment that comply with these Rules if:

a. The Department directs the replacement because the facilities and equipment constitute a public health hazard or nuisance or no longer comply with the criteria upon which the facilities and equipment were accepted;

b. The Department directs the replacement of the facilities and equipment because of a change of ownership; or

c. The facilities and equipment are replaced in the normal course of operation.

 8. Upgrade or replace refrigeration equipment as specified under Section 3, Subsection 25, if the circumstances specified under Section 2, Subsection 11(A), (7), (a-c), do not occur first, and ten years pass after the Department adopts these Rules;

9. Comply with directives of the Department, including time frames for corrective actions specified in inspection reports, notices, orders, warnings, and other directives issued by the Department in regard to the license holder's establishment or processing plant or in response to community emergencies;

10. Accept notices issued and served by the Department according to law; and

11. Be subject to the administrative, civil, injunctive, and criminal remedies authorized in law for failure to comply with these Rules or a directive of the Department, including time frames for corrective actions specified in inspection reports, notices, orders, warnings, and other directives.

 **Subsection 12: Ceasing Operations and Reporting**

A. Except as specified in Section 2, Subsection 12(B), a license holder shall immediately discontinue operations and notify the Department and any other applicable regulatory authority, if an imminent health hazard may exist because of an emergency such as, but not limited to, a fire, flood, extended interruption of electrical or water service, sewage backup, misuse of poisonous or toxic materials, onset of an apparent food borne illness breakout, or gross unsanitary occurrence or condition.

B. A license holder need not discontinue operations in an area of an establishment or processing plant that is unaffected by the imminent health hazard.

 **Subsection 13: Resumption of Operations**

 A. If operations are discontinued as specified under Section 2, Subsection 12, or otherwise according to law, the license holder shall obtain approval from the Department before resuming operations.

 **Subsection 14: Conditions Warranting Remedy**

 A. The Department may schedule an administrative meeting to address compliance with the provisions of these Rules, if a person operating an establishment or processing plant or employee:

1. Fails to have a valid license to operate an establishment or processing plant as specified under Section 2, Subsection 1;

2. Violates any term or condition of a license as specified under Section 2, Subsection 11;

3. Allows serious or repeated rule violations to remain uncorrected beyond time frames for correction as approved, directed, or ordered by the Department under Section 2, subsections 25 and 27;

4. Fails to comply with a Departmental order issued as a result of a hearing for an administrative remedy;

5. Fails to comply with a summary suspension order issued by the Department as specified in Section 2, Subsection 16; or

 6. Fails to comply with any other rule or regulation.

 **Subsection 15: Administrative Meetings**

 A. The Commissioner or his designee may, in its discretion, initiate an administrative meeting for the licensee's failure to:

1. Correct critical violations from a routine inspection if there is a history of non-compliance with these Rules;

2. For refusal to grant access by the Department; or

3. If an inspection reveals deviations in the HACCP plan.

 B. Notice of administrative meeting shall state:

1. The reasons for the notice of administrative meeting with reference to the provisions of the rules that are in violation;

2. The location and time the administrative meeting will be held; and

3. That the licensee may appear in person or with counsel licensed in the State of Maine.

 C. This section shall not be construed as requiring the Department to initiate an administrative meeting prior to suspending or revoking any license.

 D. The purpose of the administrative meeting is to negotiate a mutually agreed upon plan of compliance for the license holder.

 E. The plan of compliance shall be:

 1. Presented, in writing to the license holder after the meeting;

 2. Signed by both the license holder and the Department.

 F. The administrative meetings have three possible outcomes:

 1. A mutually agreed upon plan of compliance;

 2. No agreement of cooperation by the license holder resulting in the suspension or revocation of the license by the Department, in accordance with subsection 17 below.

 3. Dismissal of the meeting by the Commissioner.

 G. If no agreement is reached between the Commissioner and the license holder, or the re-inspection finds the plan of compliance has not been complied with, in accordance with subsection 17 below, the Department may suspend or revoke the license.

 **Subsection 16: Stop Sale or Use Order**

 A. The Department may issue a stop sale or use order if the licensee fails to comply with any provision of 22 M.R.S.A, Chapter 562-A (1992 and Supp. 2000) or these Rules or it is determined through inspection, or examination of food employees, food, records, or other means as specified in these Rules, that an imminent health hazard exists.

 1. The Department may issue a stop sale or use order by providing written notice of the stop sale or use order to the license holder or the person in charge without prior warning, notice of a hearing, or a hearing.

 2. A stop sale or use order shall state:

 a. That all operations shall immediately cease;

 b. The reasons for the stop sale or use order with reference to the provisions of these Rules that are in violation;

 c. The type of imminent threat to the public health that may be caused by the violation;

 d. The name and address of the Department representative to whom notice for re-inspection may be made and who may certify that reasons for the stop sale or use order are eliminated;

 e. That the license holder may appeal a stop sale or use order to the Commissioner of the Department within five business days of the issue of the stop sale or use order, and that the Department will hold a hearing, if requested, within ten business days of the stop sale or use order; and

 3. If any person receiving a stop sale or use order appeals the order to the Commissioner of the Department within 5 days of receiving the order, the Commissioner, or his designee, shall, within 10 business days of the issuance of the order, hold a hearing in conformance with the requirements of the Administrative Procedure Act.

 4. The Department shall conduct a re-inspection of the establishment or processing plant for which the stop sale or use order was issued within 48 hours after receiving notice from the license holder stating that the conditions cited in the stop sale or use order no longer exist.

 5. A stop sale or use order shall remain in effect until the conditions cited in the stop sale or use order no longer exist and their elimination has been confirmed by the Department through re-inspection and other means as appropriate or until a court of competent jurisdiction otherwise orders.

 6. The stop sale or use order shall be lifted immediately if the Department determines that there are no imminent health hazards and the establishment is in compliance with 7 M.R.S.A, Chapter 562-A (1992 and Supp. 2001) and these Rules. A notice of resuming operations shall be provided to the license holder or person in charge.

 **Subsection 17: Suspension or Revocation**

 A. The Department may after notice and opportunity for hearing in conformance with the applicable provisions of the *Maine Administrative Procedure Act*, initiate suspension or revocation proceedings for a license if:

 1. The Commissioner determines that a false statement was made in the license application; or

 2. The Commissioner finds that the licensee failed to comply with the requirements of 7 M.R.S.A. Chapter 562-A, or these Rules.

 **Subsection 18: Establishing Inspection Interval**

 A. Except as specified under Section 2, Subsection 9(F) and Subsection 20(B) and (C), the Department may inspect an establishment or processing plant at least once every six months.

 B. The Department may increase the interval between inspections beyond six months but in no event less than once a year if:

 1. The establishment or processing plant is fully operating under an approved and validated HACCP plan as specified under Section 1, Subsection 7(A), (1), and (2), and Section 10, Subsection 1;

 2. The establishment or processing plant is assigned a less frequent inspection frequency based on a written risk based inspection schedule that is being uniformly applied throughout the jurisdiction, and at least once every six months the establishment or processing plant is contacted by telephone or other means by the Department to ensure that the establishment or processing plant manager and the nature or operation are not changed.

 **Subsection 19: Performance and Risk Based Inspections**

 A. Within the parameters specified under Section 2, Subsection 20, the Department shall prioritize and conduct more frequent inspections based upon its assessment of an establishment or processing plant's potential as a vector of food borne illness by evaluating:

1. Past performance, for non-conformance with these Rules or HACCP plan requirements that are critical;

2. Past performance, for numerous or repeat violations of these Rules or HACCP plan requirements that are non-critical;

3. Past performance, for complaints investigated and found to be valid;

4. The hazards associated with the particular foods that are prepared, stored, or served;

5. The type of operation including the methods and extent of food storage, preparation, and service;

6. The number of people served;

7. Whether the population served is a highly susceptible population.

 **Subsection 20: Access for Inspection**

 A. After the Department presents official credentials and states the purpose of, and an intent to conduct an inspection, the person in charge shall allow the Department to determine if the establishment or processing plant is in compliance with these Rules by:

1. Allowing access to the establishment or processing plant;

2. Allowing inspection; and

3. Providing information and records specified in these Rules and to which the Department is entitled according to law, during the establishment or processing plant's hours of operation and other reasonable times.

 B. Denial of access to inspect shall be grounds for suspension or revocation of a license.

 C. The details of the denial of access shall be recorded on the inspection report form.

 **Subsection 21: Documenting Information and Observations**

 A. The Department shall document on an inspection report form:

 1. Administrative information about the establishment or processing plant's legal identity, street and mailing addresses, type of establishment or processing plant and operation as specified under Section 2, Subsection 2(B), inspection date, and other information such as type of water supply and sewage disposal, status of the license, and personnel certificates that may be required; and

 2. Specific factual observations of violative conditions or other deviations from these Rules that require correction by the license holder including but not limited to:

 a. Failure of the person in charge to demonstrate the knowledge of food borne illness prevention and the requirements of these Rules specified under Section 1, Subsection 10;

b. Failure of food employees and the person in charge to demonstrate their knowledge of their responsibility to report a disease or medical condition;

c. Nonconformance with critical items of these Rules;

d. Failure of the appropriate food employees to demonstrate their knowledge of, and ability to perform in accordance with, the procedural, monitoring, verification, and corrective action practices required by the Department as specified under Section 1, Subsection 7;

e. Failure of a person in charge to provide records required by the Department for determining conformance with a HACCP plan as specified under Section 10, Subsection 2(A), (4), and (f);

f. Nonconformance with critical limits of a HACCP plan.

 **Subsection 22: Timely Correction for Critical Item Violation**

 A. Except as specified in Section 2, Subsection 24(B), a license holder shall at the time of inspection correct a critical violation of these Rules or implement corrective actions for a HACCP plan provision that is not in compliance with its critical limit.

