

He-P 2300 SANITARY PRODUCTION AND DISTRIBUTION OF FOOD

PART He-P 2301 DEFINITIONS

Readopt with amendment He-P 2301.01, effective 8-5-22 (Document #13428), to read as follows:

He-P 2301.01 Definitions.

(a) “Acid foods” means “acid foods” as defined by 21 CFR 114.3(a), namely, “foods that have a natural pH of 4.6 or below.”

(b) “Acidified foods” means “acidified foods” as defined by 21 CFR 114.3(b), namely, “low-acid foods to which acid(s) or acid food(s) are added; these foods include, but are not limited to, beans, cucumbers, cabbage, artichokes, cauliflower, puddings, peppers, tropical fruits, and fish, singly or in any combination. They have a water activity (aw) greater than 0.85 and have a finished equilibrium pH of 4.6 or below. These foods may be called, or may purport to be, ‘pickles’ or ‘pickled’. Carbonated beverages, jams, jellies, preserves, acid foods (including such foods as standardized and non standardized food dressings and condiment sauces) that contain small amounts of low-acid food(s) and have a resultant finished equilibrium pH that does not significantly differ from that of the predominant acid or acid food, and foods that are stored, distributed, and retailed under refrigeration are excluded from the coverage of this part.”

(c) “Applicant” means the owner of a food establishment or an officer of the legal ownership who applies for a license under these rules.

(d) “Bed and breakfast” means a type of food service establishment that is a transient lodging facility, which is the owner’s or innkeeper’s personal residence, is occupied by the owner or innkeeper at the time of rental to an in-house guest, and in which breakfast is the only meal served to in-house guests, with the exception for service of a snack.

(e) “Beverage” means “beverage” as defined in RSA 143:9.

(f) “Caterer” means a person or entity which provides meals or food at private functions at off-site locations.

(g) “Certified food protection manager” means the person in charge who has shown proficiency of required information through passing a test that is part of an accredited program or as stated in 2-102.12(A) of the Food Code.

(h) “Change of ownership” means any time a controlling interest in a sole proprietorship, joint venture, partnership, corporation, limited liability company, or any other kind of entity is transferred to another sole proprietor, joint venture, partnership, corporation, limited liability company, or any other kind of entity.

(i) “Commissioner” means the commissioner of the New Hampshire department of health and human services, or the commissioner’s designee.

(j) “Continental breakfast” means a light breakfast that includes items such as coffee, tea, juices, toasts, breakfast cereals, assorted pastries, and uncut fruit.

(k) “Corrective action plan (CAP)” means a plan developed and written by the licensee, which specifies the actions that will be taken to correct identified deficiencies.

(l) “Critical control point” means a point or procedure in a specific food system where loss of control might result in an unacceptable health risk.

(m) “Critical limit” means the maximum or minimum value to which a physical, biological, or chemical parameter must be controlled at a critical control point to minimize the risk that the identified food safety hazard might occur.

(n) “Department” means the New Hampshire department of health and human services.

(o) “Exempt homestead food operation” means a homestead food operation whose homestead food products are only for sale directly to the consumer from the homestead residence, the owner’s farm stand, at farmers’ markets, or at a retail food store. An exempt homestead food operation is not a type of food service establishment.

(p) “Farm store” means a retail food store with no food preparation areas and no running water that offers locally grown or produced foods only.

(q) “Food” means “food” as defined in RSA 143-A:3, III.

(r) “Food Code” means the U.S. Department of Health and Human Services, Public Health Services, Food and Drug Administration, Food Code, 2017 edition.

(s) “Food establishment” means when both a food service establishment and retail food store are referenced together.

(t) “Food processing plant” means “food processing plant” as defined in RSA 143-A:3, IV-a, namely “a type of food service establishment that is a commercial operation that processes food for human consumption and provides processed food for sale and distribution to other business entities, such as other food establishments. The term does not include an operation that processes food under the oversight of the New Hampshire department of agriculture in accordance with RSA 426, RSA 427, RSA 428, RSA 429, and RSA 434.” This term includes “cold storage” or “refrigerating warehouse”.

