



# **Massachusetts Department of Public Health Bureau of Environmental Health Food Protection Program**

**State Sanitary Code Chapter X  
Minimum Sanitation Standards for Food Establishments  
105 CMR 590.000**

## ***Tools and Work-Aids to Assist with Implementation***

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# Voluntary National Retail Food Regulatory Program Standards

- **Standard 1:** Regulatory Foundation
- **Standard 2:** Trained Regulatory Staff
- **Standard 3:** Inspection Program Based on HACCP Principles
- **Standard 4:** Uniform Inspection Program
- **Standard 5:** Foodborne Illness and Food Defense Preparedness and Response
- **Standard 6:** Compliance and Enforcement
- **Standard 7:** Industry and Community Relations
- **Standard 8:** Program Support and Resources
- **Standard 9:** Program Assessment



# Standard 1: Regulatory Foundation

**Standard 1** - *includes any statute, regulation, rule, ordinance, or other prevailing set of regulatory requirements that governs the operation of a retail food establishment.*

- [105 CMR 590.00: State sanitary code X: Minimum sanitation standards for food establishments](#)
- [2013 FDA Food Code with Annex](#)
- [2015 FDA Supplement to the 2013 FDA Food Code](#)
- [2017 FDA Food Code with Annex](#)



# 105 CMR 590.00: State sanitary code X: Minimum sanitation standards for food establishments

## Link:

<https://www.mass.gov/files/documents/2018/10/09/105cmr590.pdf>



Commonwealth of Massachusetts  
Department of Public Health

## 105 CMR: DEPARTMENT OF PUBLIC HEALTH

### 105 CMR 590.000: STATE SANITARY CODE CHAPTER X - MINIMUM SANITATION STANDARDS FOR FOOD ESTABLISHMENTS

#### Section

- 590.001: Purpose and Definitions
- 590.002: Management and Personnel
- 590.003: Food
- 590.004: Equipment, Utensils and Linen
- 590.005: Water, Plumbing and Waste
- 590.006: Physical Facilities
- 590.007: Poisonous or Toxic Materials
- 590.008: Compliance and Enforcement
- 590.009: Special Requirements
- 590.010: Guidance for Retail Operations
- 590.011: Statutory Requirements
- 590.012: Examination and Embargo of Food
- 590.013: Vending Machines
- 590.014: Permits: Suspension and Revocation
- 590.015: Service of Orders/Hearings
- 590.016: Criminal Penalties
- 590.017: Advisory Committee
- 590.018: Severability

#### 590.001: Purpose and Definitions

(A) Adoption of 2013 Food Code. In addition to the provisions set forth in 105 CMR 590.001(B) through 590.018, the Department of Public Health hereby adopts and incorporates by reference the 2013 Food Code (not including Annexes 1 through 8), as amended by the Supplement to the 2013 Food Code, (2013 Food Code) published by the United States Department of Health and Human Services, Public Health Service, Food and Drug Administration, Washington, D.C. 20204 provided, however, that the Department does not adopt those provisions of the 2013 Food Code, which are specifically stricken or modified by 105 CMR 590.000.

(B) FC 1-1 Purpose. The purpose of 105 CMR 590.000 is stated within FC 1- 101.10 2013 Food Code, FC 1-102.10 Food Safety, Illness Prevention, and Honest Presentation and FC 1-103.10 Statement.

(C) Definitions. For the purposes of 105 CMR 590.000, the following terms shall have the meanings hereinafter specified. These definitions shall be in addition to or a substitution for the same definition in 2013 Food Code section FC 1-201.10 entitled Definitions. Citations to the 2013 Food Code shall be referenced FC followed by the section number (e.g., FC 1-201.10).

(1) The following definitions replace, in their entirety, the definition provided for the same term in the 2013 Food Code:

Adulterated means the definition in M.G.L. c. 94, § 186, as it pertains to food.