 B. Considering the nature of the potential hazard involved and the complexity of the corrective action needed, the Department may agree to or specify a longer time frame, not to exceed ten calendar days after the inspection, for the license holder to correct critical violations of these Rules or HACCP plan deviations, provided food safety controls and preventive measures are in place and no health hazards exist consistent with 9 CFR 416, and 417.

 C. If a determination by the inspector that the corrective action cannot be completed within ten days, the inspector may request an extension be granted which must only be approved in writing by a supervisor.

 **Subsection 23: Verification and Documentation of Correction for Critical Item Violation**

 A. After observing at the time of inspection a correction of a critical item violation or HACCP plan deviation, the Department shall enter the violation and information about the corrective action on the inspection report

 B. After receiving notification that the license holder has corrected a critical item violation or HACCP plan deviation, or at the end of the specified period of time, the Department shall verify correction of the violation, document the information on an inspection report, and enter the report in the Department's records.

 **Subsection 24: Time Frame for Correction for a Non-Critical Violation**

 A. Except as specified in Section 2, Subsection 26(B), the license holder shall correct non-critical violations by a date and time agreed to or specified by the Department, but no later than ninety calendar days after the inspection.

 B. The Department may approve a compliance schedule that extends beyond the time limits specified under Section 2, Subsection 24(A), if a schedule of compliance is submitted by the license holder and no health hazard exists or will result from allowing an extended schedule for compliance.

 **Subsection 25: Issuing Report and Obtaining Acknowledgement of Receipt**

 At the conclusion of the inspection, the Department shall provide a copy of the completed inspection report to the license holder or to the person in charge, and request a signed acknowledgement of receipt.

 **Subsection 26: Refusal to sign Acknowledgement**

 A. The Department shall:

 1. Inform a person who declines to sign an acknowledgement of receipt of inspection findings that:

 a. An acknowledgement of receipt is not an agreement of findings;

 b. Refusal to sign an acknowledgement of receipt will not affect the license holder's obligation to correct the violations noted in the inspection report within the time frames specified; and

 c. A refusal to sign an acknowledgement of receipt is noted in the inspection report and conveyed to the Department's historical record for the establishment or processing plant.

 **Subsection 27: Examining, Sampling, and Testing Food**

 The Department may examine, sample, and test food in order to determine its compliance with these Rules.

**Section 3 - FOOD CONCERNS**

 **Subsection 1: Compliance with Food Law**

 A. Food must be obtained from sources that comply with law.

 B. Food prepared in a private home may not be used or offered for human consumption in an establishment, unless such establishment is a home business licensed by the Department.

 C. Packaged food must be labeled as specified in law, including Food Labeling, 9 CFR 317, *Labeling, Marking Devices and Containers*, 9 CFR 381, Subpart N, *Labeling and Containers*.

 D. Whole muscle intact beefsteaks that are intended for consumption in an undercooked form must be:

 1. Obtained from a food processing plant that packages the steaks and labels them to indicate that they meet the definition of whole muscle, intact beef; or

 2. If individually cut in a food establishment:

 a. Cut from whole muscle intact beef that is labeled by a processing plant to indicate that the beef meets the definition of whole muscle intact beef;

 b. Prepared so they remain intact; and

 c. If packaged for undercooking in a food establishment, labeled to indicate that they meet the definition of whole muscle intact beef.

 E. Meat and poultry that is not ready to eat food and is in a packaged form when it is offered for sale or otherwise offered for consumption must be labeled to include safe handling instructions as specified in law, including 9 CFR 309, 317.2, *Labels*; definitions; required features, and 9 CFR 381.125, *Special Handling Labeling Requirements*.

 **Subsection 2: Animals Slaughtered and Processed Under Inspection**

 A. All animals except poultry slaughtered and processed for sale must have ante mortem and post mortem inspection and must meet the requirements of 9 CFR 313, *Humane Slaughter of Livestock*, 9 CFR 309, *Ante Mortem Inspection*, 310, *Post Mortem Inspection*, and 311, *Disposal of Diseased or Otherwise Adulterated Carcasses and Parts*.

B. All animals except poultry slaughtered and processed under inspection must be conducted in accordance with these Rules, except as specified in 9 CFR 302, *Application of Inspection and Other Requirements,* and 9 CFR 303, *Exemptions*.

C. All poultry slaughtered and processed for sale under inspection, must have ante mortem and post mortem inspection and shall meet the requirements of 9 CFR 381, Subpart J, *Ante Mortem Inspection*, Subpart K, *Post Mortem Inspection*; *Dispositions of Carcasses and Parts*.

D. Exempt establishments handling wild game must:

1. Be in accordance with these Rules and 9 CFR 302, *Application of Inspection and Other Requirements,* and 9 CFR 303, *Exemptions*;

2. Hold, process, identify, and prepare wild game separately from all domestic animal carcasses, meat, meat food or meat food by-products;

3. Label and identify as "wild game" or by the species of wild game, "antelope," "deer," "elk," "moose," "bear," etc.;

4. Store the heads, horns, capes, feet, skins, or any part thereof in closed containers and in a manner that shall not create an offensive condition or odor.

 E. A voluntary inspection program administered by the Department and meeting the requirements of the USDA for game animals such as exotic animals (reindeer, elk, deer, antelope, water buffalo, or bison) that are "inspected and passed" in accordance with 9 CFR 352, *Exotic Animals Voluntary Inspection*, 9 CFR 354, *Voluntary Inspection of Rabbits and Edible Products Thereof*, and 9 CFR 362, *Voluntary Poultry Inspection Regulations* shall be performed. As defined in 9 CFR 416 and 417; HACCP and SSOP requirements will be required of the establishment as well.

 F. An animal may not be received for sale or service if it is a species of wildlife that is listed in 50 CFR 17, *Endangered and Threatened Wildlife and Plants*.

 **Subsection 3: Rendering**

 Rendering of carcasses and parts must be done in accordance with 9 CFR 315, *Rendering or Other Disposal of Carcasses and Parts Passed for Cooking*, or in compliance with other generally accepted practices, which may include composting.

 **Subsection 4: Package Integrity**

 Food packages must be in good condition and protect the integrity of the contents so that the food is not exposed to adulteration or potential contaminants.

 **Subsection 5: Packaged and Unpackaged Food; Separation, Packaging, and Segregation**

 A. Food must be protected from cross contamination by:

 1. Separating raw animal foods during storage, preparation, holding, and display from cooked ready to eat food.

 2. Except when combined as ingredients separating types of raw animal food from each other such as beef, fish, lamb, pork, and poultry during storage, preparation, holding and display by:

 a. Using separate equipment for each type; or

 b. Arranging any type of food in equipment so that cross contamination of one type with another is prevented; and

 c. Preparing each type of food at different times or in separate areas;

 3. Cleaning equipment and utensils as specified under Section 7, Subsection 1, and sanitizing as specified under Section 7, Subsection 5;

 4. Except as specified in Section 3, Subsection 5(B), storing the food in packages, covered containers, or wrappings;

 5. Cleaning hermetically sealed containers of food of visible soil before opening;

 6. Protecting food containers that are received packaged together in a case or over-wrap from cuts when the case or over-wrap is opened;

 7. The use of burlap as a wrapping for meat will not be permitted unless the meat is first wrapped with a food grade paper or cloth, which will prevent contamination with lint or other foreign matter.

 B. Section 3, Subsection 5(A), (4) does not apply to:

 1. Primal cuts, quarters, or sides or raw meat or slab bacon that are hung on clean, sanitized hooks or placed on clean, sanitized racks; or smoked or cured sausages that are placed on clean, sanitized racks;

 2. Food being cooled as specified under Section 3, Subsection 13(B), (2).

 **Subsection 6: Temperature Requirements**

A. Refrigerated, potentially hazardous food must be kept at a temperature of 41 degrees F or below.

B. Potentially Hazardous food that is cooked to a temperature and for a time specified under Section 3, Subsection 17, and 18, and received hot, must be kept at a temperature of 140 degrees F or above.

C. A food that is labeled and shipped frozen by a processing plant must be received frozen.

D. Upon receipt, potentially hazardous food must be free of evidence of previous temperature abuse.

 **Subsection 7: Food Contact with Equipment and Utensils**

 Food may only contact surfaces of equipment and utensils that are cleaned as specified under Section 7, Subsection 1, of these Rules and sanitized as specified under Section 7, Subsection 3, of these Rules.

 **Subsection 8: Miscellaneous Sources of Contamination**

 Food must be protected from contamination that may result from a factor or source not specified under Section 3, Subsection 16.

 **Subsection 9: Food Storage, Allowable Areas**

 A. Food must be protected from contamination by storing the food:

 1. In a clean dry location;

 2. Where it is not exposed to splash, dust, or other contamination; and

 3. At least six inches above the floor.

 B. Food in packages and working containers may be stored less than six inches above the floor on case lot handling equipment.

 **Subsection 10: Food Storage, Prohibited Areas**

 A. Food may not be stored:

 1. In locker rooms;

 2. In toilet rooms;

 3. In dressing rooms;

 4. In garbage rooms;

 5. In mechanical rooms;

 6. Under sewer lines that are not shielded to intercept potential drips;

 7. Under leaking water lines, including leaking automatic fire sprinkler heads, or under lines on which water has condensed;

 8. Under open stairwells; or

 9. Under other sources of contamination.

 **Subsection 11: Cooling, Heating, and Holding Capacities**

 Equipment for cooling and heating food, and holding cold and hot food, must be sufficient in number and capacity to maintain food temperatures as specified under Section 3, Subsections 12, 17, 18, 19, 20 and 25.

 **Subsection 12: Cooling Times and Temperatures**

 A. Cooked potentially hazardous food must be cooled:

 1. Within 2 hours, from 140 degrees F to 70 degrees F; and

 2. Within 4 hours, from 70 degrees F to 41 degrees F or less, or to 45 degrees F as specified under Section 3, Subsection 24(A), (3).

 B. Potentially hazardous food must be cooled within 4 hours to 41 degrees or less, or to 45 degrees F as specified under Section 3, Subsection 24(A), (3), if prepared from ingredients from ambient temperature.