(u) “Food service establishment” means “food service establishment” as defined in RSA 143-A:3, IV.

(v) “Foodborne disease outbreak” means the occurrence of 2 or more cases of a similar illness resulting from the ingestion of a common food.

(w) “Harvester” means a person who forages for and harvests wild mushrooms for sale to a distributor, food establishment, or to the public.

(x) “Homestead food operation” means “homestead food operation” as defined in RSA 143-A:12, I(a).

(y) “Homestead food products” means foods which are not potentially hazardous food, as defined in (am) below, that are made at a homestead food operation, and are limited to the following:

- (1) Baked items, including, breads, rolls, muffins, cookies, brownies, and cakes;
- (2) Double-crust fruit pies;
- (3) Candy and fudge;
- (4) Packaged dry products, which include spices and herbs;
- (5) Acid foods, including, vinegars and mustards; and
- (6) Jams and jellies.

(z) “Identifier” means “identifier” as defined in RSA 143-A:21, VI, namely, “a person who identifies wild mushrooms collected by a harvester on behalf of a distributor or a food establishment.”

(aa) “Immediately endangers public health or safety” means that a condition exists that is an imminent health hazard.

(ab) “Imminent health hazard” means “imminent health hazard” as defined in RSA 143-A:3, IV-b, namely, “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 or illness.”

(ac) “License” means the document issued by the department or other regulatory agency, which authorizes a license holder to operate a food establishment.

(ad) “License holder” means the entity legally responsible for the operation of a licensed food establishment, including, the owner, the owner’s agent, or other person.

(ae) “Low-acid foods” means “low-acid foods” as defined by 21 CFR 114.3(d), namely, “any foods, other than alcoholic beverages, with a finished equilibrium pH greater than 4.6 and a water activity (aw) greater than 0.85. Tomatoes and tomato products having a finished equilibrium pH less than 4.7 are not classed as low-acid foods.”

(af) “Major food allergen” is a food that contains proteins that may cause the immune system of certain individuals to react in a manner which is harmful to health. The foods that account for most reactions are those containing milk, egg, various fish to include bass, flounder, cod, or various crustacean shellfish to include crab, lobster, or shrimp, tree nuts to include almonds, pecans, or walnuts, wheat, peanuts, sesame, and soybeans, or a food ingredient that contains protein derived from the aforementioned foods.

(ag) “Mobile food unit” means a food service establishment mounted on wheels or otherwise designed to be immediately moveable. This term does not include a food service establishment which is required to meet the wastewater requirements in He-P 2304.07.

(ah) “Mushroom” means “mushroom” as defined in RSA 143-A:21, III, namely, “the fleshy, spore-bearing, fruiting body of a fungus.”

(ai) “Mushroom distributor” means a person who purchases wild mushrooms from a harvester and sells to food establishments or direct to the public. Mushroom distributor does not include food establishments.

(aj) “Non-exempt homestead food operation” means a homestead food operation who wishes to sell homestead food products, as defined in (x) above, to restaurants or other retail food establishments, over the Internet, by mail order, or to wholesalers, brokers, or other food distributors for resale. A non-exempt homestead food operation is a type of food service establishment.

(ak) “Package” means a quantity or an amount of food that is bottled, canned, cartoned, securely bagged, or securely wrapped.

(al) “Person in charge” means the individual present at a food establishment who is responsible for the operation of the establishment at the time of inspection, including the duties described in section 2-103.11 of the Food Code, and who can demonstrate the knowledge required by section 2-102.11 of the Food Code which are pertinent to the risks inherent to that specific food establishment.

(am) “Potentially hazardous food” means “potentially hazardous food” as defined in RSA 143-A:12, I(b), namely, “foods requiring temperature control for safety because they are capable of supporting the rapid

growth of pathogenic or toxigenic microorganisms, and the growth of toxin production of clostridium botulinum. Potentially hazardous foods also include processed acidified and low acid canned foods.” This term includes “time/temperature control for safety (TCS) food.”

