



GRETCHEN WHITMER
GOVERNOR

STATE OF MICHIGAN
DEPARTMENT OF AGRICULTURE
AND RURAL DEVELOPMENT

GARY MCDOWELL
DIRECTOR

February 3, 2021

Dear Sushi Facility Operator:

Summary:

- MDARD has determined that your facility is a retail facility.
- Your license type will be changed so that you will renew as a retailer (FRF license type \$186.00) and not a wholesale processor (FFP license type \$471.00).
- If you are supplying other kiosks or firms, then you are a wholesale processor and you do not qualify for this change. If this is the case, contact your inspector.
- As a retailer under the Michigan Modified Food Code, you are required to meet food safety standards for holding sushi rice without refrigeration during preparation. We have included a templated method and you must complete this form and keep a copy on site.
- If you have further questions after reviewing this letter, please contact your inspector.

The Michigan Department of Agriculture and Rural Development (MDARD), Food and Dairy Division, is the state agency charged with enforcing the Michigan Food Law P.A. 92 of 2000 and its adopted provisions including the Michigan Modified Food Code, and Title 21 of the Code of Federal Regulations (CFR) Parts 117 and 123.

Previously, MDARD had determined that facilities that make sushi within a retail food establishment but hold a separate license and do not sell direct to the consumer would be considered a processing facility. Further, these facilities were determined to be operating as wholesalers as the product is not directly sold to the final consumer but is sold on consignment to the retailer who houses the operation. Wholesale sushi processing facilities are regulated under federal law, 21 CFR 123 ("Seafood HACCP"), which has also been adopted into state law.

MDARD, upon further review and evaluation, has determined that this model is not consistent with the overall operation of these facilities. Similar facilities operated in other states are regulated as retail firms, and guidance from our regulatory partners supports this approach. While sushi operations that transfer product to other retail locations will continue to be regulated under the State of Michigan's adoption of 21 CFR 123 Seafood HACCP, sushi operations that solely prepare sushi for sale at the retail facility where they are housed will be regulated under the Michigan Food Law's Modified Food Code (MMFC) provisions. This change will improve regulatory consistency across the region and reflects our careful review of the regulatory framework.

Your firm has been identified as one that requires a license type adjustment from a Wholesale Food Processor (FFP license type) to a Retail Food Establishment (FRF license type). This license type adjustment will occur automatically, and your firm will be sent a renewal application that reflects this change. The Retail Food Establishment license fee for 2021-22 is \$186.

If you believe this is a mistake and you wish to remain a Wholesale Food Processor, please contact our Customer Call Center BEFORE renewing your 2021-22 food establishment license.

Wholesale sushi operations are required to have and operate under Seafood HACCP plans. Retail sushi operations are required to comply with the MMFC. Many sushi operations choose to hold cooked rice without temperature control and under the MMFC would be required to obtain a variance.

A template for this process is attached. The template provides a preapproved process for holding cooked rice without temperature control during the preparation of the sushi using the process of acidification. While finished sushi product requires refrigeration, if the steps in the template are followed and a copy of the completed template is on site, the cooked rice may be held without refrigeration during sushi preparation.

To comply with the MMFC requirements for obtaining a variance to conduct this specialized process, a completed copy of this template, or its equivalent, must be maintained onsite and made readily available for the Department's review. Documentation includes records of pH monitoring and calibration of equipment as well as a record of training for all staff.

If your firm wholesales sushi, fish, or other fishery products to another location, whether a kiosk under separate ownership, other food establishments, or for distribution, it will be regulated under the State of Michigan's adoption of the federal provisions within 21 CFR 123 and 21 CFR 117 and will continue to be licensed as a Wholesale Food Processor (FFP). You will need to review your existing hazard analysis and HACCP plans to ensure they are in full compliance with 21 CFR 123 and the Fish and Fisheries Products Hazards and Controls Guidance. You will also need to review your training qualifications under 21 CFR 123.10.

Firms found in violation of the Food Law and in particular the adopted provisions of the MMFC or 21 CFR 123 may face enforcement actions. Please contact your area inspector if you have questions about the regulatory requirements.

Information regarding retail and wholesale sushi production, the pre-approved template for acidification of rice, sample logs, and more can be found at: www.michigan.gov/MDARDSushi.

Sincerely,



Jim Padden, Manager
Food Program
Food and Dairy Division