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> 105 CMR - DEPARTMENT OF PUBLIC HEALTH
> 105 CMR, 105 CMR 590.000 - State Sanitary Code Chapter X:minimum
Sanitation Standards For Food Establishments
> **105 CMR, § 590.014 - Permits: Suspension and Revocation**

105 CMR, § 590.014 - Permits: Suspension and Revocation

State Regulations Compare

(A) Summary Suspension of Permit/Emergency Closure without a Prior Hearing.

(1) In accordance with M.G.L. 111, § 30, the board of health or its authorized agent, as determined by the board of health, may, without a prior hearing, suspend a permit to operate a food establishment or to operate one or more particular operations if an imminent health hazard is found to exist.

(2) A permit may be summarily suspended without providing prior written notice, notice of a hearing, or a hearing, provided that the right to a hearing is afforded within three business days of a request for a hearing.

(3) A summary suspension order shall be in writing and shall be posted at a public entrance to the food establishment and a copy provided to the permit holder of the food establishment, pursuant to 105 CMR [590.015\(A\)](#). The order summarily suspending the permit or specific operation of the permit holder shall be immediately effective upon posting of the order at the food establishment by an authorized agent of the board of health.

(4) The summary suspension order shall state:

- (a) The name and location of the food establishment and the name and address of the permit holder;
- (b) That the board of health or its authorized agent, as determined by the board of health, has determined that an imminent health hazard exists, which requires the immediate suspension of the food establishment permit or the operation of one or more particular operations at the food establishment;
- (c) The specific violation(s) that lead to the determination that an imminent health hazard exists;
- (d) That all operations or one or more particular operations of the food establishment shall immediately cease and desist;
- (e) That the emergency closure shall remain in effect until conditions cited in the order of closure are corrected and the corrections are confirmed by the board of health or its authorized agent, as determined by the board of health, through reinspection and other means as appropriate;
- (f) That if a hearing is desired, a written request for a hearing shall be filed with the board of health by the permit holder within ten ten days of receipt of the summary suspension order;
- (g) That the person has the right to inspect and obtain copies of all relevant inspection reports, orders, notices, and other documentary evidence in the possession of the board of health and has the right to be represented at any hearing;
- (h) The name and address of the board of health where the written request for a hearing shall be sent; and
- (i) The signature of a member of the board of health or its authorized agent, as determined by the board of health.

(5) The board of health shall hold a hearing within three business days after receipt of a written request for a hearing.

(6) If no hearing is requested, the summary suspension shall remain in effect until the board of health or its authorized agent, as determined by the board of health, determines that all conditions cited in the summary suspension order are corrected.

(7) The board of health or its authorized agent, as determined by the board of health, shall end the summary suspension at any time if reasons for the

suspension no longer exist.

(B) Suspension of a Permit with Notice.

(1) The board of health or its authorized agent, as determined by the board of health, may issue a notice to suspend a permit to operate a facility permitted under 105 CMR 590.000 or one or more particular operations of the facility. Each of the following grounds, individually or severally, shall constitute full and adequate grounds to suspend a permit.

(a) Failure to comply with the requirements of 105 CMR 590.000;

(b) Denial of entry to agents of the board of health or the Department or attempts to impede the work of a duly authorized agent of the board of health or the Department;

(c) Providing false or misleading statements or documents to the board of health or the Department or agents thereof, or keeping any misleading or false records or documents intended to satisfy the requirements of 105 CMR 590.000;

(d) The permit holder or owner, or if the permit holder or owner is a corporation, a corporate officer, of the facility, has been convicted of, pled guilty or *no lo contendere* to, or has, in a judicial proceeding, admitted facts sufficient to find that he or she is guilty of a crime relating to the operation of a food establishment;

(e) The permit holder or owner, or if the permit holder or owner is a corporation, a corporate officer, of the facility has engaged in conduct that endangers the public health;

(f) Failure to pay any federal, state, or local taxes as required by law, pursuant to M.G.L. c. 62C, § 49A;

(g) Failure to comply with local regulations/ordinances related to the operation of the facility; or

(h) Such other reasons not stated in 105 CMR 590.014(B)(1)(a) through (g) which pose a risk to public health and safety.

(2) The order to suspend the permit shall be given by the board of health or its authorized agent, as determined by the local board of health, to the permit holder in writing and shall specify:

(a) The name and location of the permit holder;

(b) The specific violation(s) for which the permit or operation is to be suspended;

- (c) The date the suspension will become effective;
- (d) That the suspension shall remain in effect until the conditions cited in the order to suspend are corrected and their correction is confirmed by the board of health or its authorized agent, as determined by the local board of health, through reinspection and any other means as appropriate;
- (e) Notice of a right to a hearing before the board of health if a written request for hearing is filed with the board of health by the permit holder within ten days of receipt of the order to suspend, the right to inspect and obtain copies of all relevant inspection reports, orders, notices and other documentary information in the possession of the board of health, and the right to be represented at the hearing. A board of health that sets a hearing on a specified date rather than requiring the permit holder to request a hearing, satisfies this notice requirement provided that there is adequate notice of the hearing date, and the notice fully informs the permit holder of the rights listed above;
- (f) The name and address of the board of health where the written request for a hearing shall be sent;
- (g) If no request for a hearing is filed within the ten-day period, the board of health may impose the suspension order; and
- (h) The signature of a member of the board of health or its agent, as determined by the board of health.

(C) Revocation or Non-renewal of a Permit with Notice.

- (1) The board of health or its authorized agent, as determined by the board of health, may issue an order to revoke a permit or refuse to renew a permit to operate a food establishment or terminate one or more particular operations of the establishment for:
 - (a) Serious or repeated violations of any of the requirements of 105 CMR 590.000;
 - (b) Any grounds cited in 105 CMR 590.014(B)(1)(b) through (h), which in the discretion of the board of health or the Department are sufficiently serious to require revocation.
- (2) The order to revoke the permit shall be given by the board of health or its authorized agent, as determined by the board of health, to the permit holder in writing and shall specify:

- (a) The name and location of the food establishment and the name and address of the permit holder;
- (b) The specific violation(s) for which the permit or operation is to be revoked or not renewed;
- (c) The date the revocation or non-renewal will become effective. The revocation or non-renewal of a permit shall be effective for a period of one year from the date of the final order, unless the board of health orders otherwise;
- (d) Notice of a right to a hearing before the board of health if a written request for hearing is filed with the board of health by the permit holder within ten days of receipt of the order, the right to inspect and obtain copies of all relevant inspection reports, orders, notices and other documentary information in the possession of the board of health, and the right to be represented at the hearing. A board of health that sets a hearing on a specified date rather than requiring the permit holder to request a hearing, satisfies this notice requirement provided that there is adequate notice of the hearing date, and the notice fully informs the permit holder of rights listed above;
- (e) The name and address of the board of health where the written request for a hearing shall be sent;
- (f) If no request for a hearing is filed within the ten-day period, the board of health may impose the revocation or non-renewal order; and
- (g) The signature of a member of the board of health or its agent, as determined by the board of health.

Notes

105 CMR, § 590.014

Amended by Mass Register Issue 1375, eff. 10/5/2018.

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