(an) “Poultry” means “poultry” as defined in RSA 143-A:14, III.

(ao) “Poultry producer” means “poultry producer” as defined in RSA 143-A:14, IV.

(ap) “Priority item” means a provision of the Food Code, marked with a superscript P,P, whose application contributes directly to the elimination, prevention, or reduction to an acceptable level, hazards associated with foodborne illness or injury and there is no other provision that more directly controls the hazard.

(aq) “Public water system” means “public water system” as defined in RSA 485:1-a, XV.

(ar) “Pushcart” means a type of food service establishment that is a non-self propelled vehicle limited to serving non-time/temperature control for safety foods, packaged time/temperature control for safety foods maintained at proper temperatures, or limited to the preparation and serving of frankfurters.

(as) “Rabbit” means “rabbit” as defined in RSA 143-A:14, VI.

(at) “Rabbit producer” means “rabbit producer” as defined in RSA 143-A:14, VII.

(au) “Regulatory authority” means the local, state, or federal enforcement body having jurisdiction over the food establishment.

(av) “Remodeled” means having undertaken construction, which includes, but is not limited to, adding new seats or a food preparation area, or any construction affecting the kitchen or any other part of a food establishment that requires a plumbing modification.

(aw) “Retail food store” means “retail food store” as defined in RSA 143-A:3, VII.

(ax) “Sanitization” means the cumulative heat or chemicals on cleaned food contact surfaces that, when evaluated for efficacy, is sufficient to yield a reduction of 5 logs, which is equal to a 99.999% reduction, of representative disease microorganisms of public health importance.

(ay) “Servicing area” means an operating base location to which a mobile food unit or transportation vehicle returns regularly for such things as vehicle and equipment cleaning, discharging liquid or solid wastes, refilling water tanks and ice bins, and boarding food.

(az) “Sewage” means “sewage” as defined in RSA 485-A:2, X, namely, “the water-carried waste products from buildings, public or private, together with such groundwater infiltration and surface water as may be present.”

(ba) “Soup kitchen” means a food service establishment that prepares or distributes food to the public without charge.

(bb) “Snack” means a small portion of food served in between meals limited to non-potentially hazardous foods, such as baked goods that may be prepared on site or food prepared by handling ready to eat food or by reheating commercially made food.

(bc) “Tier 1 mushroom” means “tier 1 mushroom” as defined in RSA 143-A:21, VIII, namely “a wild mushroom which is easily identified, that has no toxic look-alikes, and which is unlikely to cause illness in humans.”

(bd) “Tier 2 mushroom” means “tier 2 mushroom” as defined in RSA 143-A:21, IX, namely “a wild mushroom which is difficult to identify, may have toxic look-alikes, or may cause illness in some humans.”

(be) “Time/temperature control for safety (TCS) food” means a food that requires time/temperature control for safety to limit pathogenic microorganism growth or toxin formation. This term includes “potentially hazardous food.”

(bf) “Unattended market” means an operation that provides packaged foods or whole fruit using an automated payment system, and has controlled entry not accessible by the general public.

(bg) “Uninspected bison, elk, or red deer” means “uninspected bison, elk, or red deer” as defined in RSA 143-A:18.

PART He-P 2303 INCORPORATION OF THE 2017 FOOD CODE AND OTHER REQUIREMENTS FOR FOOD ESTABLISHMENTS

Readopt with amendment He-P 2303.01, effective 8-20-19 (Document #12852), to read as follows:

He-P 2303.01 Incorporation of the 2017 Food Code.

(a) All licensees shall comply with the U.S. Department of Health and Human Services, Public Health Service, Food and Drug Administration, Food Code, 2017 edition, available as set forth in Appendix A, and free to the public in a PDF format on the web at <https://www.fda.gov/downloads/Food/GuidanceRegulation/RetailFoodProtection/FoodCode/UCM595140.pdf> henceforth known as the Food Code, as amended in (b) below, unless exempted in (c) or (d) below.

