



# Massachusetts Department of Public Health

## Food Protection Program

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### State Sanitary Code Chapter X

### Minimum Sanitation Standards for Food Establishments

**105 CMR 590.000**

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# Timeline of 105 CMR 590 Updates

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- **10/20/16 – first vote of DPH Public Health Council**
- **11/3/16 & 12/1/16 – public hearings**
- **12/30/16 – comment period closed**
- **140 total comments received; 96 unique comments by 27 commenters; over 100 changes made**
- **9/12/18 – second vote of DPH Public Health Council**
- **10/5/18 – 105 CMR 590 published in MA Registrar**



## Overview

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### **105 CMR 590.000: Minimum Sanitation Standards for Food Establishments**

- **Permitting**
- **Violations**
- **Food Safety**
- **Employee Illness**
- **Miscellaneous**

# Permitting: Food Establishment Exclusions

## 590.001 FC 1-201.10(B) Definitions

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### **New exclusions:**

- (a) An establishment that offers only prepackaged foods that are not time/temperature control for safety foods

And

- (i) Cooking classes that are held for educational purposes only.
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# Permitting: Food Establishment Exclusions

## 590.001 FC 1-201.10(B) Definitions

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### Amended exclusions:

**Prior Code:** A produce stand that only offers whole, uncut fruits and vegetables

**Current Code:** An operation that only offers whole, uncut fresh fruits and vegetables, unprocessed honey, pure maple products, or farm fresh eggs which are stored and maintained at 45° F (7.2° C) or less

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# Permitting: Food Establishment Exclusions

## 590.001 FC 1-201.10(B) Definitions



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### Amended exclusions:

**Prior Code:** A bed and breakfast home that serves only a continental breakfast

**Current Code:** a bed-and-breakfast operation if:

1. the home is owner occupied;
  2. the number of available guest bedrooms does not exceed six;
  3. breakfast is the only meal offered;
  4. the number of guests served does not exceed 18; and
  5. the consumer is informed by statements contained in published advertisements, mailed brochures, and placards posted at the registration area that the food is prepared in a kitchen that is not regulated and inspected by the LBOH.
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# Permitting: Farmers Markets

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590.001

590.010(D)

590.008; 8-301.11

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**Prior Code:** No Farmers Market definition. Policies and Guidance were issued.

**Current Code:** “Farmers Market” a public market or market place located in a city that operates or occurs occurring than once per year, and the primary purpose of the market is for multiple Massachusetts farmers to sell food, crops and other farm-related items.

Each vendor must be approved and permitted by the LBOH

**Work Aid:** For more applicable standards see Food Code Guidance, Non-Permanent Food Operations:

<https://www.mass.gov/lists/massachusetts-retail-food-code>

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# Permitting: Cottage Food Operation

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**590.001 ; FC 1-201.10(B)  
590.010(F)**

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## **Prior Code:**

- Residential Kitchens: Retail Sale
- Non-potentially hazardous foods

## **Current Code:**

- “Cottage Food Operation” produces cottage food products only in the home kitchen of that person’s primary domestic residence and only for sale directly to the consumer.
  - “Cottage Food Product” means non TCS (Time/Temperature Control for Safety ) foods (baked goods, jams, jellies) produced at a cottage food operation
  - No permit necessary for operation selling only whole, uncut fruit, unprocessed honey, pure maple products or farm fresh eggs at 45 C
  - Must be approved and permitted by the LBOH
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# Permitting: Leased Commercial Kitchens

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590.001 ; FC 1-201.10(B)

590.010(H)

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## Prior Code:

- No specific permit scheme or regulation

## Current Code:

- Leased Commercial Kitchens are food preparation facilities that provide space and access to professional equipment on a lease or rental basis.
  - The owner, operator or lessor approved and permitted by LBOH as a Retail Food Establishment, specifically allowing for shared space rental
  - LBOH approval and permit for all lessees/vendors as Retail Food Establishment (or Wholesale from DPH if that's how they're operating)
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# Violations: Priority Item

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**590.001 Definitions**

**590.008; FC 8-405.11 Timely Correction**

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- **Prior Code**
    - Red Critical violation
    - Timely Correction: Under code, discretionary but not to exceed 10 days. Recommended immediate correction.
  - **Current Code**
    - Provision that contributes directly to the elimination, prevention or reduction to an acceptable level, hazards associated with foodborne illness or injury ...
    - Timely Correction: Discretionary but not to exceed 72 hours.
      - *may agree to or specify a longer time frame, not to exceed . . . 72 hours after the inspection*
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# Violations: Priority Foundation Item

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## 590.001 Definitions

## 590.008; FC 8-405.11 Timely Correction

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- **Prior Code**

- Blue Critical violation
- Timely Correction: Under code, discretionary but not to exceed 10 days.

