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

 **DIVISION OF REGULATIONS**

**Chapter 357: FOOD SALVAGE**

**Summary**: The purpose of this rule is to protect the public safety and health by controlling the salvaging of distressed foods.

**1. Definitions**

A. "Food Salvage Processing Establishment" means an establishment that engages in reconditioning or by other means salvaging distressed foods and distributing such food either for charitable purposes or retailing on a non-profit basis.

B. "Food Salvage Retail Establishment" means any food establishment that buys and sells or warehouses salvaged food.

C. "Salvage broker" means a person, firm or corporation engaged in buying, selling, distributing or warehousing distressed, salvageable or salvaged foods and that does not operate a food salvage establishment.

D. "Sale" means the act of selling (whether for profit or not), and shall also include delivery, holding, offering for sale, transfer, auction, storage, or other means of handling or trafficking. "Distribute" means to hold, deliver or transfer.

E. "Distressed food" means any food without label, mislabeled, that has been subjected to prolonged or improper storage, or that has been subjected to possible damage due to accident, fire, flood, adverse weather, physical trauma, mishandling, or to any other cause, and which may have been rendered unsafe or unsuitable for human or animal consumption.

F. "Non-salvageable food" means distressed food that cannot be safely or practically reconditioned.

G. "Salvageable food" means distressed food that can be reconditioned to the satisfaction of the Department..

H. "Salvaged food" means previously distressed food which has been reconditioned to the satisfaction of the Department.

I. "Reconditioning" means any appropriate process or procedure by which distressed food can be brought into compliance with all Department requirements, making it suitable for consumption and use by humans or animals.

J. "Department" means the Maine Department of Agriculture, Conservation and Forestry.

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

L. "Potentially hazardous food" means any food which consists in whole or in part of milk or milk products. eggs, shell eggs, meat, poultry, fish, shellfish, edible crustaceans, or other ingredients, including synthetic ingredients, and which is in a form capable of supporting rapid and progressive growth of infectious or toxigenic microorganisms. The term does not include clean foods which have a PH level of 4.6 or below or a water activity value of 0.85 or less.

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

N. “Vehicles" means any truck, car, bus or other means by which distressed, salvageable or salvaged food is transported from one location to another.

O. "Sanitize" means effective bactericidal treatment of clean surfaces of equipment, utensils or food containers by a process which has been approved by the Department as being effective in destroying microorganisms, including pathogens. Such treatment shall not adversely affect the product and shall be safe to the consumer.

P. "Commissioner" means the Commissioner of Agriculture or his agents in the Department.

**2. General Requirements**

 Any food salvage processing establishment, food salvage retail establishment or salvage broker that acquires, sells, distributes or otherwise traffics in distressed, salvageable or salvaged food is subject to these regulations.

 Distressed food or salvageable food shall be sold or otherwise distributed only to a licensed food salvage processing establishment.

 Salvaged food shall be sold only by a food salvage processing establishment or a food salvage retail establishment or food salvage broker. Salvaged food may be donated with good faith in its integrity in accordance with Maine Statutes, Title 14, Section 166.2.

 No interstate movement of distressed or salvageable food shall be made without prior approval of the Department and the responsible agency in the jurisdiction to receive the food. Concurrence shall also be obtained from the FDA or USDA prior to such anticipated movement.

 Food salvage processing establishments outside the State may sell or distribute salvaged foods within the State, if such plants conform to the provisions of this regulation or to substantially equivalent provisions and have a valid permit from the Department. To determine the extent of compliance with such provisions, the Department may accept reports from responsible authorities in other jurisdictions where such plants are located.

 Food approved for animal consumption shall not be sold or otherwise distributed unless an affidavit is obtained from the receiver, stating that the food will be used only for animals. Such affidavit shall remain on file at the food salvage establishment. Containers of such product must be indelibly marked "for animal consumption only" and shall be denatured. The Department reserves the right to require denaturing of food designated for animal consumption.

**3. Rules and regulations for food salvage establishments**

A. Examination and condemnation of unwholesome food. Samples of food may be taken by the Commissioner as often as nay he necessary for the detection of unwholesomeness, damage or contamination.

B. **Notice to Commissioner**. It shall be the duty of food salvage processing establishment and salvage brokers to keep records for the Commissioner whenever distressed foods subject to the provisions of this section are obtained. (May be satisfied by Section C.)

 (a) **Movement of embargoed foods**

1. It shall be unlawful for foods under embargo by the Commissioner to be moved to a different location without prior permission granted by the Commissioner.

2. All movements of embargoed foods are to be made only under the supervision of the Commissioner.

3. Food and food products shall be moved from the localized site of a fire, flood, wreck or other cause as expeditiously as possible supervised by the Commissioner or an agent so as not to become putrid, unwholesome, rodent or insect harborages, or otherwise a menace to public health.