(b) The following amendments shall apply to the document incorporated:

- (1) Amend section 3-201.11(A) so that (A) reads as follows: “Food shall be obtained from sources that comply with law” except that the exemption under the Poultry Products Inspection Act at 21 USC 464(c)(4) shall not apply in the state of New Hampshire”;
- (2) Delete Chapter 8;
- (3) Poultry from poultry producers that comply with He-P 2313 shall be considered to be from an approved source under section 3-201.11(A);
- (4) Rabbit from rabbit producers that comply with He-P 2313 shall be considered to be from an approved source under section 3-201.11(A); and
- (5) Uninspected bison, elk, or red deer meat from producers that comply with RSA 427:2-a, IV shall be considered to be from an approved source under section 3-201.11(A).

(c) Those food establishments applying for licensure or which are licensed as a bed and breakfast shall comply with the Food Code. However, the exceptions to the Food Code listed in He-P 2308.02 shall apply to a bed and breakfast.

(d) Those food establishments applying for licensure or which are licensed as food processing plants or non-exempt homestead food operations shall be exempt from the requirements of the Food Code, and shall comply with the requirements in He-P 2309 and He-P 2311, respectively.

PART He-P 2304 APPLICATION AND LICENSING PROCEDURE

Readopt with amendment He-P 2304.01, effective 8-5-22 (Document #13428), to read as follows:He-P 2304.01 Initial License Application Requirements.

(a) Each applicant for a license shall complete and submit to the department an application form entitled “Application for New, Change of Ownership, Change in License Class Food Service License” (FSAPP February 2024), “Application for Annual Food Processing Plant License” (FPAPP August 2019), “Application for New Homestead Food Operation License” (HAPP February 2024), or “Application for Annual Mobile Food Unit License” (MFAPP August 2019), as applicable, signed and dated by the applicant or the person who represents the applicant certifying the following:

“I certify that all information provided in or attached to this application is complete, accurate and up-to-date as of the date specified below. I further certify that there are no willful misrepresentations of the answers to questions herein, and that I have made no omissions with respect to any of my answers to the questions presented. I understand that it is my responsibility to immediately notify the Food Protection Section with regard to any changes, corrections, or updates to the information provided.”

(b) In addition to submitting the completed application, in (a) above, an applicant shall also submit the following:

(1) A check, money order, or on-line payment by credit card at <https://www.dhhs.nh.gov/programs-services/environmental-health-and-you/food-protection> for the applicable fee submitted with the application in (1) above, in accordance with He-P 2304.05(a) and (c);

(2) Water system documentation, in accordance with He-P 2304.06, except that food establishments applying to be licensed as a farm store, home delivery services, pushcart and other mobile units, on-site vending machines, retail food stores serving pre-packaged ice cream, and sellers of pre-packaged frozen meat or poultry that is processed in a United States Department of Agriculture (USDA) plant shall not be required to submit such documentation;

(3) Wastewater system documentation, in accordance with He-P 2304.07, except that food establishments in the following categories shall not be required to submit such documentation:

- a. Category D-3-mobile cook unit;
- b. Category E-1, bed and breakfasts;
- c. Category F-1, home delivery services of packaged frozen food;
- d. Category F-2, pushcarts and other mobile food units, including, those serving packaged food and non-TCS unwrapped foods only;
- e. Category F-3, retail food stores with no food preparation areas;
- f. Category F-5, on-site vending machines, which serve TCS food;
- g. Category F-7, farm store;
- h. Category G-3, retail food stores serving pre-packaged ice cream;
- i. Category G-4, institutions including state, county, and municipal institutions;

