

Maine's Food Safety Net

**Ensuring Safe Food from
Production to Consumption**



April 2006



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Acknowledgements

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Overview

Protecting the safety and integrity of the food supply is one of the oldest functions of government, one that the American people expect their government to perform and perform well.

The current food safety regulatory system in the United States is the shared responsibility of local, state and federal partners. In some cases, the federal government has delegated the responsibility for ensuring food safety to states and municipalities, which are often more nimble and able to respond quickly to localized public health problems. Approximately 80% of food safety inspections in the nation, for example, are completed at state and local levels. All 50 states hold the primary responsibility for ensuring the safety of milk and the sanitary operation of restaurants. In other areas, states have passed unique food safety standards that address local concerns or fill important gaps in food safety regulation left open by the U.S. Food and Drug Administration (FDA) and other regulatory agencies. As federal agencies become increasingly under-funded and influenced by powerful corporate interests, the states' role in maintaining the food safety net grows ever-more important.

The following are just a few examples of how the state of Maine has enacted standards to ensure the safety of the food supply in Maine and protect the health of its residents.

Milk and Other Dairy Products

In the early 20th century, adulterated and spoiled milk caused a range of diseases and illness, including tuberculosis and diphtheria. States and municipalities responded to this problem by passing standards for how the dairy industry gathered, processed, distributed and sold milk in the United States. To this day, the states hold the primary responsibility for milk safety. FDA provides guidance to the states in the form of model codes,¹ and the states may adopt these codes voluntarily. But the federal government has not established any mandatory national safety standards for Grade A milk; no national law even regulates the sale of raw unpasteurized milk. That has been left up to states and localities, which are best equipped to regulate, monitor and inspect the local dairy industry and respond to local reports of adulterated milk.

Maine's milk safety standards regulate the sale of milk, milk products, raw milk and raw milk products; the production, processing, labeling, storing, handling and transportation of milk and milk products; and the sanitary conditions at any dairy or other facility and in any truck or other vehicle in which milk or milk products are produced, processed, handled or transported.² The Dairy Inspection Program in the state Department of Agriculture inspects milk processors and dairy farms to ensure the safe supply of milk for the public. The Maine Milk Quality Laboratory tests and analyzes dairy products, producers' water samples and certifies commercial and industry milk laboratories.³ Maine's milk standards protect the state's residents from the outbreaks of milk-borne diseases that were common in the early 20th century.

A key component of state milk safety standards, including Maine’s standards, is the provision empowering the state to prevent the sale of contaminated or adulterated milk. Whether milk becomes contaminated or adulterated by accident or intent, the state’s authority to remove these products from the marketplace is critical for public health.

Food Safety in Restaurants and Other Food Establishments

Almost everyone experiences a food-borne illness or food “poisoning” at least once in their lifetimes after eating out at a restaurant or other food service establishment. These food-borne illnesses, caused most often by inadequate cooking, improper holding temperatures, poor personal hygiene, contaminated equipment and food from unsafe sources,⁴ can cause symptoms ranging from the uncomfortable to the life-threatening, particularly for the elderly and those with compromised immune systems. The Centers for Disease Control estimates that food-borne disease causes 325,000 hospitalizations and 5,000 deaths each year.⁵

The federal government has promulgated no mandatory requirements for the safety of restaurant and food service establishment food, devolving this responsibility to the states. All 50 states—generally through their health, small business or agriculture departments—regulate and inspect restaurants, schools, nursing homes, and other food service establishments to ensure the safety of food served. State and local agencies are the main line of defense against food-borne disease.

Maine has established statutes to protect the public from food contaminated by food service establishments or retail food stores during storage, preparation, service, or display and to ensure that food service establishments and retail food stores have adequate facilities for the storage, preparation, service, or display of food.⁶ Maine’s Health Inspections Program of the Department of Health and Human Services inspects licensed establishments throughout the state on a regular basis for conformance with state safety and sanitation standards.

Fruits and Vegetables

Food distributors often treat fresh produce with pesticides, agricultural chemicals and waxes after they are harvested, allegedly to prevent pest problems that may arise during transport and storage. This practice is known as post-harvest treatment.

Maine requires that grocers and other food vendors alert consumers to produce that has been treated post-harvest, giving consumers the right to know and power to choose non-treated fruits and vegetables. Low-dose and chronic exposure to certain pesticides may be harmful to human health, with children particularly at risk.

Maine’s standards dictate that fresh produce is “misbranded”—and therefore prohibited—if it has been subject to a “post-harvest treatment” without meeting the following requirements:⁷

- The owner or manager of a retail outlet must post a conspicuous sign that reads: “Produce in this store may have been treated after harvest with one or more post-harvest treatments.”
- The owner or manager of a retail outlet must ensure that information identifying the specific post-harvest treatments used, and the specific items of produce that were treated, is available to the public within 48 hours of a request.
- The owner or manager of a retail outlet must ensure that produce without post-harvest treatment is identified by a sign contiguous to the specific produce.

Apples

In 2004, Maine cultivated more than one million bushels of apples, valued at \$13.7 million.⁸ Maine’s apple orchards also contribute to the state’s New England flavor and tourist economy, offering visitors the opportunity to pick their own apples while admiring the fall foliage.

Ensuring that apples in grocery store produce sections are ripe but not too ripe requires careful timing from the point of harvest to storage to delivery. To control the ripening process, apple growers often place harvested apples in “controlled atmosphere” storage, where the growers carefully control temperature, oxygen, carbon dioxide and humidity. Apples take in oxygen and give off carbon dioxide as starches in the flesh change to sugar. “Controlled atmosphere” rooms limit the available oxygen and thereby slow the ripening process. This allows growers and others selling the apples the flexibility of an extended marketing period, and consumers can enjoy apples beyond the traditional growing season.

