

# FOOD SAFETY AND DEFENSE

---

---

## PUBLIC HEALTH ISSUE

Foodborne illness results from eating food contaminated with bacteria or other pathogens such as parasites, viruses or fungi. The illnesses range from upset stomach to more serious symptoms, including diarrhea, fever, vomiting, abdominal cramps, and dehydration. Although most foodborne infections are undiagnosed and unreported, the Centers for Disease Control and Prevention estimates that every year roughly 1 in 6 Americans (or 48 million people) get sick, 128,000 are hospitalized, and 3,000 die of foodborne diseases. The elderly, the very young, and those persons with compromised immune systems are at highest risk for the more serious effects of foodborne illness.

Harmful bacteria are the most common causes of foodborne illnesses. Some bacteria may be present on foods when purchased. Raw meat and poultry may become contaminated during slaughter. Seafood may become contaminated during harvest or through processing. Contamination can occur during growing, harvesting, processing, storing, shipping, or final preparation. Contamination may also occur as a result of poor food handling practices, by accidental adulteration of a food product, or by deliberate tampering.

## LAWS AND REGULATIONS

- **RSA 143-A, Food Service Licensure**, <http://www.gencourt.state.nh.us/rsa/html/X/143-A/143-A-mrg.htm>
- **He-P 2300, NH Rules for the Sanitary Production and Distribution of Food**, [http://www.gencourt.state.nh.us/rules/state\\_agencies/he-p2300.html](http://www.gencourt.state.nh.us/rules/state_agencies/he-p2300.html)
- **RSA 143-A:12 Homestead Food License Required**, <http://www.gencourt.state.nh.us/rsa/html/X/143-A/143-A-12.htm>
- **RSA 47:17 Bylaws and Ordinances which pertains to cities**, <http://www.gencourt.state.nh.us/rsa/html/III/47/47-17.htm>
- **RSA 47:17 Bylaws and Ordinances which pertains to towns**, <http://www.gencourt.state.nh.us/rsa/html/X/147/147-1.htm>
- **US Public health Service FDA 2009 Food Code** <http://www.fda.gov/downloads/Food/GuidanceRegulation/UCM189448.pdf>

## ROLE OF THE HEALTH OFFICER

As a health officer, you may be involved in disaster response activities. Disasters, manmade or natural, create situations which may lead to imminent health hazards in food establishments. Under the circumstances listed below, food establishments which are licensed by the Division of Public Health Food Protection Section (DPHS FPS) are required to immediately discontinue operations and notify the program. A licensee is not required to discontinue operations in an area of the food establishment that is unaffected by the

imminent health hazard. If operations are discontinued, the licensee must obtain approval from the FPS before resuming operations. The following are the responsibilities of the local health officer:

- **Reporting Food Related Outbreaks.** A foodborne disease outbreak is defined as two or more persons becoming ill from the same meal or food item. Any suspect foodborne disease outbreak should be reported to the DPHS Disease Control Section as quickly as possible at (603) 271-4496 or 1-800-852-3345 ext. 5300. It is critical to remember that it is more important to report whatever information is available than not to report at all.
- **Reporting Unlicensed Food Establishments.** Contact DPHS FPS in non-self inspecting jurisdictions, if a food establishment is not licensed. This could happen when an establishment changes ownership or is new. It may also be a homestead or bed and breakfast. Prospective food establishments should also be referred to the DPHS FPS.
- **Reporting Food Related Complaints.** Any single complaint of illness, sanitation, contamination or adulteration associated with food or a food establishment should be reported to DPHS FPS. Food Protection requests that sanitation and contamination complaints be made in writing. These complaints can be emailed to [foodprotection@dhhs.state.nh.us](mailto:foodprotection@dhhs.state.nh.us).
- **Reporting Food Tampering:** To monitor for any suspicious activity in the food system, especially if it is of a malicious, criminal or terrorist nature, all complaints regarding foodborne illness, contamination, sanitation, tampering or adulteration must be reported to a central point. The DPHS FPS maintains the statewide surveillance system for complaints received about food products, food-related illness and sanitation complaints. Food tampering should also be reported to the local police as well as to the DPHS FPS.
- **Reporting Renovations in Food Establishments.** New food establishments and any licensed food establishments doing renovations in the food preparation area, including grocery stores, are required to have a floor plan review and pre-opening inspection prior to receiving a license to operate. The floor plan is a scaled layout of the establishment showing the food preparation equipment sinks, restroom facilities, and dining areas. An appointment may be made to review these plans with personnel from the DPHS FPS in Concord, or they may be mailed directly to the DPHS FPS. There is a separate application and fee for plan reviews which may be accessed at <http://www.dhhs.nh.gov/dphs/fp>.
- **Documenting Closure of a Food Establishment.** When the DPHS FPS revokes a license or issues an order of closure, the local health officer may be requested to document compliance with the order. The DPHS FPS will contact you directly if assistance is needed.
- **Reporting Imminent Public Health Hazard.** According to the New Hampshire Rules for the Sanitary Production and Distribution of Food 2306.06(a), an imminent health hazard shall include but not be limited to the following. Notify FPS or instruct the food establishment to notify FPS immediately of the hazard.

