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Overview of Changes to 105 CMR 590.000¹

On September 12, 2018, the Massachusetts Department of Public Health amended 105 CMR 590.00: State Sanitary Code Chapter X: Minimum Sanitation Standards for Food Establishments to include sections of the 2013 FDA Food Code with amendments made by FDA in 2015. The amendments to 105 CMR 590.000 were published in the Massachusetts register on October 5, 2018 and became effective upon publication.

590.001: Purpose and Definitions

- Priority^P, Priority Foundation^{Pf}, and Core Items replaced Critical and Non-critical (Red and Blue Items).
- “Cottage Food Operation” and “Cottage Food Product” are new terms
- “Cut leafy greens” is a new term
- “Farmers Market” is a new term
- “Food establishment” does **not** include
 - an establishment the offers only pre-packaged foods that are not time/temperature control for safety foods (TCS);
 - bed & breakfast operation with 6 or fewer rooms, 18 or fewer guests, serves only breakfast, and informs the consumer that it is not regulated by the LBOH;
 - cooking classes held for educational purposes
- “Non-continuous cooking” is a new term
- “Reduced oxygen packaging” has new terms for cook-chill and sous-vide packaging
- Time/temperature control for safety food (TCS) replaces Potentially hazardous food (PHF)

590.002: Management and Personnel

- 590.002 (D); FC 2-103.11: New paragraphs (F), (I), (M), (O) and (P) were added to address new duties of the Person-in-charge (PIC)
- 590.002 (G); 2-201.20: New exclusion requirement was added for a food handler that tests positive for Norwalk virus, Norwalk-like virus, Norovirus, or any other calicivirus to prevent foodborne cases of viral gastroenteritis.
- 590.002; FC 2-501.11: Added new Part 2-5, Responding to Contamination Events and new Subpart 2-501, Procedures for Responding, and new provision 2-501.11 Clean-up of Vomiting and Diarrheal Events.

¹ This is a partial summary and does not include every change from the previous version of 105 CMR 590 to the version effective on October 5, 2018. Please refer to the official version of 105 CMR 590 in the Massachusetts Register for the full text of the regulation.

590.003: Food

- 590.003 (B); FC 3-203.11 (D): Entire paragraph (D) deleted regarding repacking shucked shellfish in consumer self-service containers.
- 590.003 (C); FC 3-301.11 (E): Entire paragraph (E) deleted regarding bare hand contact procedures with ready-to-eat (RTE) food.
- 590.003; FC 3-401.11 (D) (2): New requirement that does not allow the sale of undercooked, comminuted meat from a children's menu.
- 590.003; FC 3-401.14: New section on non-continuous cooking of raw animal foods that specifies the criteria for using a non-continuous cooking process according to written procedures that have obtained prior approval from the LBOH.
- 590.003; FC 3-402.11: Add third option for freezing to control parasites in paragraph (A) (3) and adds exemptions to paragraph (B).
- 590.003; FC 3-404.11: New requirement for Treating Juice when juice is packaged in a retail food establishment.
- 590.003; FC 3-501.16 (A)(1): Revised hot holding temperature requirement for TCS foods from 60°C (140°F) to 57°C (135°F).
- 590.003; FC 3-501.17: New requirement for Date Marking TCS Food and exemption for specific food products.
- 590.003; FC 3-501.18: New requirement for Disposition of Ready-to-Eat, TCS Food.
- 590.003 (D); FC 3-501.19: Revised Time as a Public Health Control (TPHC) so that a variance is no longer required and replace it with the requirement that written procedures shall be prepared in advance and submitted to the LBOH for review.
- 590.003; FC 3-502.12: New criteria for Reduced Oxygen Packaging Without a Variance including requirements for Cook-Chill and Sous Vide.

590.004: Equipment, Utensils, and Linen

- 590.004; FC 4-302.13 (B): New requirement for the availability of irreversible registering temperature indicators for hot water mechanical warewashing operations.
- 590.004; FC 4-501.114 (F): New requirement for devices that generate chemical sanitizers on-site.
- 590.004; FC 4-904.14: New requirement to allow the application of a post-sanitizing rinse restricted to commercial warewashing machines and the circumstances under which it may be allowed.
- 590.005; FC 5-202.12 (A): Revised handwashing sink hot water temperature requirement from 43°C (110°F) to 38°C (100°F).

590.005 Water, Plumbing and Waste

- 590.005; FC 5-202.12 (A): Revised handwashing sink hot water temperature requirement from 43°C (110°F) to 38°C (100°F).

590.006: Physical Facilities

- No significant changes

590.007: Poisonous or Toxic Materials

- No significant changes

590.008: Compliance and Enforcement

- 590.008; FC 8-304.11 (K): New responsibility of the permit holder to notify customers that a copy of the most recent establishment inspection report is available upon request by posting a sign or placard in a location in the food establishment that is conspicuous to customers or by another method acceptable to the LBOH.
- 590.008; FC 8-403.20: New requirement for LBOH to specify time frame for correction of the violations on the inspection report.
 - 590.008; FC 8-404.11: Imminent health hazard – immediately cease operations
 - 590.008; FC 8-405.11: Priority Items – within 72 hours; Priority Foundation Items - within 10 calendar days.
 - 590.008; FC 8-406.11: Core Items – within 90 calendar days.

590.009: Special Requirements

- Replaces the former 105 CMR 590.010: Code Applicability – federal 1999 Food Code Chapter 8-1.

590.010: Guidance for Retail Operations

- Replaces the former 105 CMR 590.009: Special Requirements maintaining but revising sections for Caterers, Mobile Food Operations, Temporary Food Establishments, and Residential Kitchens (B&B and Retail Sale) and adds sections for Public Markets and Farmers Markets, Schools and USDA Nutrition Programs, Leased Commercial Kitchens (Shared Kitchen or Incubator), and Innovative Operations.

590.011: Statutory Requirements

- Moves some of the sections from the former 105 CMR 590.009: Special Requirements and lists them as additional requirements that include Anti-choking Procedures in Food Service Establishments, Tobacco Products: Notice and Sale, and Food Allergy Awareness Requirements.

590.012: Examination and Embargo of Food

- Replaces the former 105 CMR 590.016.

590.013: Vending Machines

- Replaces the former 105 CMR 590.018.

590.014: Permits: Suspension and Revocation

- Remains the same section.

590.015: Service of Orders/Hearings

- Remains the same section.

590.016: Criminal Penalties

- Replaces the former 105 CMR 590.019.

590.017: Advisory Committee

- Replaces the former 105 CMR 590.020.

590.018: Severability

- Replaces the former 105 CMR 590.021.