4. All embargoed foods, prior to reconditioning and release from embargo shall be transported only in vehicles provided with devices to render them capable of being locked and sealed. Where highly perishable foods are transported, this is to be done in vehicles provided with adequate refrigeration for product maintenance.

 C. **Records**

 A record or receipt of damaged merchandise, merchandise found to be unfit, and salvaged merchandise shall be kept by food salvage establishments and food salvage brokers and shall be kept open for inspection by the Commissioner during business hours. These records shall he kept on the premises of the food salvage establishment or broker for a period of three years following the completion of transaction involving a lot of merchandise. Records indicating the source of distressed, salvageable or salvaged foods and sales or distribution accounts shall be maintained by food salvage establishments and salvage brokers and shall be open to the inspection of the Commissioner.

 D. **Storage and removal of waste material and unfit foods**

(a) Waste material shall be stored in such a manner as not to become a nuisance, preferably in a separate building. Leakproof, non-absorbent, covered containers shall be used and frequent removal from the premises shall be the. rule as determined by the Commissioner.

(b) All unfit foods shall be removed from food salvage Processing establishments often enough to not become a nuisance. This removal shall he done only by a method approved by the Commissioner and All disposal costs shall be borne by the establishment.

 E. **Required rooms**

 Where the operation requires, the following rooms or areas shall be provided to carry on the business of food salvage processing establishment: 1. Receiving room or area; 2. Sorting and culling room or area; 3. Reconditioning room or area; 4. Storage room or area for reconditioned food; and, 5. Waste room or area. Every salvage processing establishment shall he provided with a suitable room or rooms for changing and hanging of wearing apparel of the workers or employees, which shall be separate and apart from the work, storage and sales rooms, and shall be kept in a clean and sanitary condition. If retail sales are made on the premises, a separate room shall be provided for this purpose. Where frozen or refrigerated foods are handled, refrigerators, freezer rooms and/or freezer cabinets shall be provided.

 F. **Sanitation requirements**

(a) Any building or portion of any building regularly used in food salvaging shall at all times be clean, free of foul atmosphere and contamination, and shall be properly lighted, drained, and ventilated.

(b) The side walls and ceilings of all work rooms shall be smooth and easily cleanable, and shall be kept reasonably free from dirt and foreign matter and clean at all times.

(c) The floors of all work rooms shall be impermeable and shall be constructed of non-absorbent material which can be flushed and washed clean with water. Floor drains shall be provided in all rooms where floors are subjected to flooding type cleaning or where normal operations release or discharge water or other liquid waste on the floor. Floor/wall joints shall be sealed with coved molding.

(d) All salvage processing establishments shall have an adequate number of conveniently located toilet rooms separate and apart from work rooms. The doors of toilet rooms shall be provided with self- closing devices. The floor of the toilet room shall be of non-absorbent material and shall be clean at all times. Toilet rooms shall be vented to the outdoors by means of ventilation. Easily cleanable waste receptacles shall be provided. A covered waste receptacle shall be provided in toilet rooms used by women. A handwash sign shall be posted.

(e) Hand wash sinks shall be located in the toilet rooms, and at other locations in the establishment where required, and shall be supplied with soap, hot and cold or warm running water and single service towels, and shall be maintained in a sanitary condition. Before beginning work, after visiting toilet rooms, and at other times as required, employees shall wash their hands thoroughly with soap and water.

(f) **Sewage disposal**. All sewage and other liquid waste shall be disposed of in a public sewerage system, or in the absence thereof, in a manner complying with *State Plumbing Code* subsurface wastewater disposal rules.

(g) All plumbing and facilities shall meet *State Plumbing Code* requirements.

(h) Storage rooms shall be kept clean and free from objectionable odors, and shall be rodent and vermin proof.

(i) Doors, windows and other outer openings shall be screened with screens of not coarser than 12 mesh wire screening, or other effective means of insect elimination shall be adopted, subject to approval by the Commissioner.

(j) Effective measures shall be taken to protect against the entrance into the establishment and the breeding or presence on the premises of rodents, insects, and other vermin. Extermination, when practiced, shall be, done in a safe manner so as not to contaminate foods and shall not make use of highly poisonous substances where rodent poisons are used, they shall be color coded and shall. be placed in properly located and constructed bait boxes.

(k) The water supply shall be ample, clean and potable with adequate facilities for its distribution in the establishment. Private water supplies shall meet State standards for non-community water systems and shall be tested once yearly.

(l) All apparatus, utensils and appurtenances used in the handling of salvage goods shall be so constructed and placed that they can be thoroughly cleaned. Such equipment shall be kept clean and sanitary and in good repair.

(m) No person shall live or sleep in any building used as a food salvage establishment, unless living and sleeping quarters are separated by impervious walls without windows or doors.