- Interruption of water service that lasts for 2 or more hours;
- Whenever a drinking water sample is found to have E.coli bacteria or exceed the maximum contaminant levels (MCL) for nitrates or nitrites described by He-P 2304.06(f);
- A failed sewer system or a sewage backup into the establishment;
- Interruption of electrical service for 2 or more hours;
- A fire affecting a food service establishment;
- Flooding in a food service establishment;
- Chemical exposure in a food service establishment;
- Any other natural disaster or catastrophic event that could result in contamination of the food supply;
- An employee has been found to be infected with a communicable disease as described in the Food Code subparagraph 2-201.11 (A)(2); or
- Any other severe unsanitary conditions that threaten to contaminate the establishment and its food supply.

## **BACKGROUND**

[He-P 2300, the NH Rules for the Sanitary Production and Distribution of Food](#) are the administrative rules that food service establishments and retail food stores must comply with in order to obtain and maintain a food service license. The DPHS FPS has adopted the [2009 US Food and Drug Administration's Food Code](#), which serves as the basis for regulating, and inspecting food sold at retail. These regulations do not apply to food processing plants or homesteads. The rules pertaining to food processing plants can be found in He-P 2309. The rules pertaining to homesteads can be found in He-P 2310 and 2311.

## **LICENSING FOOD ESTABLISHMENTS**

RSA 143-A requires licensing for all food service establishments and retail food stores including but not limited to grocery stores, schools, cafeterias, restaurants, mobile food units, home food manufacturers, bed and breakfast facilities, bakeries and bars/lounges.

Under state law RSA 143-A:5, establishments **NOT** requiring a license from DPHS FPS include:

- **Temporary food services** - A temporary food service establishment means any food service establishment that operates at a fixed location for a temporary period of time not exceeding 2 weeks, in connection with a fair, carnival, circus, public exhibition, or similar transitory gathering. Temporary food services may be inspected by the DPHS FPS, but are not required to be licensed.
- **Occasional food service establishments and events** - An occasional food service establishment means any food establishment where food is served or provided for the public on the premises of the establishment, whether or not there is a charge for such food, no more than 4 days during a 30-day period. Any part of a day shall be considered one full day for the purposes of this definition. Occasional food service events mean events, which are not regularly scheduled where food is provided to participants such as extracurricular school events, non-profit sporting events, and periodic events sponsored by religious and nonprofit organizations. Occasional food service establishments and events are not required to be licensed by the DPHS FPS.
- **Food pantries and soup kitchens** - In accordance with RSA 143-A:5-a, soup kitchens for the needy are exempt from licensure by the DPHS FPS provided they do not charge for meals, and they submit to the DPHS FPS a written notice which identifies the name and address of the person operating the soup kitchen; identifies the clientele served by the soup kitchen; lists the hours the soup kitchen will operate and provides a description of the food to be served.
- **Child care centers, youth camps, nursing homes** - Other state agencies are responsible for inspecting and licensing these facilities

## INSPECTING FOOD ESTABLISHMENTS

The DPHS FPS licenses and inspects more than 4,800 food service establishments in 218 of the 234 cities and towns in New Hampshire. There are 16 self-inspecting cities and towns in New Hampshire where the local authority licenses and inspects food establishments in these areas. A listing and contact information for the self inspecting cities and towns can be found at <http://www.dhhs.nh.gov/dphs/fp/documents/selfinspect.pdf>. Health officers are encouraged to meet the inspector for their community and to learn about the food inspection process. Attached to this guidance document is a map of New Hampshire that details the name of the DPHS FPS inspector for each community. This map also details the 16 self-inspecting communities. Please contact the FPS if you need assistance reaching the inspector who covers your community.

As stated in 143-A:5, the following establishments are exempt from licensure under this chapter:

- Food service establishments and retail food stores licensed by city health officers under RSA 47:17.
- Food service establishments and retail food stores licensed by town health officers under RSA 147:1.

## **LICENSING BEVERAGES AND BOTTLED WATER**

The Beverage and Bottled Water Inspection and Licensing Program of the DPHS FPS is responsible for inspecting and licensing all in-state beverages (i.e. still and carbonated drinks, fruit juices) and water bottling facilities. It is also responsible for registering all other non-alcoholic beverages from other states that are distributed in New Hampshire.

## **LICENSING DAIRY AND DAIRY PRODUCTS**

All in-state and out-of-state dairy products are registered with the DPHS FPS. All in-state dairy farms and plants are inspected by the DPHS Dairy Sanitation Program and must be in compliance with the FDA Pasteurized Milk Ordinance.

## **LICENSING COMMERCIAL SHELLFISH PROCESSORS**

The DPHS FPS is responsible for certifying and inspecting commercial shellfish processors. Any establishment that intends to sell shellfish, defined as clams, oysters, scallops and mussels, must contact the DPHS FPS at (603) 271-4589.

For more information:

Food Protection Section  
New Hampshire Department of Health and Human Services  
Division of Public Health Services  
  
1-800-852-3345 ext 4589 or (603) 271-4589  
Nights or Weekends 1-603-271-5300  
  
Email us at: [foodprotection@dhhs.state.nh.us](mailto:foodprotection@dhhs.state.nh.us)  
Website can be found at: <http://www.dhhs.nh.gov/dphs/fp>