 **Subsection 13: Cooling Methods**

 A. Cooling must be accomplished in accordance with the time and temperature criteria specified under Section 3, Subsection 12, by using one or more of the following methods based on the type of food being cooled:

1. Placing the food in shallow pans;

2. Separating the food into smaller or thinner portions;

3. Using rapid cooling equipment;

4. Stirring the food in a container, place in an ice water bath;

5. Using containers that facilitate heat transfer;

6. Adding ice as an ingredient; or

7. Other effective methods.

 B. When placed in cooling or cold holding equipment, food containers in which food is being cooled must be:

1. Arranged in the equipment to provide maximum heat transfer through the container walls; and

2. Loosely covered, or uncovered if protected from over head contamination as specified under Section 3, Subsection 9(A), (2), during the cooling period to facilitate heat transfer from the surface of the food.

 **Subsection 14: Frozen Food Storage**

 Stored frozen foods must remain frozen.

 **Subsection 15: Ice**

 Ice used for use as a food or a cooling medium must be free of contamination.

 **Subsection 16: Food Preparation Preventing Contamination**

 During preparation, unpackaged food must be protected from environmental sources of contamination.

 **Subsection 17: Raw Animal Foods, Heating Times and Temperatures**

 A. Except as specified in Section 3, Subsection 17(B), and (C), raw animal foods must be cooked to heat all parts of the food to a temperature and for a time that complies with one of the following methods depending on the food that is being cooked:

 1. 145 degrees F or above for 15 seconds:

 a. Except as specified under Section 3, Subsection 17(A), (2), and (B), meat including pork and game animals commercially raised for food as specified under Section 3, Subsection 2(B) and (C), and game animals under a voluntary inspection program as specified under Section 3, Subsection 2(C);

 2. 155 degrees F for 15 seconds or the temperature specified in the following chart that corresponds to the holding time for ratites, injected meats, comminuted meat, meat, game animals commercially raised for food as specified under Section 3, Subsection 2(A), and (B), game animals under a voluntary inspection program as specified under Section 3, Subsection 2(C);

|  |
| --- |
| **Minimum** |
| **Temperature****°C (°F)** | **Time** |
| 63 (145) | 3 minutes |
| 66 (150) | 1 minute |
| 70 (158) | < 1 second (instantaneous) |

 ; or

 3. 165 degrees F or above for 15 seconds for poultry, wild game animals as specified under Section 3, Subsection 2(B), and (C), stuffed meat, stuffed poultry, stuffed ratites.

 B. Whole beef roasts, corned beef roasts, pork roasts, and cured pork roasts such as ham, must be cooked:

 1. In an oven that is preheated to the temperature specified for the roast's weight in the following chart and that is held at that temperature:

|  |  |
| --- | --- |
| **Oven Type** | **Oven Temperature Based On Roast Weight** |
|  | Less than 10 pounds | 10 pounds |
| Still Dry | 350 degrees F or more | 250 degrees F or more |
| Convention | 325 degrees F or more | 250 degrees F or more |
| High Humidity \* | 250 degrees F or more | 250 degrees F or more |

 \* = Relative humidity greater than 90% for at least 1 hour as measured in the cooking chamber or exit of the oven; or in a moisture impermeable bag that provides 100% humidity.

2. As specified in the following chart to heat all parts of a food to a temperature and for the holding time that corresponds to that temperature:

|  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- |
| **Temperature****Degrees F** | **Time \*****Minutes** | **Temperature****Degrees F** | **Time \*****Minutes** | **Temperature****Degrees F** | **Time \*****Minutes** |
| 130 | 121 | 136 | 32 | 142 | 8 |
| 132 | 77 | 138 | 19 | 144 | 5 |
| 134 | 47 | 140 | 12 | 145 | 3 |

 \* Holding time may include post oven heat rise.

 C. An undercooked whole muscle, intact beef steak may be served or offered for sale in a ready to eat form if:

1. The establishment serves a population that is not a highly susceptible population;

2. The steak is labeled to indicate that is meets the definition of whole muscle, intact beef as specified under Section 3, Subsection 1; and

3. The steak is cooked on both top and bottom to a surface temperature of 145 degrees F or above and a cooked color change is achieved on all external surfaces.

 D. A raw animal food such as steak tartare; or a partially cooked food such as rare meat other than whole muscle, intact beef steaks as specified in Section 3, Subsection 17(C), may be served or offered for sale in a ready to eat form if:

1. The food establishment serves a population that is not a highly susceptible population; and

2. The food is prepared in response to a consumer's order and for immediate service; or

3. The Department grants a variance from Section 3, Subsection 17(A), or (B), as specified in Section 1, Subsection 5(A), based on a HACCP plan that:

a. Is submitted by the license holder and approved as specified under section 1, Subsection 6;

b. Documents scientific data or other information showing that a lesser time and temperature regimen results in a safe food; and

c. Verifies that equipment and procedures for food preparation and training of food employees at the establishment meet the condition of the variance.

 **Subsection 18: Raw Animal Food, Microwave Cooking**

 A. Raw animal food cooked in a microwave oven must be:

 1. Rotated or stirred throughout or midway through cooking to compensate for uneven distribution of heat;

 2. Covered to retain surface moisture;

 3. Heated to a temperature of at least 165 degrees F in all parts of the food; and

 4. Allowed to stand covered for 2 minutes after cooking to obtain temperature equilibrium.

 **Subsection 19: Reheating for Hot Holding**

 A. Except as specified under Section 3, Subsection 19(B), (C), and (E), potentially hazardous food that is cooked, cooled and reheated for hot holding must be reheated so that all parts of the food reach a temperature of at least 165 degrees F for 15 seconds.

 B. Except as specified under Section 3, Subsection 19(C), potentially hazardous food reheated in a microwave oven for hot holding must be reheated so that all parts of the food reach a temperature of at least 165 degrees F and the food is rotated or stirred, covered, and allowed to stand covered for 2 minutes after reheating.

 C. Ready to eat food taken from a commercially processed, hermetically sealed container, or from an intact package from a processing plant that is inspected by the Department must be heated to a temperature of at least 140 degrees F for hot holding.

 D. Reheating for hot holding must be done rapidly at the time the food is between the temperature of 41 and 45 degrees, and must be heated to an internal temperature of 165 degrees F, but may not exceed 2 hours at this temperature.

 E. Remaining unsliced portions or roasts of beef that are cooked as specified under Section 3, Subsection 17(B), may be reheated for hot holding using the oven parameters and minimum time and temperature conditions specified under Section 3, Subsection 17(B).

 **Subsection 20: Reheating for Immediate Service**

 Cooked and refrigerated food that is prepared for immediate service in response to an individual consumer order, such as roast beef sandwich au jus, may be served at any temperature.

 **Subsection 21: Food Temperature Measuring Devices**

 Food temperature measuring devices must be provided and readily accessible for use in ensuring attainment and maintenance of food temperatures.

 **Subsection 22: Thawing Potentially Hazardous Foods**

 A. Except as specified in Section 3, Subsection 22(A), (4), potentially hazardous food must be thawed;

1. Under refrigeration that maintains the food temperature at 41 degrees F or less, or at 45 degrees F as specified under Section 3, Subsection 22(A), (3); or

2. Completely submerged under running water;

 a. At a water temperature of 70 degrees F or below;

 b. With a sufficient water velocity to agitate and float off loose particles and overflow; and

 c. For a period of time that does not allow thawed portions of ready to eat food to rise above 41 degrees F, or 45 degrees F as specified under Section 3, Subsection 22A), (3); or

 d. For a period of time that does not allow thawed portions of raw animal food requiring cooking as specified under Section 3, Subsection 17(A) or (B), to be above 41 degrees F, or 45 degrees F, as specified in Section 3, Subsection 22A), (3); including

I. The time the food is exposed to running water and the time needed for the preparation for cooking; or

II. The time it takes under refrigeration to lower the food temperature to 41 degrees F, or 45 degrees F, as specified under Section 3, Subsection 24.

 3. As part of a cooking process if the food that is frozen is:

 a. Cooked as specified under Section 3, Subsection 17(A), or (B) or Section 3, Subsection 19;

 b. Thawed in a microwave oven and immediately transferred to conventional cooking equipment, with no interruption in the process; or

 4. Using any procedure if a portion of frozen ready to eat food is thawed and prepared for immediate service in response to an individual consumer's order.

 **Subsection 23: Potentially Hazardous Food, Slacking**

 A. Frozen potentially hazardous food that is slacked to moderate the temperature must be held:

 1. Under refrigeration that maintains the food temperature at 41 degrees F, or at 45 degrees F or less, as specified under Section 3, Subsection 24A), (3); or

 2. At any temperature if the food remains frozen.

 **Subsection 24: Potentially Hazardous Food, Hot and Cold Holding**

 A. Except during preparation, cooking, or cooling, potentially hazardous food must be maintained

 1. At 140 degrees F or above, except roasts cooked to a temperature and for a time specified under Section 3, Subsection 19, may be held at a temperature of 130 degrees F; or

 2. At 41 degrees F or less, except as specified under Section 3, Subsection 24A), (3), Subsections 59, and 60;

 3. At 45 degrees F or between 41 and 45 degrees F in existing refrigeration equipment that is not capable of maintaining the food at 41 degrees F or less if:

 a. The equipment is in place and in use in the establishment; and

 b. Within ten years of the Department's adoption of these Rules, the equipment is upgraded or replaced to maintain food at a temperature of 41 degrees F or less.

 **Subsection 25: Variance Requirement**

 An establishment or processing plant must obtain a variance from the Department as specified in Section 1, Subsection 6, and under Section 1, Subsection 7, before smoking food as a method of food preservation rather than as a method of flavor enhancement; curing food; using food additives or adding components such as vinegar as a method of food preservation rather than as a method of flavor enhancement or to render a food so that it is not potentially hazardous; packaging food using a reduced oxygen packaging method except as specified under Section 3, Subsection 27, where a barrier to Clostridium Botulinum exists, in addition to using refrigeration; custom processing animals that are for personal use as food and not for sale or service in an establishment or processing plant; or preparing food by another method that is determined by the Department to require a variance.