- **Current Code**

- a provision whose application supports, facilitates or enables one or more PRIORITY ITEMS . . . includes an item that requires the purposeful incorporation of specific actions, equipment or procedures by industry management to attain control of risk factors that contribute to foodborne illness or injury such as personnel training, infrastructure or necessary equipment, HACCP plans, documentation or record keeping, and labeling
  - Timely Correction: Discretionary but not to exceed 10 calendar days
    - . . . *may agree to or specify a longer time frame, not to exceed . . . 10 calendar days*
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# Violations: Core Item

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## 590.001 Definitions

## 590.008; FC 8-405.11 Timely Correction

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- **Prior Code**
    - Blue Non-Critical violation
    - Timely Correction: Discretionary, but not to exceed 90 days.
  - **Current Code**
    - a provision in this Code that is not designated as a PRIORITY ITEM or a PRIORITY FOUNDATION ITEM . . . includes an item that usually relates to general sanitation, operational controls, sanitation standard operating procedures (SSOPs), facilities or structures, equipment design, or general maintenance
    - Timely Correction: Discretionary but not to exceed 90 calendar days
      - a date and time agreed to or specified by the REGULATORY AUTHORITY but no later than 90 calendar days after the inspection.
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# Food Safety: Time/Temperature Control for Safety Food (TCS)

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105 CMR 590.001; FC 1-201.10(B)

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## Changes from PHF to TCS Foods

- Requires time/temperature to limit microorganism growth or toxin formation
- Includes an animal FOOD that is raw or heat-treated;
- a plant FOOD that is heat-treated or consists of raw seed sprouts, cut melons, **cut leafy greens, cut tomatoes or mixtures of cut tomatoes that are not modified in a way so that they are unable to support pathogenic microorganism growth or toxin formation**, or garlic-in-oil mixtures that are not modified in a way so that they are unable to support pathogenic microorganism growth or toxin formation;
- **Requires adjustment for acidity and moisture content when determining which foods require temperature controls to limit microorganism growth (see pH table in definition)**

**Work Aid** - "TCS" job aide in FDA Industry and Regulatory Assistance and Training Resources

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# Food Safety: Cut Leafy Greens

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105 CMR 590.001; FC 1-201.10(B)



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## New TCS Food

“Cut leafy greens” means fresh leafy greens **whose leaves have been cut, shredded, sliced, chopped, or torn**. The term “leafy greens” includes iceberg lettuce, romaine lettuce, leaf lettuce, butter lettuce, baby leaf lettuce (i.e., immature lettuce or leafy greens), escarole, endive, spring mix, spinach, cabbage, kale, arugula and chard. The term “leafy greens” **does not include herbs** such as cilantro or parsley.

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# Food Safety: Date Marking TCS Foods

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105 CMR 590.003; FC 3-501.17



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**Prior Code:** No specific regulation

**Current Code:**

[With exceptions] refrigerated, READY-TO-EAT, TIME/TEMPERATURE CONTROL FOR SAFETY FOOD prepared and held in a FOOD ESTABLISHMENT for more than 24 hours shall be clearly marked to indicate the date or day by which the FOOD shall be consumed on the PREMISES, sold, or discarded when held at a temperature of 5°C (41°F) or less for a maximum of 7 days. The day of preparation shall be counted as Day 1. <sup>Pf</sup>

**Work Aid:** "Date and Disposition" module in Food Code Ch 3, Part III of FDA Compliance Wire (ORAU)

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# Food Safety: Date Marking TCS Foods Exceptions

590.001; FC 1-201.10(B)

590.003; 3-501.17

**Date Marking for TCS Foods does not apply to:**

## **1: Reduced Oxygen Packaging**

**Reduced oxygen packaging" includes:**

(d) Cook chill PACKAGING, in which cooked FOOD is hot filled into impermeable bags which have the air expelled and are then sealed or crimped closed. The bagged FOOD is rapidly chilled and refrigerated at temperatures that inhibit the growth of psychrotrophic pathogens; or

(e) Sous vide PACKAGING, in which raw or partially cooked FOOD is vacuum packaged in an impermeable bag, cooked in the bag, rapidly chilled, and refrigerated at temperatures that inhibit the growth of psychrotrophic pathogens.