Food Employee means an individual working with unpackaged food, food equipment or utensils, or food-contact surfaces, with the exception of farm workers handling uncut fruits and vegetables, unprocessed honey, pure maple products, or farm fresh eggs which are stored and maintained at 45°F (7.2°C) or below. This could include the owner, individual having supervisory or management duties, person on the payroll, family member, volunteer, person performing work under contractual agreement, or any other person working in a food establishment. In health care facilities, this includes those who set up trays for patients to eat, feed or assist patients in eating, give oral medications or give mouth/denture care. In daycare operations, schools and long-term care facilities, which are permitted food establishments, this includes those who prepare food for clients to eat, feed or assist clients in eating or give oral medications.

#### Food Establishment

(1) Food establishment means an operation that:

# 2013 FDA Food Code with Annex

## Link:

<https://www.fda.gov/downloads/Food/GuidanceRegulation/RetailFoodProtection/FoodCode/UCM374510.pdf>

# Food Code

U.S. Public Health Service



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# 2013

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U.S. DEPARTMENT OF HEALTH AND HUMAN SERVICES

Public Health Service • Food and Drug Administration

College Park, MD 20740



Commonwealth of Massachusetts  
Department of Public Health

# 2015 Supplement to the 2013 FDA Food Code

## Link:

<https://www.fda.gov/downloads/Food/GuidanceRegulation/RetailFoodProtection/FoodCode/UCM451981.pdf>

## Supplement to the 2013 Food Code

U.S. Public Health Service

FDA

U.S. DEPARTMENT OF HEALTH AND HUMAN SERVICES

College Park, MD 20740

**IMPORTANT - Save this Supplement.** It is intended to keep the 2013 Food Code up-to-date. Changes, additions, deletions, and format modifications listed herein constitute revisions to the 2013 Food Code effective upon issuance.



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# 2017 FDA Food Code with Annex

## Link:

<https://www.fda.gov/downloads/Food/GuidanceRegulation/RetailFoodProtection/FoodCode/UCM595140.pdf>



Commonwealth of Massachusetts  
Department of Public Health

# Food Code

U.S. Public Health Service



U.S. FOOD & DRUG  
ADMINISTRATION

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# 2017

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U.S. DEPARTMENT OF HEALTH AND HUMAN SERVICES

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# Standard 2: Trained Regulatory Staff

**Standard 2** - *the essential elements of a training program for regulatory staff*

- [\*FDA Curriculum for Retail Food Safety Inspection Officers\*](#)
- [\*FDA Industry and Regulatory Assistance and Training Resources\*](#)
- [\*FPP Retail - Retail food safety training resources\*](#)





# Standard 3: Inspection Program Based on HACCP Principals

**Standard 3** - *the utilization of HACCP principles to control risk factors in a retail food inspection program*

- [\*DPH Food Establishment Inspection Report\*](#)
- [\*FDA marking instructions for DPH inspection report\*](#)
- [\*Cross-walk Cheat Sheet for DPH Inspection Report\*](#)



# DPH Food Establishment Inspection Report

Link:  
<https://www.mass.gov/lists/massachusetts-retail-food-code#inspection-report->

## Food Establishment Inspection Report – City/Town of \_\_\_\_\_

Establishment:	Date:	Page 1 of _____
Address:	Time in:	Time out:
Telephone:	Number of Violated Provisions Related to Foodborne Illness Risk Factors and Interventions (Items 1 through 29):	
Owner:	Number of Repeat Violations Related to Foodborne Illness Risk Factors and Interventions (Items 1 through 29):	
Person-in-charge (PIC):		
Inspector:		
<b>FOODBORNE ILLNESS RISK FACTORS AND PUBLIC HEALTH INTERVENTIONS</b>		
IN = in compliance    OUT = out of compliance    N/O = not observed    N/A = not applicable    COS = corrected on-site during inspection    R = repeat violation		