 **Subsection 26: Reduced Oxygen Packaging Criteria**

 A. Except for an establishment or processing plant that obtains a variance as specified under Section 3, Subsection 25 an establishment or processing plant that packages food using a reduced oxygen packaging method and Clostridium Botulinum is identified as a microbiological hazard in the final packaged form must ensure that there are at least two barriers in place to control the growth and toxin formation or Clostridium Botulinum.

 B. An establishment or processing plant that packages food using a reduced oxygen packaging method and Clostridium Botulinum is identified as a microbiological hazard in the final packaged form must have a HACCP plan that contains the information specified under Section 10, Subsection 2(A), (4), and that;

 1. Identifies the food to be packaged;

 2. Limits the food packaged to a food that does not support the growth of Clostridium Botulinum because it complies with one of the following:

 a. Has an Aw of 0.91 or less;

 b. Has a pH of 4.6 or less;

 c. Is a meat or poultry product cured at a food processing plant regulated by the USDA using substances specified in 9 CFR 424, *Preparation of Processing Operations*, and is received in an intact package; or

 d. Is a food with a high level of competing organisms such as raw meat or raw poultry;

 3. Specifies methods for maintaining at 41 degrees F or below;

 4. Describes how the packages shall be prominently and conspicuously labeled on the principal display panel in bold type on a contrasting background, with instructions to:

 a. Maintain the food at 41 degrees F or below; and

 b. Discard the food if within 14 days of its packaging it is not served for on premises consumption, or consumed if served or sold off premises consumption;

 5. Limits the shelf life to no more than 14 calendar days from packaging to consumption or the original manufacturer's "sell by" or "use by" date, whichever occurs first;

 6. Includes operational procedures that;

 a. Prohibit contacting food with bare hands;

 b. Identify a designated area and the method by which:

 I. Physical barriers or methods of separation of raw foods and ready to eat foods minimize cross contamination; and

 II. Access to the processing equipment is restricted to responsible trained personnel familiar with the potential hazards of the operation; and

 III. Delineate cleaning and sanitization procedures for food contact surfaces.

 7. Describes the training program that ensures that the individual responsible for the reduced oxygen packaging operation understands the:

 a. Concepts required for safe operation;

 b. Equipment and facilities; and

 c. Procedures specified under Section 3, Subsection 26(A), (4), and Section 10, Subsection 2(A), (4).

 **Subsection 27: Standards of Identity**

 Packaged food must comply with standard of identity requirements as specified in 9 CFR 319, *Definitions and Standards of Identity or Composition*.

 **Subsection 28: Honestly Presented**

 A. Food must be offered for human consumption in a way that does not mislead or misinform the consumer.

 B. Food or color additives, colored over wraps, or lights may not be used to misrepresent the true appearance, color, or quality or food.

 **Subsection 29: Consumer Warnings, Date Information**

 Food establishment or manufacturers' dating information on foods may not be concealed or altered.

 **Subsection 30: Discarding or Reconditioning Unsafe, Adulterated, or Contaminated Food**

A. A food that is unsafe, adulterated, or not honestly presented shall be reconditioned according to an approved procedure or discarded.

B. Food that is not from an approved source as specified under Section 3, Subsections 1 and 2, shall be discarded.

C. Ready to eat food that may have been contaminated by an employee that has been restricted or excluded, shall be discarded.

D. Food that is contaminated by food employees, consumers, or other persons through contact with their hands, bodily discharges, such as nasal or oral discharges, or other means shall be discarded.

 **Subsection 31: Prohibited Re-service and Prohibited Food, Unless a Specific HACCP Plan is Being Utilized**

 A. In an establishment that serves a highly susceptible population the following foods may not be served or offered for sale in a ready to eat form:

 1. Raw animal food such as steak tartare; or

 2. A partially cooked animal food such as rare meat; unless

 a. The preparation of the food is conducted under a HACCP plan that:

 I. Identifies the food to be prepared;

 II. Prohibits contact with food ready to eat, with bare hands;

III. Includes specifications and practices that ensure:

i. Salmonella enteritidis growth is controlled before and after cooking; and

ii. Contains the information specified in Section 10, Subsection 2(A), (4), including procedures that:

1. Delineate cleaning and sanitization procedures for food contact surfaces; and

2. Describes the training program that ensures that the food employee responsible for the preparation of the food understands the procedures to be used.

 **Subsection 32: Meat and Poultry Establishment Processing Requirements**

 Meat and poultry products processed in an official establishment must meet the requirements of 9 CFR 318, *Products and Other Articles Entering Official Establishments*, 9 CFR 319, *Definitions and Standards of Identity or Composition*, and 9 CFR 381, *Poultry Products Inspection Regulations*, Subpart O - *Entry of Articles into Official Establishments; Processing Inspection and Other Re-inspections; Processing Requirements*; and Subpart P, *Definitions and standards of Identity or Composition*.

 **Subsection 33: Tagging Food Products, "Maine Retained"**

 A. Any food product suspected of being unsound, unhealthful, and adulterated or in any way unfit shall have the original mark, stamp, or label thereon removed or defaced and may be tagged with a "Maine Retained" tag by the Department.

 B. The Department shall record:

 1. The tag number; and

 2. The kind and amount of food product retained.

 C. The tag shall:

 1. Accompany the food product to the room in which it is retained for final inspection; and

 2. Not be removed except by the Department.

 3. When the final inspection is made, if the food product is an inspected meat product, the original mark, stamp, or label thereon shall be removed or defaced and the Department shall stamp "Inspected and Condemned;" and

 4. The retain tag shall accompany the meat product into the place of destruction.

 D. The Department shall make a complete record of the transaction.

 E. If upon final inspection, the food product is passed, the Department shall remove the retained tag and record the transaction.

**Section 4 - LABELING**

 **Subsection 1: Labels**

 A. Food labeled in an establishment shall be labeled as specified by law, 9 CFR 317, *Labeling, Marking Devices, and Containers* and 381, Subpart N, *Labeling and Containers*.

 B. Label information must include:

 1. The common name of the food, or if absent a common name, an adequately descriptive identity statement;

 2. If made from two or more ingredients, a list of ingredients in descending order or predominance by weight, including a declaration of artificial color or flavor and chemical preservatives, if contained in the food;

 3. An accurate declaration of the quantity of contents;

 4. The name and place of business of the manufacturer, packer, or distributor.

 **Subsection 2: Imported Meat Labeling; Requirements and Inspections**

 A. Every retailer and every wholesaler who sells and offers for sale in this state through an establishment or otherwise any meat, which is the product of any country foreign to the United States, shall clearly label the meat as "imported" naming the country of its origin.

 B. The following labeling requirements shall be required:

 1. Meat from a foreign country received from a wholesaler or distributor must be clearly and distinctly marked to identify the meat or the meat package as being imported and specify country of origin.

 a. The label can be of any size or configuration as long as it is clearly visible and readable when viewing the primary product label

 b. If the meat is intended for retail sale it must have a label attached indicating, "Imported" and stating the country of origin.

 c. If raw product is displayed in an unpackaged form and displayed in a retail case, a visible placard stating the foreign country of the said product may be used in lieu of a label.

 C. Inspectors of the Maine Department of Agriculture shall, as part of their routine inspections of wholesale and retail establishments, inspect the meat and containers of raw meat received by the establishment to verify that meat received which is the product of any country foreign to the United States is clearly labeled to identify the product as "Imported" and the country of origin is properly named.

 **Subsection 3: Official Marks, Devices, Marking Products and Their Containers**

 A. An official inspection legend, and such other marks, devices, and certificates as required by 9 CFR 312, *Official Marks, Devices, and Certificates*, and 9 CFR 316, *Marking Products and Their Containers*, and 9 CFR 381, Subpart N, *Labeling and Containers* must be applied and used on inspected and passed carcasses and parts of carcasses of cattle, sheep, swine and goats, meat food products in animal casings, and other products as approved by the Commissioner and must be in the appropriate form.

 1. Meat inspection stamps that contain the words "Maine Inspected and Passed" and "Maine Inspected and Condemned" shall be provided by the Maine Department of Agriculture to all establishments, which have been approved and granted state meat or poultry inspection service by the Department.

 B. The use of the inspection legend is prohibited except under supervision of the Commissioner or his designee.

 1. No person shall affix or place, or cause to be affixed or placed, the inspection legend, or any abbreviation, copy or representation thereof, to or on any product or container thereof except under the supervision of the Commissioner or his designee; and

 2. No person shall fill or cause to be filled, in whole or in part with any product, any container bearing or intended to bear the inspection legend or any abbreviation, copy or representation thereof, except under the supervision of the Commissioner or his designee.

 C. Brands and marking devices shall be approved by the Commissioner, and strict control of brands shall be maintained.

 1. The Department shall furnish or have approved such ink brands, burning brands and like devices for marking products as the Commissioner may require.

 a. The mark of inspection on such a device shall be a facsimile of one of the official brands using the size best suited for the intended purpose.

 2. In advance of manufacture, brands and marking devices shall:

 a. Have complete and accurate descriptions and designs as specified in Section 4, Subsection 3(C), (1), and (a), submitted to and approved by the Commissioner.

 b. Every such brand and device which bears the inspection legend shall be delivered into the custody of the Maine Department of Agriculture; and

 c. Be used only under the supervision of the Maine Department of Agriculture.

 3. When not in use for marking inspected and passed product, all such brands and devices bearing the inspection legend shall be kept locked in properly equipped lockers or compartments, the keys of which shall not leave the possession of the Department.

 D. No person shall remove or cause to be removed from an official establishment any article, which these Rules require to be marked.

