



Commonwealth of Massachusetts

Executive Office of Health and Human Services
Department of Public Health

Presentation to the Public Health Council

State Sanitary Code Chapter X
Minimum Sanitation Standards for Food Establishments

105 CMR 590.000

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Overview

105 CMR 590.000: Minimum Sanitation Standards for Food Establishments

- **Background**
- **Final Amendments – Changes Made Based on Comments**
- **Next Steps**
- **Questions**



Background

- DPH regulates retail food establishments (restaurants, grocery stores, etc.) and institutional food services (schools, prisons, nursing homes, etc.) under 105 CMR 590.000, pursuant to MA General Law and as part of the State Sanitary Code
 - M.G.L. C.94 § § 305A, 305B, 146, 189 and 189A; c.111 § § 5 and 127A
- Local Boards of Health are the primary designated authority for 105 CMR 590.000 and conduct two annual inspections, code enforcement activities, and issue annual operating permits for retail and for non-state owned institutional food establishments.
- DPH maintains concurrent authority to enforce the provisions of the retail food code, if needed.



Background

- 105 CMR 590.000 adopts the FDA Retail Food Code (“Food Code”) and adds Massachusetts-specific supplements.
- The Food Code is updated regularly and provides a national standard and scientifically sound technical and legal bases for regulating the retail and institutional food service industry.
- 105 CMR 590.000 currently references the 1999 Food Code. The proposed amendments to the regulation incorporate the 2013 Food Code and its 2015 supplement.



Background

Revising 105 CMR 590.000 with the most recent version of the FDA Food Code and updating appropriate Massachusetts supplements will:

- Provide uniform standards for inspections, training and implementation for public health and for retail food establishments across the Commonwealth
- Meet CDC's foodborne illness reduction goals as cited in 2015 Prevention Status Report for Food Safety for Massachusetts
- Strengthen requirements for reporting foodborne illnesses and restricting ill food employees to protect the public and industry from potentially devastating health consequences and financial losses
- Update safety measures, streamline administrative processes, and keep current with trends in the food industry



Background

Examples of Pre-Comment Changes

- “Time/Temperature Control for Safety (TCS)” foods replaced “Potentially Hazardous” Foods (PHFs)”, and require adjustment for acidity and moisture content when determining which foods require temperature controls to limit microorganism growth;
- Added provisions on “Cut Leafy Greens”, including lettuce, spinach, kale, and chard with shredded or chopped green leaves to be defined as TCS foods, which require specific cooling and holding temperatures to address outbreaks traced back to leafy greens;
- Required establishments to post a conspicuous sign which tells customers that a copy of last inspection report is available upon request;
- Allowed Boards of Health to specifically license Shared Kitchens and Farmers Markets, with associated standards, to recognize and regulate emerging trends in evolving food industry.



Background

Comments on proposed regulatory amendments to 105 CMR 590.000:

- Public hearings for the proposed amendments were held on November 30 and December 1, 2016 and public comments were received until December 30, 2016.
- Consistent with Executive Order 518, which requires all sanitary code regulations be reviewed by the state's Building Code Coordinating Council (BCCC), proposed amendments were reviewed by interested BCCC members, such as individuals from the Office of Public Safety, plumbing board, and electrical board. This review concluded that there was no conflict in jurisdiction or subject matter.

Final Amendments – Changes based on comments received



590.001 Definitions – Cottage Foods

SUMMARY OF PRE-COMMENT STANDARD

While the terms “Cottage Food Operation” and “Cottage Food Products” are used in the regulation, these terms were not defined.

SUMMARY OF PROPOSED CHANGE

Added definitions for “Cottage Food Operations” and “Cottage Food Products”, to clarify that these terms refer to home kitchen production of items such as baked goods, jams, and jellies for sale directly to the consumer.



