ALLERGEN REGULATIONS

105 CMR 590.000: STATE SANITARY CODE CHAPTER X – MINIMUM SANITATION STANDARDS FOR FOOD ESTABLISHMENTS

(1) ADD new definition in 105 CMR 590.002(B):

Major Food Allergen means:

(1) Milk, eggs, fish (such as bass, flounder, or cod), crustaceans (such as crab, lobster, or shrimp), tree nuts (such as almonds, pecans, or walnuts), wheat, peanuts, and soybeans; and

(2) A FOOD ingredient that contains protein derived from a FOOD named in subsection (1).

"Major food allergen" does not include:

(a) Any highly refined oil derived from a FOOD specified in subsection (1) or any ingredient derived from such highly refined oil; or

(b) Any ingredient that is exempt under the petition or notification process specified in the federal Food Allergen Labeling and Consumer Protection Act of 2004 (Public Law 108-282).

(2) Amend the definitions of "menu" and "menu board" in 590.002(B) as follows:

Menu means a printed list or pictorial display of a food item or items and their price(s) that are available for sale from a food establishment, and includes menus distributed or provided outside of the establishment.

Menu Board means any list or pictorial display of a food item or items and their price(s) posted within or outside a food establishment.

(3) Amend as follows 105 CMR 590.003(B) (Management and Personnel – federal 1999 Food Code Chapter 2)

(B) FC 2-102.11 Demonstration

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The areas of knowledge include:

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(17) No later than February 1, 2011:

(a) Describing FOODS identified as MAJOR FOOD ALLERGENS and describing the symptoms that MAJOR FOOD ALLERGENS could cause in a sensitive individual who has an allergic reaction; and

(b) Ensuring that employees are properly trained in food allergy awareness as it relates to their assigned duties.

(4) Amend 590.009: Special Requirements to add new subsection (G):

(G) Food Allergy Awareness Requirements. Food establishments that cook, prepare, or serve food intended for immediate consumption either on or off the premises shall comply with the following requirements.

(1) Poster. No later than October 1, 2010, such food establishments shall prominently display in the employee work area a poster approved by the Department, no smaller than 8.5 by 11 inches, relating to major food allergens. The poster shall include the following information:

(a) Major food allergens;

(b) Health risks of food allergies;

(c) Procedure to follow when a customer states that he or she has a food allergy; and

(d) Emergency procedure to follow if a customer has an allergic reaction to a food.

(2) Notice on printed menus and menu boards. Such food establishments shall include on all printed menus and menu boards a clear and conspicuous notice requesting a customer to inform the server before placing an order, about the customer's allergy to a major food allergen. The notice shall state: *Before placing your order, please inform your server if a person in your party has a food allergy.*

(a) Effective Date. The notice must be included on printed menus and on indoor and outdoor menu boards, including drive-through menu boards, no later than October 1, 2010.

(b) Menu Boards.

1. All notices on menu boards must be easily readable from the point of service at which food is ordered. On the menu board itself, the font size of the notice must be equal to or greater than the font size of the smallest menu item listed on the menu board.

2. In lieu of placing the notice directly on the indoor or outdoor menu board itself, the food establishment may post the notice adjacent to the menu board or at each point of service where food is ordered. Such notice must be securely posted in a manner so that it may be easily seen and read from a distance of five feet by a person standing at or approaching the point of service, shall directly face the purchaser, and shall not be obstructed from view.

(3) Food Allergen Awareness Training

(a) By February 1, 2011, such food establishments shall have on staff a certified food protection manager who has been issued a Massachusetts certificate of allergen awareness training by an allergen awareness training verification program recognized by the Department. The certificate will be valid for 5 years.

(b) The certified food protection manager shall:

1. Demonstrate knowledge of MAJOR FOOD ALLERGENS by posting the Massachusetts food allergen awareness training certificate; and

2. Ensure that employees are properly trained in food allergy awareness as it relates to their assigned duties.

(4) Exemptions

(a) Public and private schools, educational institutions, summer camps, childcare facilities, and other child care programs approved to participate in USDA Child Nutrition Programs are exempt from 105 CMR 590.009(G), with the exception of 105 CMR 590.009(G)(3)(b)2., provided that they have:

1. Written policies and procedures for identifying, documenting, and accommodating students with food allergies, and

2. Documentation verifying participation in food allergen training recognized by the Massachusetts Department of Elementary and Secondary Education and the Massachusetts Department of Public Health.

(b) Food service operations in institutional settings in which food is prepared and/or served to a specific population (for example, hospitals, non-profit organizations, Older American Act Elderly Nutrition programs, and charitable food facilities) that have written procedures for identifying, documenting, and accommodating their clients with food allergies are exempt from 105 CMR 590.009(G)(2).

(c) Temporary food establishments operated by non-profit organizations are exempt from 105 CMR 590.009(G).

Regulatory authority: MGL c. 140, § 6B.