 E. Branding ink shall be:

 1. Furnished by the official establishment for marking product;

 2. Made with harmless ingredients that are approved by the Maine Department of Agriculture; and

 3. Of proper color.

 F. Brands or marking devices shall be of such style and type as will make a clear and legible impression as determined by the Maine Department of Agriculture.

 G. Each carcass which has been inspected and passed in an official establishment shall be marked at the time of the inspection with the inspection legend in accordance with 9 CFR 316, *Marking Products and Their Containers*, and 9 CFR 381, Subpart M - *Official Marks, Devices and Certificates; Export Certificates; Certification Procedures*.

 H. The official inspection legend, marks, devices and certificates required by 9 CFR 352, *Exotic Animals Voluntary Inspection*; 9 CFR 354, *Voluntary Inspection of Rabbits and Edible Products Thereof*, and 9 CFR 362, *Voluntary Poultry Inspection Regulations*, shall be applied and used on inspected and passed carcasses and parts of carcasses of exotic animals, poultry, or rabbits as approved by the Commissioner and shall be in the appropriate form.

 I. The specific requirements for use of an official mark of inspection shall be the same as Subsection 3, (A-G) above and Subsection 4 below.

 **Subsection 4: Specific Labeling Requirements for Inspected and Passed Meat and Poultry Products, Label Contents and Approval**

 A. Any inspected and passed meat or poultry product placed or packed in any can, pot, tin, canvas or other receptacle or covering constituting an immediate or true container shall be labeled as specified in these Rules, or in law, including 9 CFR 317, *Labeling, Marking Devices and Containers*, and 9 CFR 381, Subpart N - *Labeling and Containers*.

 B. Labels shall be approved by the Commissioner.

 1. The label shall be submitted in triplicate to the Commissioner for approval; and

 2. The label shall be submitted as it appears in its final form;

 3. Inserts, tags, liners, pasters and like devices containing printed or graphic matter and for use on, or to be replaced within, containers and coverings of product shall be:

 a. Submitted for approval in the same manner as provided for labels in Section 4, Subsection 5(B)(1), except that:

 I. The Department may permit the use of approved devices, which contain no reference to product and bear no misleading feature;

 II. The Department may permit the use of approved labels or other markings, so used as not to be false or deceptive.

 III. Approved labels may only be used on:

 i. Products to which they are applicable;

 ii. Products for which they are approved.

**Section 5 - PERSONAL HYGIENE**

 **Subsection 1: Employee Health**

 Food employees experiencing persistent sneezing, coughing, or a runny nose that causes discharges from the eyes, nose, or mouth may not work with exposed food; clean equipment, utensils, or linens.

 **Subsection 2: Personal Cleanliness**

 A. Food Employees shall keep their hands and exposed portions or their arms clean.

 B. Food employees shall clean their hands and the exposed portions of their arms with a cleaning compound in a lavatory, by vigorously rubbing together the surfaces of their lathered hands and arms for at least 20 seconds and thoroughly rinsing with clean water. Employees shall pay particular attention to the areas underneath the fingernails and between the fingers.

 C. Food employees shall clean their hands and exposed portions of their arms immediately before engaging in food preparation including working with exposed food, clean equipment and utensils.

**Section 6 - EQUIPMENT AND UTENSILS**

 **Subsection 1: Equipment and Utensils, Design and Construction**

 A. Equipment and utensils shall be designed and constructed to be durable and to retain their characteristic qualities under conditions of normal use.

 B. Equipment and utensils should be of a safe material that is resistant under normal conditions of use to scratching, scoring, decomposition, chipping, and distortion, they should be of sufficient weight and thickness to permit cleaning and sanitizing by normal dishwashing methods.

 **Subsection 2: Characteristics of Food Contact Surfaces**

 A. Utensils and food contact surfaces of equipment must be constructed of materials that do not allow the migration of deleterious substances or impart colors, odors, or tastes to food under conditions of normal use and must be:

 1. Safe;

 2. Durable, corrosion-resistant, and nonabsorbent;

 3. Sufficient in weight and thickness to withstand repeated ware washing;

 4. Finished to have a smooth easily cleanable surface; and

 5. Resistant to pitting, chipping, scratching, scoring, distortion, and decomposition.

 **Subsection 3: Conditioning Device, Design**

 A water filter, screen, and other water-conditioning device installed on water lines must be designed to facilitate disassembly for periodic servicing and cleaning. A water filter element must be of the replaceable type.

 **Subsection 4: Food Contact Surfaces**

 A. Multi-use food contact surfaces must be:

 1. Smooth;

 2. Free of breaks, open seams cracks, chips, pits, and similar imperfections;

 3. Free of sharp internal angles, corners and crevices;

 4. Finished to have smooth welds and joints; and

 5. Accessible for cleaning and inspection by one of the following methods:

 a. Without being disassembled;

 b. By disassembling without the use of tools; or

 c. By easy disassembling with the use of handheld tools commonly available to maintenance and cleaning personnel such as screwdrivers, pliers, open-end wrenches, and allen wrenches.

 **Subsection 5: Bearings and Gearboxes, Leak proof**

 Equipment containing bearings and gears that require lubricants must be designed and constructed so that the lubricant cannot leak, drip, or be forced into food or onto food contact surfaces.

 **Subsection 6: Food Contact Surface Lubricants**

 Lubricants must be applied to food contact surfaces that require lubrication in a manner that does not contaminate food contact surfaces.

 **Subsection 7: Condenser Unit, Separation**

 If a condenser unit is an integral component of equipment, the unit itself must be separated from the food and food storage space by a dust proof barrier.

 **Subsection 8: Ware-washing Sinks and Drain-boards, Self-draining**

 Sinks and drain-boards or ware-washing sinks and machines shall be self-draining.

 **Subsection 9: Equipment Compartments, Drainage**

 Equipment compartments that are subject to accumulation of moisture due to conditions such as condensation, food or beverage drip, or water from melting ice must be sloped to an outlet that allows complete draining.

 **Subsection 10: Cleaned In Place (CIP) Equipment**

 A. CIP equipment must meet the characteristics specified under Section 6, Subsection 4, and must be designed and constructed so that:

 1. Cleaning and sanitizing solutions circulate throughout a fixed system and contact all interior food contact surfaces; and

 2. The system is self-draining or capable of being completely drained of cleaning and sanitizing solutions.

 B. CIP equipment that is not designed to be disassembled for cleaning must be designed with inspection access points to ensure that all interior food contact surfaces throughout the fixed system are being effectively cleaned.

 **Subsection 11: Temperature Measuring Devices**

 A. In a mechanically refrigerated or hot food storage unit, the sensor of a temperature measuring device must be located such as to measure the air temperature in the warmest part of a mechanically refrigerated unit and in the coolest part of a hot food storage unit.

 B. Cold or hot holding equipment used for potentially hazardous food must be designed to include and must be equipped with at least one integral or permanently affixed temperature measuring device that is located to allow easy viewing of the device's temperature display.

 C. Temperature measuring devices must be designed to be easily readable.

 D. Food temperature measuring devices must have a numerical scale, printed record, or digital readout in increments no greater that 2 degrees F in the intended range of use.

 **Subsection 12: Food Temperature Measuring Devices**

A. Food temperature measuring devices may not have sensors or stems constructed of glass, except that thermometers with glass sensors or stems that are encased in a shatterproof coating such as candy thermometers may be used.

B. Food temperature measuring devices that are scaled only in Celsius or dually scaled in Celsius and Fahrenheit must be accurate to within 1 degree C in the intended range of use.

C. Food temperature measuring devices that are scaled only in Fahrenheit must be accurate to 2 degrees F in the intended range of use.

 **Subsection 13: Nonfood Contact Surfaces**

A. Nonfood contact surfaces of equipment that are exposed to splash, spillage, or other food soiling or that require frequent cleaning must be constructed of a corrosion resistant, nonabsorbent, and smooth material.

B. Nonfood contact surfaces must be free of unnecessary ledges, projections, and crevices, and designed and constructed to allow easy cleaning and to facilitate maintenance.

 **Subsection 14: Heating, Ventilating, Air Conditioning System Vents**

 Heating, ventilating and air conditioning systems must be designed and installed so that air intake and exhaust vents do not cause contamination of food, food contact surfaces, equipment, or utensils.

 **Subsection 15: Ventilation Hood Systems, Drip Prevention**

 Exhaust ventilation hood systems in food preparation and ware-washing areas including components such as hoods, fans, guards, and ducts must be designed to prevent grease or condensation from draining or dripping onto food, equipment, or utensils.

 **Subsection 16: Ventilation Hood Systems, Filters**

 Filters or other grease extracting equipment must be designed to be readily removable for cleaning and replacement if not designed to be cleaned in place.

 **Subsection 17: Equipment Repair and Proper Adjustment**

A. Equipment must be maintained in a state of repair and condition that meets the requirements specified under Section 6, Subsections 1 and 2.

B. Equipment components such as doors, seals, hinges, fasteners, and kick plates must be kept intact, tight, and adjusted in accordance with manufacturer's specifications.

 **Subsection 18: Calibration**

A. Food temperature measuring devices must be calibrated in accordance with manufacturer's specifications as necessary to ensure their accuracy.

B. Ambient air temperature, water pressure, and water temperature measuring devices must be maintained in good repair and be accurate within the intended range of use.

 **Subsection 19: Cutting Surfaces**

 Surfaces such as cutting blocks and boards that are subject to scratching and scoring must be resurfaced if they can no longer be effectively cleaned and sanitized, or discarded if they are not capable of being resurfaced.

 **Subsection 20: Fixed Equipment, Elevation or Sealing**

A. Except as specified under Section 6, Subsection 21(B), floor mounted equipment that is not easily movable must be sealed to the floor or on legs that provide at least a 6-inch clearance between the floor and the equipment.

B. If no part of the floor under the floor mounting equipment is more than 6 inches from the point of cleaning access, the clearance space may be only 4 inches.