- j. Category G-5, schools, private schools, and schools whose food service is operated by a caterer;
- k. Category G-6, senior meal sites;
- l. Category G-7, sellers of pre-packaged frozen meat or poultry that is processed in a USDA-inspected plant;
- m..Category G-8, food processing plants that manufacturer or package non-TCS food;
- n. Class H, Category H-1, non-exempt homestead food operations; and
- o. Class O, Category O-1, municipality-run school cafeteria;

(4) A completed “Food Establishment Floor Plan Review Application” (PRAPP February 2024) signed and dated by the applicant, or the person who represents the applicant, if required by He-P 2304.12(a) and if not already submitted to the department for review, and which meets the requirements of the Food Code, unless the applicant is exempt from this requirement as set forth in He-P 2304.12(d);

(5) If the application is for a mobile food unit which uses a servicing area, one of the following:

- a. A copy of the food establishment license, from the appropriate regulatory authority, of the facility being used as a servicing area; or
- b. A separate license application for the facility to be used as a servicing area;

(6) A hazard analysis and critical control point (HACCP) plan if required by He-P 2304.13; and

(7) A proposed menu or list of food and beverages to be offered.

(c) The applicant shall apply online at <https://www.dhhs.nh.gov/programs-services/environmental-health-and-you/food-protection>, by mail, or hand deliver the fee, as required in (b)(1) above, and all documents to:

Department of Health and Human Services
Bureau of Finance/Receipts Unit. Food Protection
Food Protection Section
129 Pleasant Street
Concord, NH 03301
(603) 271-4589

(d) Applicants seeking a change in license class, a new license, or a new license due to a change of ownership, shall contact the department’s food protection section to arrange for an inspection of the establishment no later than 30 days from the date of mailing or delivering the fee and application.

Readopt with amendment He-P 2304.08, effective 8-20-19 (Document #12852), to read as follows:

He-P 2304.08 Change in Ownership of a Food Establishment.

(a) When there is a change of ownership of a food establishment, the new owner shall submit the items required for initial license applicants under He-P 2304.01 to the department at least 30 days prior to the

change of ownership, except food establishments that are not changing the food operation with a menu change or change in number of indoor seats shall not be required to submit wastewater documentation.

(b) Upon receipt and processing of the items required by (a) above, and after an inspection conducted in accordance with He-P 2305 which shall also determine compliance with Chapters 4, 5, and 6 of the Food Code, the department shall issue a provisional license reflecting the change in ownership.

(c) The issuance of a provisional license due to a change in ownership shall void the license of the previous owner on the date the change of ownership occurs.

Readopt with amendment He-P 2304.12, effective 8-20-19 (Document #12852), to read as follows:

He-P 2304.12 Submission of Plans and Specifications for New or Remodeled Food Establishments.

(a) A new applicant or a current license holder undergoing remodeling of a food establishment, shall submit a "Floor Plan Review Application" (PRAPP February 2024), to the department for review and approval, signed and dated by the applicant or the person who represents the applicant certifying the following:

"I certify that all information provided in or attached to this application is complete, accurate and up-to-date as of the date specified below. I further certify that there are no willful misrepresentations of the answers to questions herein, and that I have made no omissions with respect to any of my answers to the questions presented. I understand that it is my responsibility to immediately notify the Food Protection Section with regard to any changes, corrections or updates to the information provided."

(b) In addition to submitting a completed application in (a) above, an applicant or license holder shall provide the following with the application:

- (1) A proposed menu or list of food and beverages to be offered; and
- (2) A copy of the plans and specifications for the food establishment, unless exempt under (d) below, to include:
 - a. Location of all food equipment which clearly identifies the piece of equipment;
 - b. Location of food preparation areas;
 - c. Location of all refrigeration, which shall be commercial grade refrigeration only;
 - d. Location of all sinks including handwashing, food preparation, three compartment and service sinks;
 - e. Location of toilet facilities and restrooms;
 - f. Location of warewashing areas;
 - g. Location of serving and seating areas;
 - h. Location of changing rooms;
 - i. Location of janitorial and trash areas;
 - j. Location of office;

k. Location of storage areas; and

l. Location of any outside equipment of facilities.