## **2: Individual meal portions served or rePACKAGED for sale from a bulk container upon a consumer's request**

## **3. Shellstock**

## **4. Certain Listed TCS Foods**



# Food Safety: Time as a Public Health Control

105 CMR 590.003(D); FC 3-501.19(A)



**Prior Code:** Required a variance from the LBOH. Only allowed use Time as Public Health Control up to 4 hours.

## Current Code:

- Written procedures shall be prepared in advance, submitted to the REGULATORY AUTHORITY for review, maintained in the FOOD ESTABLISHMENT and made available to the REGULATORY AUTHORITY upon request that specify <sup>Pf</sup> (*the methods of compliance*)
- Can be used 4 or 6 hours; varying temperature/holding requirements

**Work Aid** - "TPHC" module in Food Code Ch 3, Part III of FDA Compliance Wire (ORAU)

# Food Safety: Non-continuous Cooking

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105 CMR 590.001; FC 1-201.10(B)

105 CMR 590.003; FC 3-401.14

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**Prior Code:** Required to fully cook raw animal food to temperature

**Current Code:** Allows for Non-continuous cooking

- "Non-continuous cooking" means the cooking of FOOD in a FOOD ESTABLISHMENT using a process in which the initial heating of the FOOD is intentionally halted so that it may be cooled and held for complete cooking at a later time prior to sale or service. . . does not include cooking procedures that only involve temporarily interrupting or slowing an otherwise continuous cooking process.
  - Must comply with standards in 105 CMR 590.003; FC 3-401.14
  - Must be prepared and stored according to written procedures that have obtained prior APPROVAL from the REGULATORY AUTHORITY; <sup>Pf</sup>
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# Food Safety: Treating Juice

105 CMR 590.003; FC 3-404.11 Treating Juice



**Prior Code:** No specific regulation

**Current Code: JUICE PACKAGED in a FOOD ESTABLISHMENT shall be:**

(A) Treated under a HACCP PLAN as specified in ¶¶ 8-201.14 to attain a 5-log reduction, which is equal to a 99.999% reduction, of the most resistant microorganism of public health significance; <sup>P</sup> or

(B) Labeled, if not treated to yield a 5-log reduction of the most resistant microorganism of public health significance: <sup>Pf</sup>

(1) As specified under § 3-602.11, <sup>Pf</sup> and

(2) As specified in 21 CFR 101.17(g) Food labeling, warning, notice, and safe handling statements, JUICES that have not been specifically processed to prevent, reduce, or eliminate the presence of pathogens with the following, “WARNING: This product has not been pasteurized and, therefore, may contain harmful bacteria that can cause serious illness in children, the elderly, and persons with weakened immune systems.” <sup>Pf</sup>

# Employee Illness : Illness Reporting

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105 CMR 590.002; FC 2-103.11

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**Prior Code:** Permit Holder to require food employees to report to PIC health information related to diseases transmissible through food

**Current Code:** (O) FOOD EMPLOYEES and CONDITIONAL EMPLOYEES are informed in a verifiable manner of their responsibility to report in accordance with LAW, to the PERSON IN CHARGE, information about their health and activities as they relate to diseases that are transmissible through FOOD, as specified under ¶ 2-201.11(A).<sup>Pf</sup>

**Work Aid:** "Food Employee Reporting Agreement" in Ch 7 of DPH Foodborne Illness Investigation and Control Manual

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# Misc: Vomiting and Diarrheal Events

105 CMR 590.002; 2-501.11



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**Prior Code:** No specific regulation

**Current Code:** Clean-up of Vomiting and Diarrheal Events

A FOOD ESTABLISHMENT shall have procedures for EMPLOYEES to follow when responding to vomiting or diarrheal events that involve the discharge of vomitus or fecal matter onto surfaces in the FOOD ESTABLISHMENT. The procedures shall address the specific actions EMPLOYEES must take to minimize the spread of contamination and the exposure of EMPLOYEES, consumers, FOOD, and surfaces to vomitus or fecal matter. <sup>Pf</sup>

**Work Aid:** "Vomit or Diarrhea Clean-up" guide in Ch 8 of DPH Foodborne Illness Investigation and Control Manual

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# Misc: Inspection Signage

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590.008; 8-304.11

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**Prior Code:** No specific regulation

**Current Code:**

Requires establishments to post a conspicuous sign which tells customers that a copy of last inspection report is available upon request

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Questions ?

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