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To: Local Boards of Health
DPH Office of Local and Regional Health

From: Michael Moore, DPH BCEH Division of Food Protection

Date: August 13, 2026

RE: Food and beverages with kratom

The purpose of this letter is to advise Boards of Health (BoH) that the U.S. Food and Drug Administration (FDA) has determined that kratom is an adulterant under the Food, Drug, and Cosmetic Act and that it cannot lawfully be marketed as a dietary supplement or added to conventional foods. These federal standards are incorporated into Massachusetts Department of Public Health (DPH) regulation through 105 CMR 590 (Regulations for Minimum Sanitation Standards for Food Establishments).

The DPH Bureau of Climate and Environmental Health (BCEH) Division of Food Protection (DFP) is providing this packet to show BoHs how the presence of kratom can be documented on an DPH-approved inspection report in accordance with 105 CMR 590.008(K); FC 8-403.10.

Attachment A (Report of adulterants) shows how an inspector can document the presence of kratom in a BoH-licensed food establishment:

1. On page 1 check the "out of compliance" boxes for items 1, 11, 13, 17, and/or 27.
2. On page 3 describe each violation, mark each as a “priority” item, and reference the appropriate code citation.
3. Complete the rest of the form in the usual manner and issue a copy to the person-in-charge of the establishment.

The inspector should use the bottom of page 3 to document:

- The types and quantities of kratom products observed during the inspection,
- Any immediate corrective actions taken by the person-in-charge such as product destruction, removal from sale, or product relocation to a non-public storage area,

- Any observations made which support the finding of an imminent health hazard, and
- Whether or not the establishment needs to discontinue operations because of an imminent health hazard under 105 CMR 590.008; FC 8-404.11.

If serious or repeated violations at a BoH-licensed food establishment are observed, then the inspector can recommend that the BoH initiate one of the following actions:

- Summary Suspension of Permit/Emergency Closure without a Prior Hearing in accordance with 105 CMR 590.014(A)
- Suspension of a Permit with Notice in accordance with 105 CMR 590.014(B)
- Revocation or Non-Renewal of a Permit with Notice in accordance with 105 CMR 590.014(C)
- Embargo of Food in accordance with 105 CMR 590.012
- Order to Cease and Desist in accordance with municipal procedures

The recommendations in this letter do not replace DPH regulation 105 CMR 590.000, *State sanitary code chapter X: Minimum sanitation standards for food establishments* and should be read in conjunction with these retail food inspection tools.

Copies of completed inspection reports should be kept on file at the BoH in accordance with 105 CMR 590.008(L); FC 8-403.50. If DPH needs summary data or copies of reports, then it will collect data or reports through an on-line system in accordance with 105 CMR 590.009(F)(2).

If a BoH has any questions about this letter or about 105 CMR 590.000, then please email the Division of Food Protection at fpp.dph@mass.gov or call 617-983-6754.