Compliance Status	IN	OUT	N/A	N/O	COS	R
<b>Supervision</b>						
1 PIC present, demonstrates knowledge, and performs duties						
2 Certified Food Protection Manager						
<b>Employee Health</b>						
3 Management, food employee and conditional employee; knowledge, responsibilities and reporting						
4 Proper use of restriction and exclusion						
5 Procedures for responding to vomiting and diarrheal events						
<b>Good Hygienic Practices</b>						
6 Proper eating, tasting, drinking, or tobacco use						
7 No discharge from eyes, nose, and mouth						
<b>Preventing Contamination by Hands</b>						
8 Hands clean & properly washed						
9 No bare hand contact with RTE food						
10 Adequate handwashing sinks properly supplied and accessible						
<b>Approved Source</b>						
11 Food obtained from approved source						
12 Food received at proper temperature						
13 Food received in good condition, safe, & unadulterated						
14 Required records available: shellstock tags, parasite destruction						

Compliance Status	IN	OUT	N/A	N/O	COS	R
<b>Protection from Contamination</b>						
15 Food separated and protected						
16 Food-contact surfaces; cleaned & sanitized						
17 Proper disposition of returned, previously served, reconditioned & unsafe food						
<b>Time/Temperature Control for Safety</b>						
18 Proper cooking time & temperatures						
19 Proper reheating procedures for hot holding						
20 Proper cooling time and temperature						
21 Proper hot holding temperature						
22 Proper cold holding temperature						
23 Proper date marking and disposition						
24 Time as a Public Health Control						
<b>Consumer Advisory</b>						
25 Consumer advisory provided for raw / undercooked food						
<b>Highly Susceptible Populations</b>						
26 Pasteurized foods used; prohibited foods not offered						
<b>Food/Color Additives and Toxic Substances</b>						
27 Food additives: approved & properly used						
28 Toxic substances properly identified, stored & used						
<b>Conformance with Approved Procedures</b>						
29 Compliance with variance / specialized process / HACCP Plan						

**Official Order for Correction:** Based on an inspection today, the items marked "OUT" indicated violations to 105 CMR 590.000 and applicable sections of the 2013 FDA Food Code. This report, when signed below by a Board of Health member or its agent constitutes an order of the Board of Health. Failure to correct violations cited in this report may result in suspension or revocation of the food establishment permit and cessation of food establishment operations. If aggrieved by this order, you have a right to a hearing. Your request must be in writing and submitted to the Board of Health at the above address within ten (10) calendar days of receipt of this order.

### Date of Reinspection:

PIC's Signature:	Date:
Inspector's Signature:	Date:

# *FDA marking instructions for DPH inspection report*

## **Link:**

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

### **Guide**

**3-B Instructions for Marking the Food Establishment Inspection Report, Including Food Code References for Risk Factors/Interventions and Good Retail Practices**

Guide 3-B is intended to be used during inspections to ensure that observations of the provisions of the Code are not overlooked during the inspection and accurately recorded on the Food Code Establishment Inspection Report form.

The major headings from the Food Establishment Inspection Report form are condensed in Guide 3-B into key word phrases to assist the person conducting inspections in locating the Food Code citation that corresponds to a given violation and recording inspectional observations. The risk designations (Priority <sup>(P)</sup>, Priority Foundation <sup>(F)</sup> and Core <sup>(C)</sup>) have been added to each applicable code section for reference when recording observations in the inspection report.