(c) The application and attachments in (a) and (b) above shall be submitted at least 45 days prior to:

- (1) Constructing a new food establishment;
- (2) Converting an existing structure for use as a food establishment;
- (3) Remodeling a food establishment; or
- (4) Relocating a food establishment when the relocation also involves (1), (2), or (3) above.

(d) The following shall be exempt from submitting a plan review application:

- (1) Pushcarts;
- (2) Homesteads;
- (3) Retail stores with no food prep area;
- (4) On-site vending machines serving TCS food;
- (5) Sellers of prepackaged frozen USDA meat or poultry; and
- (6) Bed and breakfasts.

(e) An applicant or licensee shall pay a fee of \$75, submitted with the application, for each plan review application submitted.

(f) The department shall review plans for construction, renovation, or structural alterations of a food establishment for compliance with all applicable sections of RSA 143, RSA 143-A, and He-P 2300 and notify the applicant or licensee as to whether the plan complies with the requirements set forth therein.

PART He-P 2310 HOMESTEAD FOOD OPERATIONS EXEMPT FROM LICENSURE AND INSPECTION

Readopt with amendment He-P 2310.01, effective 8-20-19 (Document #12852), to read as follows:

He-P 2310.01 Exempt Homestead Food Operations Requirements.

(a) Pursuant to RSA 143-A:5, VII, homestead food operations selling food, excluding potentially hazardous food, from the homestead residence, at the owner's farm stand, at farmers' markets, or at retail food stores shall be exempt from licensure under this subdivision.

(b) Only the following food products shall be produced and sold from exempt homestead food operations:

- (1) Baked items, including, breads, rolls, muffins, cookies, brownies, and cakes;
- (2) Double-crust fruit pies;
- (3) Candy and fudge;
- (4) Packaged dry products, which include spices and herbs;

- (5) Acid foods, including vinegars and mustards; and
- (6) Jams and jellies.

(c) Exempt homestead food operations shall not produce or sell potentially hazardous foods, including any food which requires refrigeration or processed acidified and low acid canned foods.

(d) All homestead food products made in an exempt homestead food operation shall be sold in packages with individual labels on each package containing the following information:

- (1) Name of the homestead food operation;
- (2) Address of the homestead food operation;
- (3) Phone number of the homestead food operation;
- (4) Name of the homestead food product;
- (5) All ingredients of the homestead food product in descending order of predominance by weight;
- (6) The name of each major food allergen contained in the homestead food product unless it is already part of the common or usual name of the respective ingredient already disclosed in the ingredient statement in (5) above;
- (7) The following statement: “This product is exempt from New Hampshire licensing and inspection” in at least the equivalent of 10 point font and a color that provides a clear contrast to the background; and
- (8) A product code which identifies the product with a batch number, or a date of manufacture to aid in a recall of the product in case of an imminent health hazard.

(e) Exempt homestead food operations shall follow the standards for non-exempt homestead operations as stated in He-P 2309.03(b) through (t), He-P 2311.06(b) through (i), and shall be exempt from the requirements of the food code.

PART He-P 2314 REQUIREMENTS FOR WILD MUSHROOM IDENTIFIERS, HARVESTERS AND DISTRIBUTORS OF WILD MUSHROOMS TO FOOD ESTABLISHMENTS OR PRIVATE INDIVIDUALS AS FOOD

Readopt with amendment He-P 2314.03 and He-P 2304.04, effective 8-5-22 (Document #13428), to read as follows:

He-P 2314. 03 List of Tier 1 Wild Harvested Mushrooms. Tier 1 mushrooms shall include:

(a) Morel (*Morchella* spp. - *M. americana* Clowez & Matherly, *M. angusticeps* Pk., *M. elata* Fr., *M. punctipes* Pk);