To ensure that Maine residents are receiving the highest quality produce, Maine prohibits anyone from selling apples represented or labeled as having been exposed to a “controlled atmosphere” or “modified atmosphere” unless such apples have been kept in a certified controlled atmosphere room. If within a period of 100 consecutive days the oxygen content of a sealed storage room is 5% or less for a total of 90 days, the room qualifies as a legal controlled atmosphere room.⁹

Honeybees

The state of Maine maintains health and safety standards for apiaries to prevent the spread of honeybee diseases or parasites of an infectious or contagious nature. The standards lay out the regulated diseases and parasites; detail the type of permitted hive to allow thorough examination of every comb in order to detect the presence of disease; and establish standards for apiaries to eradicate any diseases or parasites detected.¹⁰ The Maine Department of Agriculture’s Apiary Program licenses resident beekeepers and permits the entry of migratory bees from other states into Maine; inspects resident and migratory honey bee colonies for regulated diseases and

parasites; surveys commercial bee-keeping operations for Africanized honey bees; and educates beekeepers, growers, and the general public about bee keeping techniques and the value of honeybees to Maine agriculture.¹¹

Maine's honeybee standards benefit consumers by ensuring safe honey; Maine's honey producers sold more than 422,000 pounds of honey in 2002.¹² In addition, these standards protect the state's honey producers by limiting the spread of contagious diseases. Many plants, including some agricultural crops, also depend on a healthy honeybee population for crucial pollination.

Smoked Alewives

The alewife, a bony fish with a sweet, white flesh, was once common on New Englanders' dinner plates, often served pickled or smoked. Today, it is more common to see alewives used as bait in the lobster industry.

Since some people still eat alewives, Maine requires that a person who sells or offers for sale alewives smoked with the viscera (internal organs) to post a clearly legible sign at the point of display of the alewives that states, "This product is not fully cooked. Eating prior to fully cooking poses a health risk."¹³ The smoking process itself may not kill potentially harmful bacteria.

Conclusion

The Maine food safety standards discussed here and others are important for several reasons:

- They help protect public health from food-borne illnesses and other risks by filling gaps left in federal law;
- They give consumers the power to make informed choices about the food and beverages they purchase for themselves and their families; and
- They help protect local industries by ensuring the safety and purity of their products.

The FDA and other federal agencies do not have the resources—and often do not have the political will—to monitor all aspects of food safety. In fact, the number of full-time FDA employees dealing with food safety has fallen steadily from 3,167 in FY 2003 to 2,843 in FY 2006; the president's proposed FY 2007 budget for FDA would further reduce that number to 2,757.¹⁴ As such, states will continue to play a pivotal role in ensuring that America's food supply remains among the safest in the world.

End Notes

¹ See U.S. FDA, Center for Food Safety and Applied Nutrition, National Conference on Interstate Milk Shipments (NCIMS) Model Documents, accessed March 21, 2006 at <http://www.cfsan.fda.gov/~ear/p-nci.html>.

² Maine Revised Statutes, Title 7, Part 7, Chapter 601, §§2900-2910-A; Rules governing milk and milk products accessed March 23, 2006 at Maine Department of Agriculture, “Animal Health & Industry Statutes,” <http://www.maine.gov/agriculture/ahi/ahisr.html>.

³ Maine Department of Agriculture, Dairy Inspection Program, accessed March 23, 2006 at <http://www.maine.gov/agriculture/ahi/dip.html>.

⁴ U.S. FDA, *FDA Report on the Occurrence of Foodborne Illness Risk Factors in Selected Institutional Foodservice, Restaurant, and Retail Food Store Facility Types*, 2004.

⁵ Centers for Disease Control, Division of Bacterial and Mycotic Diseases, “Foodborne Illness” fact sheet, accessed March 22, 2006 at http://www.cdc.gov/ncidod/dbmd/diseaseinfo/files/foodborne_illness_FAQ.pdf.

⁶ Maine Revised Statutes, Title 22, Subtitle 2, Part 5, Chapter 562, §§2491-2501, accessed March 23, 2006 at <http://janus.state.me.us/legis/statutes/22/title22ch562sec0.html>.

⁷ Maine Revised Statutes, Title 22, Part 5, Chapter 551, §2157.14.

⁸ USDA, National Agricultural Statistics Service, New England Agricultural Statistics, “New England Fruits and Vegetables 2005 Crop,” February 2006, accessed March 28, 2006 at http://www.nass.usda.gov/Statistics_by_State/New_England_includes/Publications/06frtveg.pdf.

⁹ Maine Revised Statutes, Title 7, Part 2, Chapter 103, §539.

¹⁰ Maine Revised Statutes, Title 7, Part 6-A, Chapter 527, §2801; Maine Apiary Rules and Regulations, Ch. 270. Both accessed March 23, 2006 at <http://www.maine.gov/agriculture/pi/laws.htm#bees>.

¹¹ Maine Department of Agriculture, Apiary Program, accessed March 23, 2006 at <http://www.maine.gov/agriculture/pi/apiary/index.htm>.

¹² USDA, National Agricultural Statistics Service, *2002 Census of Agriculture*, Volume 1 Chapter 1: Maine State Level Data, “Table 32. Other Animals and Animal Products - Inventory and Number Sold: 2002 and 1997,” http://www.nass.usda.gov/census/census02/volume1/me/st23_1_030_032.pdf.

¹³ Maine Revised Statutes, Title 22, Part 5, Chapter 551, §2173.

¹⁴ FDA, Office of Management Budget Formulation and Presentation, “Foods,” accessed March 30, 2006 at <http://origin.www.fda.gov/oc/oms/ofm/budget/2007/HTML/1Foods.htm>.