C. This section does not apply to display shelving units, display refrigeration units, and display freezer units located in the consumer shopping areas of a retail food store, if the floor under the unit is maintained clean.

D. Except as specified under Section 6, Subsection 21(B), table mounted equipment that is not easily movable must be elevated on legs that provide at least 4 inches clearance between the table and equipment.

E. The clearance space between the table and the table-mounted equipment may be:

1. Three inches if the horizontal distance of the table top under the equipment is no more than 20 inches from the point of access for cleaning; or

2. Two inches if the horizontal distance of the table top under the equipment is no more than 3 inches from the point of access for cleaning.

 **Subsection 21: Fixed Equipment, Spacing or Sealing**

 A. Equipment that is fixed because it is not easily movable must be installed so that it is:

 1. Spaced to allow access for cleaning along the sides, behind, and above the equipment;

 2. Spaced from adjoining equipment walls, and ceilings a distance of not more than one thirty-second inch or 1 millimeter; or

 3. Sealed to adjoining equipment or walls, if the equipment is exposed to spillage or seepage.

 B. Table mounted equipment that is not easily moveable must be installed to allow cleaning of the equipment and areas underneath and around the equipment by being:

 1. Sealed to the table; or

 2. Elevated on legs as specified in Section 6, Subsection 20(D).

**Section 7 - CLEANING, SANITIZATION AND STORAGE EQUIPMENT AND UTENSILS**

 **Subsection 1: Equipment Food Contact Surfaces and Utensils**

 A. Equipment food contact surfaces and utensils must be cleaned:

 1. Between each use of a different type of raw animal species such as beef, lamb, pork, or poultry;

 2. Each time there is a change from working with raw food to working with ready to eat food;

 3. At any time during the operation when contamination may have occurred.

 **Subsection 2: Manual Ware-washing, Sink Compartment Requirements**

 A. A sink with at least 3 compartments must be provided for manual washing, rinsing and sanitizing equipment and utensils.

 B. Sink compartments must be large enough to accommodate immersion of the largest equipment and utensils. If equipment or utensils are too large for the ware-washing sink, then alternative equipment specified in Section 7, Subsection 2(C), must be used.

 C. Alternative manual ware-washing equipment may include:

 1. High pressure detergent sprayers;

 2. Low pressure spray detergent foamers; or

 3. Other task specific cleaning equipment.

 **Subsection 3: Hot Water and Chemical Sanitization**

 A. After being cleaned, equipment food contact surfaces and utensils must be sanitized in:

1. Hot water operations by contact or immersion in at least 180 degree water.

 2. Hot water operations by being cycled through equipment, and achieving a utensil surface temperature of 160 degrees F as measured by an irreversible registering temperature indicator; or

 3. Chemical, manual or mechanical operations, including the application of sanitizing chemicals by immersion, manual swabbing, brushing, or pressure spraying methods, which meet the following criteria:

a. An exposure time of at least 10 seconds for a chlorine solution;

b. An exposure time of at least 7 seconds for a chlorine solution of (50) mg/l that has a pH of 10 or less and a temperature of at least 100 degrees F or a pH of 8 or less and a temperature of at least 75 degrees F;

c. An exposure time of at least 30 seconds for other chemical sanitizing solutions; or

1. An exposure time used in relationship with a combination of temperature, concentration, and pH that, when evaluated for efficacy yields sanitization.

**Subsection 4: Ware-washing Equipment, Clean Solutions**

 The wash, rinse, and sanitize solutions must be maintained clean.

 **Subsection 5: Manual Ware-washing Equipment, Chemical Sanitization Using Detergent Sanitizers**

 A. If a detergent sanitizer is used to sanitize in a cleaning and sanitizing procedure where there is no distinct water rinse between the washing and sanitizing steps, the agent applied in the sanitizing step must be the same detergent sanitizer that is used in the washing step.

 **Subsection 6: Manual Ware-washing Equipment, Hot Water Sanitization Temperatures**

 When hot water is used for sanitizing, the temperature of the water must be maintained at 180 degrees F or above.

 **Subsection 7: Temperature Measuring Devices, Manual Ware-washing**

 A. In manual ware-washing operations, a temperature measuring device must be provided and readily accessible for frequently measuring the washing and sanitizing temperatures.

 **Subsection 8: Sanitization Requirements at Official Meat and Poultry Establishments**

 A. Each official establishment must be operated and maintained in a manner sufficient to prevent the creation of unsanitary conditions and to ensure that product is not adulterated.

 1. Sanitation requirements shall meet the requirements specified in 9 CFR 416, *Sanitation*.

 **Subsection 9: Tagging Unsanitary Equipment, Utensils, Rooms, or Compartments**

 A. When in the opinion of the Department, any equipment, utensil, room, or compartment at an establishment is unclean or its use would be in violation of these Rules, as "Maine Rejected" tag may be applied.

 1. No equipment, utensil, room or compartment so tagged may again be used until made acceptable; and

 2. Such tag so placed may not be removed by anyone other than the Department.

 **Subsection 10: Sanitizing Food Contact Surfaces in Commercial Slaughter Establishments**

 Utensils and equipment food contact surfaces shall be sanitized before use and after cleaning by either:

 A. Immersion or contact with potable water heated to a temperature of at least 180 degree F, or

 B. The application of a chemical sanitizer listed in 21 CFR 178.1010, *Sanitizing Solutions*, which shall be used in accordance with the EPA-approved manufacturer’s label use instructions.

**Section 8 - SANITARY FACILITIES AND CONTROLS**

 **Subsection 1: Approved Water Source**

 A. Drinking water must be obtained from an approved source that is:

 1. A public water system;

 2. A nonpublic water system that is constructed, maintained, and operated according to law.

 **Subsection 2: Approved Water System**

 A. Water must be received from the source from the use of:

 1. An approved public water main; or

 2. One or more of the following that must be constructed, maintained, and operated according to law:

a. Nonpublic water main, water pumps, pipes, hoses, connections, and other appurtenances;

b. Water transport vehicles; or

c. Water containers.

 **Subsection 3: Sampling**

 Water from a nonpublic water system must be sampled and tested at least semi-annually.

 **Subsection 4: Sample Report**

 The most recent sample report for the nonpublic water system must be retained on file in the establishment or processing plant.

 **Subsection 5: Capacity**

 The water source and system must be of sufficient capacity to meet the peak water demands of the establishment or processing plant.

 **Subsection 6: Water Pressure**

 Water under pressure must be provided to all fixtures, equipment, and nonfood equipment that are required to use water.

 **Subsection 7: Hot Water**

 A. Hot water generation and distribution systems must be sufficient to meet the peak hot water demands throughout the establishment or processing plant.

 B. Hot water must be used for the cleaning of inspection equipment and other equipment, floors, walls, and the like in commercial slaughter establishments, which are subject to contamination by the dressing or handling of diseased carcasses, their viscera and parts.

 **Subsection 8: Conveying Sewage**

 Sewage must be conveyed to the point of disposal through an approved sanitary sewage system or other system, including use of sewage transport vehicles, waste retention tanks, pumps, pipes, hoses, and connections that are constructed, maintained, and operated according to law.

 **Subsection 9: Toilet Rooms**

 Toilet rooms must be conveniently located and accessible to employees during all hours of operation.

 **Subsection 10: Hand-washing Lavatory, Minimum Number**

 A. Except as specified under Section 8, Subsection 10(B), at least 1 hand-washing lavatory must be provided.

 B. If approved by the Department and capable of removing the types of soils encountered in the food operations involved, an automatic hand washing facility may be used by food employees to clean their hands.

 C. If approved by the Department when food exposure is limited and hand-washing lavatories are not conveniently available, such as in some mobile or temporary establishments, employees may use chemically treated towelettes for hand-washing.

 **Subsection 11: Hand-washing Lavatory Location**

 A. A hand-washing lavatory must be located:

 1. To allow convenient use by employees in food preparation, food dispensing, and ware-washing areas;

 2. In, or immediately adjacent to, toilet rooms.

 **Subsection 12: Waste Receptacles, Inedible Products**

 A. Except as specified under Section 8, Subsection 12(B), receptacles and waste handling units for refuse, recyclables, and returnables and for use with materials containing food residue must be durable, cleanable, insect and rodent resistant, leak proof, and nonabsorbent.

 1. Trucks and receptacles used for inedible materials must be of similar construction and must bear some conspicuous and distinctive mark and may not be used for handling edible products.

 B. Plastic bags and wet strength paper bags may be used to line receptacles for storage inside the establishment or processing plant, or within closed outside receptacles.

 **Subsection 13: Covering Waste Receptacles**

 A. Receptacles and waste handling units for refuse, recyclables, and returnables must be kept covered with tight fitting lids and be kept:

 1. Inside the establishment or processing plant if the receptacles and units:

 a. Contain food residue and are not in continuous use; or

 b. After they are filled.

 **Subsection 14: Outside Waste Receptacles**

 A. Receptacles and waste handling units for refuse, recyclables, and returnables used with materials containing food residue and used outside the establishment or processing plant must be designed and constructed to have tight fitting lids, doors, or covers.

 B. Receptacles and waste handling units for refuse and recyclables such as an on site compactor must be:

 1. Installed so that the accumulation of debris and insect and rodent attraction and harborage are minimized;

 2. Facilitate effective cleaning, which requires, at a minimum, that the unit not be installed flush with the base pad under the unit.

 **Subsection 15: Cleaning Waste Receptacles**

 A. Receptacles and waste handling units for refuse; recyclables, and returnables must be thoroughly cleaned in a way that does not contaminate food, equipment, or utensils.

 B. Soiled receptacles and waste handling units for refuse, recyclables, and returnables must be cleaned at a frequency necessary to prevent them from developing a buildup of soil or becoming attractants for insects and rodents.

 **Subsection 16: Storing Refuse**

 Refuse must be stored in receptacles or waste handling units so that they are inaccessible to insects and rodents.

