

## **Guidance for Farms and Agricultural Businesses on Cottage Food and Other Food Sales**

The MA Department of Public Health (DPH) Food Protection Program (FPP) works in conjunction with Local Boards of Health (LBOH) to ensure a safe and wholesome food supply in Massachusetts. We do this by promulgating and enforcing regulations related to food safety, conducting foodborne illness complaint investigations, and responding to other food emergency incidents.

With limited exceptions, all persons engaged in the sale of food products in Massachusetts must receive a permit and comply with state regulations. The permit will depend on the type of establishment and type(s) of food the establishment is selling. The guidance below summarizes the permitting and regulatory requirements applicable to farms and agricultural businesses engaged in the sale of food products, including cottage foods, in Massachusetts.

### **Retail Food Sale:**

- If food is prepared for direct sale to consumers (retail), then [105 CMR 590.000, \*Minimum sanitation standards for food establishments\*](#) applies. These standards are known as the “Retail Food Code”.
- LBOH issues permits and conducts inspections for retail food kitchens under the Food Code.
- A Retail Food Code permit is not required for farms selling 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.

### **Food Wholesale:**

- If food is prepared for sale to retail stores (wholesale), then [105 CMR 500.000, \*Good Manufacturing Practices for Food\*](#) applies. These standards are known as the “Food Manufacturing Code”.
- DPH issues permits and conducts inspections of wholesale food kitchens under the Food Manufacturing Code.
- For wholesale sellers of uncut fresh fruits and vegetables and farmers who produce and sell raw farm products at wholesale, including eggs, a Food Manufacturing Code permit is not required under MGL ch.94 s. 305C.

If a kitchen is used for both retail and wholesale food production, then operators need licenses and inspections from both DPH and the LBOH.

## **Time/Temperature Controlled for Safety (Potentially Hazardous) Foods**

Many of the requirements in the state retail and manufacturing food codes are applicable only if the food being produced or sold is potentially hazardous when held at room temperature, also called “time/temperature controlled for safety” (TCS). To prevent foodborne illnesses, establishments producing TCS foods must have protocols in place to monitor and ensure correct temperatures are maintained during cooking, holding and storage of food. The establishment must have the proper facilities, such as hot and cold holding equipment, to meet these requirements.

- **TCS Foods** require time/temperature control for safety to limit pathogenic microorganism growth or toxin formation. These include meat or fish that is raw or heat-

treated, cream-filled pastries, cheesecake, custard, cut fruit and vegetables, tomato and barbeque sauce, pickled products, relishes, and salad dressings.

- **Non-TCS Foods** can be safely held at room temperature with no refrigeration required. These include prepackaged foods like chips and candy, as well as certain baked goods, jams, and jellies.

A product will be considered non-TCS even if preparation includes use of TCS ingredients such as milk, cream, and eggs – as long as the final product does not require refrigeration.

### **Cottage Foods in the Retail and Manufacturing Codes**

In the Massachusetts manufacturing and retail food codes, cottage foods are a type of non-TCS food<sup>1</sup>. Establishments that only produce Cottage Foods do not have to meet requirements that are specific to TCS foods. Specifically, these Cottage Food-only establishments:

- do not need to have a Certified Food Protection Manager on staff
- do not have to meet specific holding and cooking temperatures for finished food products
- do not need to have equipment for hot and cold holding.

### **Food Processing and Sale at Farms**

Below is a summary of permit requirements under the state retail and manufacturing food codes for farms conducting certain food processing and sales<sup>2</sup>.

- **Farms selling only low-risk foods/agriculturally exempt products:**
  - **Retail:** A Retail Food Code permit is not required for farms selling 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. For pure maple and unprocessed honey products, a Retail Food Code permit is not required under 105 CMR 590.010(F).
  - **Wholesale:** For wholesale sellers of uncut fresh fruits and vegetables and farmers who produce and sell raw farm products at wholesale, including eggs, a Food Manufacturing Code permit is not required under MGL ch.94 s. 305C.
- **Farms selling only non-TCS foods:**
  - **Pre-packaged** non-TCS foods such as chips, candy, and canned beverages:
    - **Retail:** A Retail Food Code permit is not required.
    - **Wholesale:** If the farm is selling pre-packaged (not packaged at the farm), non-TCS foods for wholesale, a Food Manufacturing Code permit is required from DPH. Provisions of the wholesale code related to time/temperature controls will not apply.
  - **Non-pre-packaged**, non-TCS foods, including Cottage Foods:

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<sup>1</sup> Note that where the codes specifically refer to “Cottage Foods”, it is only in reference to Residential Kitchens (kitchens located in private homes). Residential Kitchens may only produce Cottage Foods, where establishments outside of a home may be permitted to produce all food types. Establishments outside of a private home that produce only Cottage Foods will apply for a permit either under the Retail Food Establishment Permit or Manufacturing/Wholesale Permit.

<sup>2</sup> Note that LBOH may adopt more stringent retail food regulations or ordinances, including requiring a permit where the state code would not require a permit.

- **Retail:** A Retail Food Code permit is required from the LBOH. Some provisions of the Retail Food Code will not be applicable:
    - a Certified Food Protection Manager is not required
    - holding and cooking temperatures for finished food products are not applicable
    - hot and cold holding equipment is not required.
  - **Wholesale:** If the farm is processing and packaging non-TCS foods for wholesale, a Food Manufacturing Code permit is required from DPH. Provisions of the wholesale code related to time/temperature controls will not apply.
- **Farms selling high-risk foods** including meat, cream-filled pastries and pickled products:
  - **Retail:** A Retail Food Code permit is required from the LBOH.
  - **Wholesale:** A Food Manufacturing Code permit is required from DPH.

### Tools and Resources

- **Retail Food Sale:**
  - **General Resources:** <https://www.mass.gov/lists/retail-food>
  - **Permit/Licensing Application:** For a permit application, contact your Local Board of Health.
  - **Guidance Documents:** <https://www.mass.gov/lists/retail-food#food-code-guidance->
- **Food Wholesale:**
  - **General Resources:** <https://www.mass.gov/guides/starting-a-wholesale-food-business#-resource-information-on-starting-a-wholesale-food-business->
  - **Permit/Licensing Application:** <https://www.mass.gov/guides/starting-a-wholesale-food-business#-apply-for-initial-licensure-for-food-processing-and/or-distribution-at-wholesale->
  - **Guidance Documents:** <https://www.mass.gov/lists/food-processing#policies-and-guidelines->
- Additional resources for small food businesses are available through the University of Massachusetts New England Food Entrepreneurs: <http://www.umass.edu/nefe/>

For questions, contact your LBOH or the DPH Food Protection Program (FPP) at [FPP.DPH@state.ma.us](mailto:FPP.DPH@state.ma.us)