(n) Vats, 3 bay non-corrosive sinks and other washing equipment, provided with hot and cold water under pressure and proper drains, shall be available in the salvage food processing establishment for the cleaning, rinsing, and bactericidal treatment of food containers to be reconditioned. Necessary equipment for drying, buffing, relabeling and repacking shall, where required, be provided. A utility sink shall be provided for the washing of cleaning and maintenance equipment, and disposal of waste water from such operations. Food salvage retail establishments shall have at minimum an adequately sized two bay sink with drainboards, and a utility sink.

(o) Employees shall be clean in person at all times and shall wear clean, washable clothing and caps, where the operation requires. They shall not smoke or use tobacco except in approved employee break rooms.

(p) No person suffering from or afflicted with a contagious or infectious disease shall be employed in or about any part of a food salvage establishment.

(q) All products shall be stored on skids or pallets of sufficient height to facilitate cleaning and inspection, and shall not be placed closer than 12" to the walls. There shall be an aisle at least 18" wide between each double row of merchandise.

(r) All rooms in which salvageable or salvaged merchandise is processed or utensils are washed, dressing or locker rooms, toilet rooms, and garbage and rubbish disposal areas shall be well ventilated, and comply with applicable Federal, State and local fire prevention and air-pollution requirements.

(s) No birds or animals shall be allowed in a food salvage establishment.

(t) Lights in areas where food is handled or exposed shall be properly shielded.

 G. **Protection of Damaged and Salvaged Merchandise**

(a) All distressed, salvageable and salvaged foods shall be protected from contamination while being stored, transported or processed. Poisonous and toxic materials shall be identified and handled under such conditions so as not to contaminate food. Poisonous or toxic materials shall be stored, transported and processed separate from foods at all times.

(b) All salvageable articles shall be promptly sorted and segregated from non-salvageable materials to prevent further contamination of foods to be salvaged or offered for sale or distribution.

(c) Vehicles used to transport damaged or salvaged merchandise shall be maintained in a clean and sanitary condition to protect food products from contamination.

**4. Sorting, reconditioning and labeling**

A. All metal cans of food offered for sale or distribution shall be reasonably free from rust and free from rim and/or seam dents that may have compromised the seam integrity. Springers, flippers, and swells shall be deemed unsalvageable.

B. Where there are signs of dirt or contamination under opening devices of cans and other containers (pop-top, tape-top, pull-top, key-top) or under the lip of jar top or screw top closures, these products shall be deemed unsalvageable.

C. **Dry food products**. Single containers of any dry food product that has been exposed to any foreign substance that may cause adulteration is unsalvageable. Products in containers with an inner wrap - if the inner wrap is broken and there are signs of adulteration, then the product is unsalvageable. if outer container shows signs of cross contamination, product is unsalvageable.

D. All metal containers whose integrity has not been compromised and whose integrity would not be compromised by the reconditioning, and which have been partially or totally submerged in water, liquid foam or other contaminant shall, after thorough cleaning, be subjected to a sanitizing rinse of a concentration of 200 ppm available chlorine for a minimum period of 1 minute, or shall be sanitized by another method approved by the Department. They shall be subsequently treated properly to inhibit rust formation. All other types of containers so damaged shall be deemed unsalvageable.

E. Any cans showing surface rust shall have labels removed, the outer surface cleaned by buffing, an approved protective coating applied where necessary, and shall be relabeled. Reconditioning of other types of containers may be required where circumstances are justified.

F. All salvaged food and food products are to be provided with complete labels. where original labels are removed from containers which are to be resold or distributed, salvager replacement labels must show the name of the salvager as the distributor.

G. Foods contaminated and/or adulterated by pesticides, chemicals, or other toxic substances; potentially hazardous foods which have been exposed to a temperature above 45 degrees F. for a period exceeding 4 hours, out of date infant foods, and foods packaged in paper or other pervious materials which have been subject to contamination shall be unsalvageable.

H. Unsalvageable merchandise shall not be sold or distributed, but shall be disposed of in a manner approved by the Department.

**5. Licensing**

 A. **Application and fee**. Each application for, or renewal of, a license to operate a food salvage processing establishment, a food salvage retail establishment or to act as a salvage broker within the meaning of this chapter shall be accompanied by a fee, appropriate to the size of the establishment. Applications shall be accompanied by the appropriate fee as enumerated in Chapter 330, *License Fees to Manufacture and Sell Food & Beverages*.

B. Issuance and inspection will conform with 22 M.R.S.A. §2169.

C. Charitable Community Programs that utilized foods donated or purchased from a food salvage processing establishment or a food salvage retail establishment or a salvage broker for the good of the needy is exempt from licensing.

**6. Penalties**

 Any person, firm or corporation who violates any of the provisions of 22 M.R.S.A. §2167 shall be punished by a fine of not more than $100.00 for the first offense and a fine of not more than $200.00 for each subsequent offense.

STATUTORY AUTHORITY: 22 M.R.S.A. §§ 2169, 2153

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