 **Subsection 17: Community or Individual Facility**

 Solid waste not disposed of through the sewage system such as through grinders and pulpers must be recycled or disposed of in an approved public or private community recycling or refuse facility; or solid waste may be disposed of in an individual refuse facility such as a landfill or incinerator which is sized, constructed, maintained, and operated in accordance with law.

 **Subsection 18: Controlling Pests**

 A. Insects, rodents, and other pests must be controlled to minimize their presence on the premises by:

 1. Routinely inspecting incoming shipments of food and supplies;

 2. Routinely inspecting the premises for evidence of pests;

 3. Using methods if pests are found, such as trapping devices or other means of pest control;

 4. Eliminating harborage conditions.

 **Subsection 19: Insect Control Devices, Design and Installation**

 A. Insect control devices that are used to electrocute or stun flying insects must be designed to retain the insect within the device.

 B. Insect control devices must be installed so that:

 1. The devices are not located over a food preparation area; and

 2. Dead insects and insect fragments are prevented from being impelled onto or falling on exposed food, clean equipment, or utensils.

 **Subsection 20: Rodent Bait Stations**

. Rodent bait must be contained in a covered, tamper resistant bait station.

 **Subsection 21: Outer Openings Protected**

 A. Outer openings of an establishment or processing plant must be protected against the entry of insects and rodents by:

 1. Filling or closing holes and other gaps along floors, walls, and ceilings;

 2. Closed, tight fitting windows; and

 3. Solid self-closing, tight fitting doors.

 B. If the windows or doors of an establishment or processing plant, or of a larger structure within which an establishment or processing plant is located, are kept open for ventilation or other purposes, the openings must be protected against the entry of insects or rodents by:

 1. Sixteen mesh to one inch screens;

 2. Properly designed and installed air curtains; or

 3. Other effective means.

 **Subsection 22: Exterior Walls and Roofs, Protective Barrier**

 Perimeter walls and roofs of an establishment or processing plant must effectively protect the establishment or processing plant from the weather and the entry of insects, rodents, and other animals.

 **Subsection 23: Operating and Storage Rooms for Inedibles, Outside Premises, Maintained in Clean Condition**

 A. All operating and storage rooms and departments of establishments used for edible materials must be maintained in acceptable clean conditions and meet the requirements as specified in 9 CFR 314, *Handling and Disposal of Condemned and Inedible Products at Official Establishments* and 9 CFR 381.95, *Disposal of Condemned Poultry Products*.

 B. The accumulation on the premises of establishments of any material in which flies may breed, such as hog hair, bones, paunch contents, or manure is forbidden.

**Section 9 - CONSTRUCTION AND MAINTENANCE OF PHYSICAL FACILITIES**

 **Subsection 1: Floor, Wall, and Ceiling Surface Characteristics**

 A. Materials for indoor floor, wall, and ceiling surfaces under conditions or normal use must be:

1. Smooth, durable, and easily cleanable for areas where establishment or processing plant operations are conducted;

2. Closely woven and easily cleanable carpet for carpeted areas; and

3. Nonabsorbent for areas subject to moisture such as food preparation areas, walk-in refrigerators, ware-washing areas, toilet rooms.

 **Subsection 2: Floors, Walls, and Ceilings; Designed and Installed**

 A. The floors, floor coverings, walls, wall coverings, and ceilings must be designed, constructed, and installed so they are smooth and easily cleanable, except that anti-slip floor coverings or applications may be used for safety reasons.

 **Subsection 3: Floor and Wall Junctures, Coved, and Enclosed or Sealed**

 A. In establishments in which cleaning methods other than water flushing are used for cleaning floors, the floor and wall junctures must be coved and closed to no larger than one thirty-second inch.

 B. The floors in establishments in which water flush cleaning methods are used must be provided with drains and be graded to drain, and the floor and wall junctures must be covered and sealed.

 **Subsection 4: Floors, Walls, and Ceilings; Utility Lines**

 A. Utility service lines and pipes may not be unnecessarily exposed.

 B. Exposed utility service lines and pipes must be installed to not obstruct or prevent cleaning of the floor, walls, or ceilings.

 C. Exposed horizontal utility service lines and pipes may not be installed on the floor.

 **Subsection 5: Wall and Ceiling Coverings and Coatings**

 A. Wall and ceiling covering materials must be attached so that they are easily cleanable.

 B. Except in areas used only for dry storage; concrete, porous blocks, or bricks used for indoor wall construction must be finished and sealed to provide a smooth, nonabsorbent, easily cleanable surface.

 **Subsection 6: Walls and Ceilings, Studs, Joists, and Rafters**

 Studs, joists, and rafters may not be exposed in areas subject to moisture.

 **Subsection 7: Walls and Ceilings, Attachments**

 A. Except as specified under Section 9, Subsection 7(B), attachments to walls and ceilings such as light fixtures, mechanical room ventilation system components, vent covers, wall mounted fans, decorative items, and other attachments must be easily cleanable.

 B. In a consumer area, wall and ceiling surfaces and decorative items and attachments that are provided for ambiance need not meet this requirement if they are kept clean.

 **Subsection 8: Cleaning, Frequency and Restrictions**

 A. The physical facilities must be cleaned as often as necessary to keep them clean.

 B. Cleaning must be done during periods when the least amount of food is exposed, such as after closing. This requirement does not apply to cleaning that is necessary due to a spill or other accident.

 **Subsection 9: Ware-washing Sinks, Use Limitations**

 A. A ware-washing sink may not be used for hand-washing or dumping mop water.

 B. If a ware-washing sink is used to wash wiping cloths, wash produce, or thaw food, the sink must be cleaned before and after each time it is used to wash wiping cloths or wash produce or thaw food. Sinks used to wash or thaw food shall be sanitized before and after using the sink to wash produce or thaw food.

 **Subsection 10: Cleaning Maintenance Tools, Preventing Contamination**

 Food preparation sinks, hand-washing lavatories, and ware-washing equipment may not be used for the cleaning of maintenance tools, the preparation of holding of maintenance materials, or the disposal of mop water and similar liquid waste.

 **Subsection 11: Service Sink**

 At least one service sink must be provided and conveniently located for the cleaning of mops or similar wet floor cleaning tools and for the disposal of mop water and similar liquid waste.

 **Subsection 12: Light Intensity**

 A. The light intensity must be:

 1. At least 10 foot candles at a distance of 30 inches above the floor, in walk-in refrigeration units and dry food storage areas and in other areas and rooms during periods of cleaning;

 2. At least 20 foot candles:

 a. At a surface where food is provided for consumer produce self-service such as buffets and salad bars or where fresh or packaged foods are sold or offered for consumption;

 b. Inside equipment such as reach-in and under-counter refrigerators;

 3. At a minimum of 30 foot candles at a surface where a food employee is working with food or working with utensils or equipment such as knives, slicers, grinders, or saws where employee safety is a factor; and

 4. A minimum of 50-foot candles of shadow free lighting at the inspection surfaces of the head, viscera, and carcass.

 5. A minimum of 200-foot candles of shadow free lighting at the inspection surface for Poultry.

 **Subsection 13: Light Bulbs, Protective-Shielding**

 A. Except as specified under Section 9, Subsection 13(B), light bulbs must be shielded, coated, or otherwise shatter resistant in areas where there is exposed food; clean equipment, and utensils.

 B. Shielded, coated, or otherwise shatter resistant bulbs need not be used in areas used only for storing food in unopened packages, if:

 1. The integrity of the packages cannot be affected by broken glass falling onto them; and

 2. The packages are capable of being cleaned of debris from broken bulbs before the packages are opened.

 **Subsection 14: Mechanical Ventilation**

 If necessary to keep rooms free of excessive heat, steam, condensation, vapors, obnoxious odors, smoke, and fumes, mechanical ventilation of sufficient capacity must be provided.

 **Subsection 15: Ventilation Hood Systems, Adequacy**

 Ventilation hood systems and devices must be sufficient in number and capacity to prevent grease and condensation from collecting on walls and ceilings.

 **Subsection 16: Cleaning Ventilation Systems, Discharge Prohibition**

 Intake and exhaust air ducts must be cleaned and filters changed so they are not a source of contamination by dust, dirt, and other materials.

 **Subsection 17: Employee Accommodations**

 A. Areas designated for employees to eat, drink, and use tobacco must be located so that food, equipment, and linens are protected from contamination.

 B. Lockers or other suitable facilities must be located in a designated room or area where contamination of food, equipment, utensils and linens cannot occur.

 **Subsection 18: Dressing Rooms and Lockers**

 A. Dressing rooms must be used by employees if the employees regularly change their clothes in the establishment or processing plant.

 B. Lockers or other suitable facilities must be used for the orderly storage of employee clothing and other possessions.

 **Subsection 19: Presence and Use of Toxic Materials**

 Only those poisonous or toxic materials that are required for the operation and maintenance of an establishment or processing plant, such as for the cleaning and sanitizing or equipment and utensils and the control of insects and rodents may be allowed in an establishment or processing plant.

 **Subsection 20: Working Containers and Chemicals**

 Working containers used for storing poisonous or toxic materials such as cleaners and sanitizers taken from bulk supplies must be clearly and individually identified with the common name of the material.

 **Subsection 21: Chemical Storage**

 A. Poisonous or toxic materials must be stored so they cannot contaminate food, equipment, utensils, and linens by:

 1. Separating the poisonous or toxic materials by spacing or partitioning; and

 2. Locating the poisonous or toxic materials in an area that is not above food, equipment, utensils, or linens. This paragraph does not apply to equipment and utensil cleaners and sanitizers that are stored in ware-washing areas for availability and convenience if the materials are stored to prevent contamination of food, equipment, utensils, and linens.

 **Subsection 22: Storage and Display**

 A. Poisonous or toxic materials must be stored and displayed for retail sale so they cannot contaminate food, equipment, utensils, and linens by:

 1. Separating the poisonous or toxic materials by spacing or partitioning;

 2. Locating the poisonous or toxic materials in an area that is not above food, equipment, utensils, and linens.

 **Subsection 23: Sanitizers, Criteria**

 Chemical sanitizers and other chemical antimicrobials applied to food contact surfaces must meet the requirements specified in 21 CFR 178.1010, *Sanitizing Solutions*.