Commonwealth of Massachusetts  
Department of Public Health

# Cross-walk Cheat Sheet for DPH Inspection Report

## Link:

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

#	Item	MA Citation	FDA Citation
1	Person in charge present, demonstrates knowledge, and performs duties	590.002(A)	2-101.11 Assignment (Pf)
1	Person in charge present, demonstrates knowledge, and performs duties	590.002(B)	2-102.11(A), (B) and (C)(1), (4)-(16) Demonstration (Pf)
1	Person in charge present, demonstrates knowledge, and performs duties	590.002(D)	2-103.11(A)-(P) Person-In-Charge-Duties
2	Certified Food Protection Manager	590.002(C)	2-102.12(A) Certified Food Protection Manager (C)
3	Management, food employee and conditional employee, knowledge, responsibilities and reporting	590.002	2-102.11(C)(2),(3) and (17) Demonstration (Pf)
3	Management, food employee and conditional employee, knowledge, responsibilities and reporting	590.002	2-103.11(O) Person in Charge-Duties (Pf)
3	Management, food employee and conditional employee, knowledge, responsibilities and reporting	590.002(E)	2-201.11(A), (B), (C), & (E) Responsibility of Permit Holder, Person in Charge, and Conditional Employees (P,Pf)
4	Proper use of reporting, restriction & exclusion	590.002	2-201.11(D) and (F) Responsibility of Permit Holder, Person in Charge, and Conditional Employees Responsibility of the PIC to Exclude or Restrict (P)
4	Proper use of reporting, restriction & exclusion	590.002	2-201.12 Exclusions & Restrictions (P)
4	Proper use of reporting, restriction & exclusion	590.002(F)	2-201.13 Removal, Adjustment, or Retention of Exclusions & Restrictions (P)
4	Proper use of reporting, restriction & exclusion	590.002(G)	2-201.20 Prevention of Foodborne Cases of Viral Gastroenteritis



# Inspection Report and Cheat Sheet Demo



Commonwealth of Massachusetts  
**Department of Public Health**

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# Standard 4: Uniform Inspection Program

**Standard 4** - *policies and procedures established to ensure uniformity among regulatory staff in the interpretation of regulatory requirements, program policies and compliance / enforcement procedures*

- [DPH Food Code Guidance](#)
- [DPH Frequently Asked Questions](#)
- [DPH Merged Food Code](#)
- [FDA Food Code Reference System](#)
- [FPP Retail - Policies & guidelines](#)





# Food Code Guidance

**Link:**  
<https://www.mass.gov/lists/massachusetts-retail-food-code#support-documents->



## The Commonwealth of Massachusetts

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### Guidance for Stakeholders Regarding the Retail Food Code

Updated October, 2018

The following information is provided to assist municipalities, food establishments and other interested parties in interpretation of the Retail Food Code. Additional information is available on our website at [mass.gov/food-safety](https://www.mass.gov/food-safety) or by contacting the Food Protection Program at (617) 983-6712 or [fpd.dph@state.ma.us](mailto:fpd.dph@state.ma.us).

#### Introduction to the Retail Food Code (105 CMR 590)

##### What is the Retail Food Code?

The Retail Food Code (105 CMR 590) is the state regulation that provides sanitation standards for all Food Establishments and adopts portions of the 2013 FDA Food Code ("Food Code"). The local board of health enforces these standards.

##### What operations must comply with the Retail Food Code?

All operations that meet the definition of "Food Establishment" in the Retail Food Code must comply with the regulation. Generally, a Food Establishment is any operation that serves food directly to the consumer. Examples of Food Establishments include: restaurants; satellite or catered feeding locations; catering operations; and residential kitchens in bed-and-breakfast or cottage foods operations.

All parts of the operation, including a transportation vehicle or a central preparation facility that supplies another location, are subject to regulation and inspection under the Retail Food Code.

##### Are permits required?

A Food Establishment may not operate without a permit from the local board of health. The local board of health will ensure that the Food Establishment complies with the state minimum standards in the Retail Food Code, along with any additional locally-adopted standards. (105 CMR 590.008/Food Code 8-301.11)

##### Do all operations that provide food require a permit?

If an establishment meets one of the following, it does not need a permit under the Retail Food Code:

- The only foods for sale are whole, uncut fresh fruits and vegetables, unprocessed honey, pure maple products or farm fresh eggs which are stored and maintained at 45 degrees F or less.
- The only foods for sale are prepackaged foods that are not defined as time/temperature controlled for safety foods.<sup>1</sup>
- Kitchens in residences that meet certain requirements. (Note: please see the definition of Food Establishment in 105 CMR 590.001 for the list of these exemptions.)