(b) Chanterelle (*Cantharellus* spp. - *Cantharellus cinnabarinus* (Schwein.) Schwein. *C. flavus* Foltz & Volk, *C. lateritius* (Berk.) Singer, *C. minor* Pk., *C. roseocanus* (Redhead, Norvell & Danell) Redhead, Norvell & Moncalvo);

- (c) Black Trumpet (*Craterellus cornucopioides* (L.) Pers., *C. fallax* A.H. Smith);
- (d) Lion's Mane, Bears Head, or Coral Tooth (*Hericium* spp. - *H. americanum* Ginns, *H. coralloides* (Scop.) Pers., *H. erinaceus* (Bull.) Pers.);
- (e) Oyster Mushroom (*Pleurotus* spp. - *Pleurotus ostreatus* (Jacq.) Kumm., *P. populinus* O. Hilber & O.K. Miller, *P. pulmonarius* (Fr.) Quel.);
- (f) King Bolete, Porcini, Cep, Steinpilz (*Boletus edulis* group (*B. edulis* Bull., *B. atkinsonii* Pk., *B. chippewaensis* A.H. Smith & Thiers, *B. nobilis* Pk., *B. sepeans* Pk., *B. subcaerulescens* (E.A. Dick & Snell) Both, Bessette & A.R. Bessette, *B. variipes* Pk.);
- (g) Matsutake (*Tricholoma magnivelare* (Pk.) Redhead);
- (h) Hen-of-the-Woods (*Grifola frondosa* (Dickson) Gray);
- (i) Wine Cap (*Stropharia rugosoannulata* Farl. ex Murrill);
- (j) Cauliflower Mushroom (*Sparassis* spp. - *S. spathulata* (Schwein.) Fr., *S. americana* R.H. Petersen);
- (k) Lobster Mushroom (*Hypomyces lactifluorum* (Schwein.) Tulasne & C. Tulasne);
- (l) Green Quilted Russula (*Russula virescens*, *Russula parvovirescens*, *Russula crustosa*);
- (m) Jelly Ear (*Auricularia americana* Parmasto & I.Parmasto);
- (n) Blewit (*Lepista nuda* (Bull.) Cooke);
- (o) Shaggy Mane (*Coprinus comatus* (O.F. Muller) Pers);
- (p) Trumpet Chanterelle (*Craterellus* spp. Pers. *Craterellus caeruleofuscus* A.H. Smith, *Craterellus foetidus* A.H. Smith, *Craterellus ignicolor* (R.H. Petersen, Dahlman, Danell & Spatafora, *Craterellus tubaeformis* (Fr.) Quel.);
- (q) Beefsteak Polypore (*Fistulina hepatica* (Schaeff.) Wither);
- (r) Sweet Tooth (*Hydnum repandum* L. group (subgenus *Hydnum*));
- (s) Depressed Hedgehog (*Hydnum umbilicatum* Pk. group (subgenus *Rufescentia*));
- (t) Corrugated-cap Milky (*Lactarius corrugis* (Pk.));
- (u) Orange Milky (*Lactarius hygrophoroides* Berk. & M.A. Curtis);
- (v) Tawny or Voluminous Milky (*Lactarius volemus* (Fr.) Fr.); and
- (w) White Hedgehog (*Hydnum albidum* Pk. group (subgenus *Alba*)).

He-P 2314. 04 List of Tier 2 Wild Harvested Mushrooms. Tier 2 mushrooms shall include:

- (a) Caesar's Amanita (*Amanita jacksonii* Pomerleau);
- (b) Pear-shaped Puffball (*Lycoperdon pyriforme* Schaeff);
- (c) Crown-tipped Coral (*Artomyces pyxidatus* (Pers.) Julich);
- (d) Russell's Bolete (*Aureoboletus russellii* (Frost) G.Wu & Zhu L. Yang);
- (e) Pallid Bolete (*Boletus pallidus* Frost);
- (f) Butter Bolete (*Butyriboletus brunneus* (Pk.) D. Arora & J. L. Frank);
- (g) Frost's Bolete (*Butyriboletus frostii* (J.L.Russell) G.Wu, Kuan Zhao & Zhu L. Yang);
- (h) Pheasant's Back or Dryad's Saddle (*Polyporus (Cerioporus) squamosus* (Huds.) Fr.);
- (i) Aborted Entoloma (*Entoloma abortivum* (Berk. & M.A. Curtis) Donk);
- (j) Enoki or Winter Mushroom (*Flammulina velutipes* (Curt.) Sing);
- (k) Chestnut Bolete (*Gyroporus castaneus* (Bull.) Quel.);
- (l) Bluing Bolete (*Gyroporus cyanescens* (Bull.) Quel.);
- (m) Chrome-footed Bolete (*Harrya chromapes* (Frost) Halling, Nuhn, Osmundson, & M. Binder);
- (n) Yellow Scaber-stalk (*Hemileccinum subglabripes* (Pk.) Halling);
- (o) Conifer Tuft (*Hypholoma capnoides* (Fr.) P. Kumm.);
- (p) Brick Cap (*Hypholoma lateritium* (Schaeff.) P. Kumm.);
- (q) Elm Oyster (*Hypsizygus ulmarius* (Bull.) Redhead);
- (r) Elm Oyster (*Hypsizygus tessellatus* (Bull.) Sing.);
- (s) Bay Bolete (*Imleria badia* (Fr.) Vizzini);
- (t) Purple-gilled Laccaria (*Laccaria ochropurpurea* (Berk.) Pk.);
- (u) Maple Milkcap or Burnt-sugar Milky (*Lactarius aquifluus* Pk. (= *L. helvus* (Fr.) Fr.));
- (v) False saffron Milkcap or Orange-latex Milky (*Lactarius deterrimus* (Groger));

(w) Chicken-of-the-Woods or Sulphur Shelf (*Laetiporus cincinnatus* (Morgan) Birds., Banik & T.J.Volk, *Laetiporus sulphureus* (Bull.) Murrill);

(x) Gem-studded Puffball (*Lycoperdon perlatum* Pers.);

(y) Platterful Mushroom (*Megacollybia rodmanii* Petersen, Hughes, & Lickey);

(z) Black-staining Polypore (*Meripilus sumstinei* (Murrill) M.J. Larsen & Lombard);

(aa) Olive Oysterling (*Sarcomyxa serotina* (Pers.) V. Papp (= *Panellus serotinus* (Pers.) P. Kumm.));

(ab) Old Man of the Woods (*Strobilomyces* Berk. spp.);

(ac) Dotted-stalk Suillus (*Suillus weaverae* (A.H. Smith & Shaffer) Kretzer & T.D. Bruns (= *granulatus* (L.) Rouss.)); and

(ad) Spotted Bolete (*Xanthoconium affine* var. *affine* Pk. and var. *maculosus* (Pk.) Sing).

APPENDIX A: Incorporation by Reference Information

Rule	Title	Publisher; How to Obtain; and Cost
He-P 2303.01	U.S. Department of Health and Human Services, Public Health Service, Food and Drug Administration's, "Food Code" (2017 edition)	<p>Publisher: U.S. Department of Health and Human Services, Public Health Service, Food and Drug Administration's</p> <p>Cost: Free of Charge</p> <p>The incorporated document is available at: https://www.fda.gov/downloads/Food/GuidanceRegulation/RetailFoodProtection/FoodCode/UCM595140.pdf</p>

APPENDIX B

Rule	Specific State Statute which the Rule Implements
He-P 2301.01	RSA 143-A; RSA 143-A:3; RSA 143-A:12; and RSA 143-A:13
He-P 2303.01	RSA 143-A:9, V
He-P 2304.01	RSA 143-A:6, I and V
He-P 2304.08	RSA 143-A:6; RSA 143-A:9, V
He-P 2304.12	RSA 143-A:9, V
He-P 2310.01	RSA 143-A:12-13
He-P 2314.03	RSA 143-A:28, IV
He-P 2314.04	RSA 143-A:28, V