 **Subsection 24: Lubricants**

 Lubricants must meet the requirements specified in 21 CFR 178.3570. if they are lubricants that may have incidental food contact, if they are used on food contact surfaces, on bearings and gears located on or within food contact surfaces, or on bearings or gears that are located so that lubricants may leak, drip, or be forced into food or onto food-contact surfaces.

 **Subsection 25: Conditions of Use**

 A. Poisonous or toxic materials must be:

 1. Used according to:

 a. Law and these Rules;

 b. Manufacturer's use directions included in labeling, and, for a pesticide, manufacturer's label instructions that state, that use is allowed in an establishment;

 c. The conditions of certification, if certification is required, for use of the pest control materials; and

 d. Additional conditions that may be established by the Department; and

 2. Applied so that:

 a. A hazard to employees or other persons is not constituted; and

 b. Contamination including toxic residues due to drip, drain, fog, splash or spray on food, equipment, utensils, or linens is prevented, and for a restricted use pesticide, this is achieved by:

 I. Removing the items;

 i. Covering the items with impermeable covers; or

 ii. Taking other appropriate preventative actions; and

 iii. Cleaning and sanitizing equipment and utensils after the application.

 **Subsection 26: Poisonous or Toxic Material Containers**

 A container previously used to store poisonous or toxic materials may not be used to store, transport, or dispense food.

 **Subsection 27: First Aid Supplies**

 First aid supplies that are in an establishment or processing plant for the employees' use must be stored in a kit or a container that is located to prevent the contamination of food, equipment, utensils, and linens.

 **Subsection 28: Facilities in Good Repair**

 The physical facilities must be maintained in good repair.

 **Subsection 29: Maintaining Premises, Unnecessary Items and Litter**

 A. The premises must be free of:

 1. Items that are unnecessary to the operation or maintenance of the establishment such as equipment that is nonfunctional or no longer used; and

 2. Litter.

 **Subsection 30: Linen Specifications**

 A. Linens that do not come in direct contact with food must be laundered between operations if they become wet, sticky, or visibly soiled.

 B. Cloth gloves that are used must be laundered before being used with a different type or raw animal food such as beef, lamb, pork, and fish.

 **Subsection 31: Storage of Soiled Linen**

 Soiled linens must be kept in clean, nonabsorbent receptacles or clean, washable laundry bags and stored and transported to prevent contamination of food, clean equipment, and clean utensils.

 **Subsection 32: Drying Mops**

 After use mops must be placed in a position that allows them to air dry without soiling walls, equipment, or supplies.

 **Subsection 33: Storing Maintenance Tools**

 A. Maintenance tools such as brooms, mops, vacuum cleaners and similar items must be:

 1. Stored so they do not contaminate food, utensils, equipment, and linens; and

 2. Stored in an orderly manner that facilitates cleaning the area used for storing the maintenance tools.

 **Subsection 34: Prohibiting Animals**

 A. Except as specified in Section 9, Subsection 34(B), live animals may not be allowed on the premises of an establishment or processing plant.

 B. Live animals may be allowed in the following situations if the contamination of food, clean equipment, utensils, and linens cannot result:

 1. Patrol dogs accompanying police or security officers in offices and dining, sales, and storage areas, and sentry dogs running loose in outside fenced areas;

 2. In areas that are not used for food preparation and that are usually open for customers, such as dining and sales areas, service animals that are controlled by the disabled employee or person if a health or safety hazard will not result from the presence or activities of the service animal.

 **Subsection 35: Outdoor Surface Characteristics**

 A. The outdoor walking and driving areas must be surfaced with concrete, asphalt, or gravel or other materials that have been effectively treated to minimize dust, facilitate maintenance, and prevent muddy conditions.

 B. Exterior surfaces of buildings or processing plants must be of weather resistant materials.

 **Subsection 36: Outdoor Walking and Driving Surfaces, Graded to Drain**

 Exterior walking and driving surfaces must be graded to drain.

 **Subsection 37: Outdoor Refuse Areas, Curbed and Graded to Drain**

 Outdoor refuse areas must be curbed and graded to drain to collect and dispose of liquid waste that results from the refuse and from cleaning the area and waste receptacles.

 **Subsection 38: Facilities, Sanitation at Official Establishments Requiring Inspection**

 Official establishments must be adequate for conducting inspection and meet the requirements as specified in 9 CFR 307, *Facilities for Inspection*; 416, *Sanitation*; and 9 CFR 381, *Poultry Products Inspection Regulations*, Subpart G, *Facilities for Inspection; Overtime and Holiday Service; Billing Establishments, Sanitation, and Subpart I, Operation Procedures*.

**Section 10 - HAZARD ANALYSIS AND CRITICAL CONTROL POINTS**

 **Subsection 1: When a HACCP Plan is Required**

 A. Before engaging in an activity that requires a HACCP plan, a license applicant or license holder must submit to the Department for approval a properly prepared HACCP plan as specified under Section 10, Subsection 2, and the relevant provisions of these Rules if:

1. Submission of a HACCP is required according to law;

2. A variance is required as specified under Section 3, Subsection 25; or

3. The Department determines that a food preparation or processing method requires a variance based on a plan submittal specified under Section 2, Subsection 6, an inspection finding, or a variance request.

 B. A license applicant or license holder must have a properly prepared HACCP plan as specified under Section 3, Subsection 25.

 **Subsection 2: Contents of a HACCP Plan**

 A. For an establishment or processing plant that is required under Section 10, Subsection 1, to have a HACCP plan, the plan and specifications must indicate:

 1. A categorization of the types of potentially hazardous foods that are specified in the menu such as meat roasts, or other foods that are specified by the Department;

 2. A flow diagram by specific food or category type identifying critical control points and providing information on the following:

 a. Ingredients, materials, and equipment used in the preparation of that food; and

 b. Formulations, or recipes that delineate methods and procedural control measures that address the food safety concerns involved;

 3. Food employee and supervisory training plan that addresses the food safety issues of concern;

 4. A statement of standard operating procedures for the plan under consideration including clearly identifying:

 a. Each critical control point;

 b. The critical limits for critical control point;

 c. The method and frequency for monitoring and controlling each critical control point by the food employee designated by the person in charge;

 d. The method and frequency for the person in charge to routinely verify that the food employee is following standard operating procedures and monitoring critical control points;

 e. Action to be taken by the person in charge if the critical limits for each critical control point are not met;

 f. Records to be maintained by the person in charge to demonstrate that the HACCP plan is properly operated and managed; and

 5. Additional scientific data or other information, as required by the Department, supporting the determination that food safety is not compromised by the proposal.

 **Subsection 3: HACCP Plans Required in Official Meat and Poultry Establishments**

 A. Every official establishment must have a written HACCP plan as specified in 9 CFR 417, *Hazard Analysis and Critical Control Point (HACCP) Systems*.

 B. In emergency situations, equipment and/or water not approved under the auspices of these Rules must be approved by the Department.

1. The equipment selected for emergency use must not have been previously used for hauling substances that are potentially unsafe for humans, such as sewage or chemicals;

2. All equipment must be thoroughly cleaned and sanitized before use;

3. The water must be sufficiently disinfected to ensure that it is safe for human consumption; and

4. This exception may only be granted after the personal observation and approval by the Department.

**Section 11 - FOOD SALVAGE**

 **Subsection 1: Handling of Non-Salvageable Merchandise**

 A. Foods shall be deemed to be non-salvageable merchandise if:

 1. They are contaminated or adulterated by pesticides or other chemicals;

 2. They are potentially hazardous foods which have been exposed to a temperature above 40 degrees F for a period exceeding 4 hours;

 3. They are foods unfit for salvage upon examination;

 4. They are foods packaged in paper or other porous materials which have been subject to contamination; and

 5. They are foods so packaged that contaminating residues cannot be removed.

 B. Non-salvageable merchandise may not be sold or distributed as food, but must be disposed of in a manner approved by and under the supervision of the Department.

 **Subsection 2: Records**

 A. A written record or receipt of distressed, salvageable and salvaged merchandise must be kept by the salvage processing plant for inspection by the Department during business hours.

 1. The records must include;

 a. The name of the product;

b. The name and address of the manufacturer or distributor;

c. The production code;

d. Container sizes;

e. Source of the distress merchandise;

f. The date received;

g. The type of damage; and

h. The salvage process conducted.

 2. These records must be kept on the premises of the salvage processing plant for a period of 2 years following the completion of transaction.

 a. A written record must be kept by salvage handlers on forms provided by the Commissioner.

 3. The record must include, among other information requested by the Commissioner:

a. Name and address of manufacturer or distributor;

b. Description of food;

c. Production codes;

d. Container sizes;

e. Date and time of accident or other event, which caused merchandise to be distressed;

f. Date and time of removal;

g. Hours without refrigeration when applicable;

h. Type and extent of damage;

i. Methods used for moving;

j. Amount of merchandise destroyed;

k. Method of destruction;

l. Landfill receipt number;

m. Location of landfill; and

n. License and trailer numbers of all vehicles used to transport distressed food.

STATUTORY AUTHORITY: 22 MRSA Chapter 562-A

EFFECTIVE DATE:

 October 20, 2002 - filing 2002-384

AMENDED:

 May 30, 2007 – filing 2007-227 (EMERGENCY), affecting Section 1 Subsection 11

 September 17, 2007 – filing 2007-397

 April 28, 2008 – filing 2008-178 (EMERGENCY), affecting Section 1 Subsection 11

 July 14, 2008 – filing 2008-285, affecting Section 1 Subsection 11

 January 3, 2009 – filing 2008-602

 June 1, 2009 – filing 2009-205

 June 7, 2010 – filing 2010-218

CORRECTIONS:

 February, 2014 – agency names, formatting

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