590.001 Definitions – Food Establishments

SUMMARY OF PRE-COMMENT STANDARD

The definition of “Food Establishment” indicates such establishments:

- Include catering operations providing food directly to consumers or to a conveyance used to transport people; and
- Do not include produce stands offering whole, uncut fresh fruits and vegetables.

The definition is silent on cooking classes.

SUMMARY OF PROPOSED CHANGE

Post comment changes clarify that “Food Establishments” do not include:

- cooking classes,
- farm trucks, or
- businesses that sell only unprocessed honey, pure maple products, farm fresh eggs stored at a particular temperature, and uncut fruits and vegetables



590.001 Definitions – Food Employee

SUMMARY OF PRE-COMMENT STANDARD

As defined, “Food Employee” includes any individual working with unpackaged food, food equipment or utensils, or food contact surfaces.

SUMMARY OF PROPOSED CHANGE

Post comment changes clarify that this definition does not include unprocessed honey, pure maple products, farm fresh eggs stored at a particular temperature, and uncut fruits and vegetables

These changes complement the amendments to “Food Establishment” which exempt those locations only handling certain raw agricultural products



590.002 Management and Personnel

SUMMARY OF PRE-COMMENT STANDARD

Largely, the pre-comment revision adopted wholesale the Food Code's language addressing exclusion of or restrictions on employees with diseases transmissible through food.

SUMMARY OF PROPOSED CHANGE

Post comment changes amend the Food Code's language addressing diseases transmissible through food to be consistent with DPH regulation for reportable diseases (105 CMR 300.000).



590.003 Food – Wild Mushrooms

SUMMARY OF PRE-COMMENT STANDARD

The regulation indicates sale or service of wild mushrooms must be done in conformance to the Conference for Food Protection's *Guidance Document for a Model Wild Harvested Mushroom Program*.

SUMMARY OF PROPOSED CHANGE

Post comment changes delete references to the Conference's guidance document, which is inadequate and under review at the federal level. The sale and service of wild mushrooms will be handled as specified in the Food Code.



590.003 Food – Time as a Public Health Control

SUMMARY OF PRE-COMMENT STANDARD

The regulation adopted Food Code's language which allows time without temperature control as the public health control for food which is displayed or held for sale or service, provided that written procedures are available for board of health review

SUMMARY OF PROPOSED CHANGE

Based on comments received, language was added to this section requiring Food Establishments submit all written procedures to the local board of health, and provide them upon request.



590.010 Guidance on Retail Operations – Leased Commercial Kitchens

SUMMARY OF PRE-COMMENT STANDARD

The regulation included a section describing shared kitchens and incubator operations, which provide fledgling food retailers or preparers with kitchen access and professional equipment.

The regulation also indicated such operations must be approved by the local board of health and operated in accordance with DPH guidance.

SUMMARY OF PROPOSED CHANGE

Post comment changes streamline this section by designating shared kitchens and incubator operations as both “Leased Commercial Kitchens”, and clarifying approval and operating standards.



590.010 Guidance on Retail Operations – Raw Bars

SUMMARY OF PRE-COMMENT STANDARD

The regulation included a section addressing approval of raw bars by local boards of health, as well as record-keeping procedures.

SUMMARY OF PROPOSED CHANGE

Upon review of comments and the regulation, this section was deleted because it is duplicative of provisions elsewhere in the regulation and the language was confusing. DPH will issue guidance if necessary to clarify any procedures for raw bars.



Next Steps

- Based on a comprehensive review of *105 CMR 590.000 Minimum Sanitation Standards for Food Establishment*, and the incorporation of comments from stakeholders, DPH recommends Public Health Council approval of these amendments for promulgation.
- Stakeholder training sessions will be scheduled with MHOA and MEHA, with more requests expected upon final promulgation of the amended regulations, allowing an opportunity to update health agents and camp operators state-wide regarding changes to recreational camp regulations and associated guidance.
- The Bureau will update electronic guidance documents and will issue additional guidance, as necessary.