<sup>1</sup> Foods that require time/temperature control for safety (TCS) to limit pathogenic microorganism growth or toxin formation. These include meat or fish that is raw or heat-treated and certain cut produce including melons, leafy greens, and tomatoes.



# Frequently Asked Questions on the Retail Food Code

## Link:

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



Commonwealth of Massachusetts  
Department of Public Health



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## Frequently Asked Questions on the Retail Food Code (105 CMR 590.000)

### **What was the effective date of the Retail Food Code?**

105 CMR 590.000 became effective on the date it was published by the Secretary of State: October 5, 2018.

### **What happens if cities or towns have adopted different versions of the FDA's Model Retail Food Code?**

105 CMR 590 incorporates the 2013 FDA Model Retail Food Code and its 2015 supplement. The State Sanitary Code, which contains the Retail Food Code, is a set of minimum standards. To the extent that a municipality's regulation or ordinance falls below those standards, the state standard prevails.

### **Who enforces the Retail Food Code?**

Massachusetts General Law Ch. 111, s 127A requires local boards of health to enforce the Retail Food Code within their municipalities.

### **How are local inspectors trained?**

Local boards of health determine how to train their inspectors. The Retail Food Code in large part incorporates the FDA's 2013 Model Retail Food Code, and training resources are at the bottom of this FAQ. The Department of Public Health's Food Protection Program (FPP) intends to release additional guidance and webinars on the Massachusetts-specific provisions.

### **Is the new inspection form being adopted by all local boards of health?**

DPH provides a prototype inspection form that meets the requirements of 105 CMR 590.008(K). Local boards of health may instead use an alternative inspection form with the approval of FPP.

### **How will disputes on the interpretation of the Retail Food Code be addressed?**

The majority of disputes between inspectors and permit holders are resolved through the board of health hearing process in 105 CMR 590.015(B). If multiple jurisdictions would benefit from a DPH interpretation or guideline that promotes uniform application of Retail Food Code, then section 105 CMR 590.009(E) allows the FPP Director to investigate and/or advise on particular questions regarding interpretations of 105 CMR 590.000.

### **Additional Resources:**

#### **2013 Food Code Merged with 105 CMR 590:**

<https://www.mass.gov/lists/proposed-amendments-to-regulations-sanitation-standards-for-food-establishments-retail-food>

#### **FDA Training and Resource Documents:**

<https://www.fda.gov/Food/GuidanceRegulation/RetailFoodProtection/IndustryandRegulatoryAssistanceandTrainingResources/default.htm>

#### **FDA Office of Training and Continuing Education:**

<https://www.fda.gov/Training/ForStateLocalTribalRegulators/ucml19016.htm>

#### **Massachusetts Partnership for Food Safety Education:**

<http://www.mafoodsafetveducation.info/>

#### **UMass Extension – The Center for Agriculture, Food and the Environment:**

<https://ag.umass.edu/resources/food-safety>



# 2018 Merged Food Code

## Link:

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



Commonwealth of Massachusetts  
Department of Public Health

## Chapter 1 - Purpose and Definitions

105 CMR 590.001

### 1-1 Title, Intent, Scope

#### 1-101 Title

##### **1-101.10 Food Code**

These provisions shall be known as the Food Code, hereinafter referred to as "this Code."

#### 1-102 Intent

##### **1-102.10 Food Safety, Illness Prevention, and Honest Presentation.**

The purpose of this Code is to safeguard public health and provide to CONSUMERS FOOD that is safe, unADULTERATED, and honestly presented.

#### 1-103 Scope

##### **1-103.10 Statement.**

This Code establishes definitions; sets standards for management and personnel, FOOD operations, and EQUIPMENT and facilities; and provides for FOOD ESTABLISHMENT plan review, PERMIT issuance, inspection, EMPLOYEE RESTRICTION, and PERMIT suspension.

##### **FC 1-1 Purpose. [590.001(B)]**

The purpose of 105 CMR 590.000 is stated within FC 1-101.10 2013 Food Code, FC 1-102.10 Food Safety, Illness Prevention, and Honest Presentation and FC 1-103.10 Statement.

### 1-2 Definitions

#### 1-201 Applicability and Terms Defined

##### **1-201.10 Statement of Application and Listing of Terms.**

(A) The following definitions shall apply in the interpretation and application of this Code.

(B) Terms Defined. As used in this Code, each of the terms listed in ¶ 1-201.10(B) shall have the meaning stated below.

##### **Definitions. [590.001(C)]**

For the purposes of 105 CMR 590.000, the following terms shall have the meanings hereinafter specified. These definitions shall be in addition to or a substitution for the same definition in 2013 Food Code section FC 1-201.10 entitled Definitions. Citations to the 2013 Food Code shall be referenced FC followed by the section number (e.g. FC 1-201.10).

##### **Accredited program.**

(1) "Accredited program" means a food protection manager certification program that has been evaluated and listed by an accrediting agency as conforming to national standards for organizations that certify individuals.

(2) "Accredited program" refers to the certification process and is a designation based up-

on an independent evaluation of factors such as the sponsor's mission; organizational structure; staff resources; revenue sources; policies; public information regarding program scope, eligibility requirements, re-certification, discipline and grievance procedures; and test development and administration.

(3) "Accredited program" does not refer to training functions or educational programs.

(4) Accredited Program also means food protection manager certification programs that are recognized by the Department

##### **Additive.**

(1) "Food additive" has the meaning stated in the Federal Food, Drug, and Cosmetic Act, § 201(s) and 21 CFR 170.3(e)(1).

(2) "Color additive" has the meaning stated in the Federal Food, Drug, and Cosmetic Act, § 201(t) and 21 CFR 70.3(f).

Adulterated means the definition in M.G.L. c. 94, § 186 as it pertains to food.

"Approved" means acceptable to the REGULATORY AUTHORITY based on a determination of conformity with principles, prac-

# Standard 5: Foodborne Illness and Food Defense Preparedness and Response

**Standard 5** - *surveillance, investigation, response, and subsequent review of alleged food-related incidents and emergencies, either unintentional or deliberate, which results in illness, injury and outbreaks*

- [DPH Foodborne Illness Investigation & Control Manual](#)
- [FDA Food Defense & Emergency Response for Retail Food](#)
- [FPP Retail - Foodborne illness investigations](#)



# *DPH Foodborne Illness Investigation and Control Manual*

## **Link:**

<https://www.mass.gov/lists/foodborne-illness-investigation-and-control-manual>



Commonwealth of Massachusetts  
Department of Public Health



## **Foodborne Illness Investigation and Control Reference Manual**



June 2017

# Standard 6: Compliance and Enforcement

**Standard 6** - *activities used by a jurisdiction to achieve compliance with regulations*

- [FPP Retail - Compliance & enforcement](#)
- [MAHB Legal Handbook for Boards of Health](#)



# Standard 7: Industry and Community Relations

**Standard 7** - *outreach activities used by a retail food regulatory program to solicit a broad spectrum of input*

- [\*Massachusetts Food Protection Manager Certification Exam and Trainer Directory\*](#)
- [\*DPH Food Establishment Advisory Committee\*](#)





# Standard 8: Program Support and Resources

**Standard 8** - *budget, staff, equipment, etc. necessary to support an inspection and surveillance system that is designed to reduce risk factors and other factors known to contribute to foodborne illness*

- [FDA Retail Food Protection Guidance](#)
- [CFP Staffing Level Assessment Workbook](#)
- [CFP FTE to Inspection Ratio Assessment](#)
- [AFDO Retail Program Standards Grant Program](#)



# Standard 9: Program Assessment

**Standard 9** - *process used to measure the success of a jurisdiction's program in reducing the occurrence of foodborne illness risk factors to enhance food safety and public health in the community*

- [FDA Voluntary National Retail Food Regulatory Program Standards \(VNRFRPS\)](#)
- [FDA Retail Food Risk Factor Study](#)
- [FDA VNRFRPS Clearinghouse Q&A](#)



# Questions?

