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Food Processing, Storage and/or Selling

Cooperative Extension Service

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Agricultural Economics²

Many people make plans to open a food related small home business but are quite surprised by the number of laws and regulations that apply to their situation. Before you go too far into planning a food related small home business there are certain things you need to know.

Information You Need To Consider

If you are planning a small home business involving food, the following provides some background information in 7 areas: zoning, licensing, regulations, low acid and acidified foods, labels, weights and measures, sales tax and product liability insurance.

ZONING REGULATIONS

Check with local township or city zoning board.

LICENSING

A license from the Michigan Department of Agriculture (MDA) is needed for each location for the processing, storage and/or selling of packaged or unpackaged food, food ingredients and/or drinks for human consumption. Any exceptions to the licensing regulation are noted on page 4.

Baked goods

Bottled water

Cake decorating

Cider

Eggs Require inspection but no license is needed, if eggs being sold are of your own production.

Herbs..... Dried herbs for human consumption, license is required.

Honey, unprocessed Requires inspection, but no license if it is sold unprocessed (unfiltered or unheated after extraction).

Maple syrup

Popcorn

Jams and Jellies Also, Food & Drug Administration (FDA) has Standards of Identity to be followed. (21CFR, parts 100-169, is available at a local library or for purchase from the Superintendent of Documents, U.S. Gov't. Printing Office, Washington, D.C. 20402. Cost is \$14.00.)

Unprocessed fruits
& vegetables See exemptions.

License expires March 30 and is renewable by April 1.

Cost: \$15.00 per year or part of year. Late application/Penalty Fee: \$10.00 per day, up to maximum of \$100.00. Application: Write Food Division, Michigan Department of Agriculture, Box 30017, Lansing, MI 48909.

EXAMPLE: You have an MDA license to produce baked goods, and then you decide to go into making jams and jellies. You will need only one license for that location, but you must notify the inspector before you change the nature of your business...so you can be inspected for production of jams and jellies.

If you plan to sell these products from a different location, a separate license will be needed for each location.

¹ For catering regulations, contact your local public health department.

² Appreciation is expressed to the Food Division, Michigan Department of Agriculture, for assistance with this publication.

REGULATIONS

MDA requires all areas used for food processing, storing, selling or packaging to be separated from the private areas of the home. A separate room with hand washing, equipment washing, stoves, ovens, refrigerators, freezers, etc. for the exclusive use of the licensed food activity must be

available. A home facility may not be acceptable for extensive food processing. Applicants should discuss their specifications with regional MDA personnel well before any extensive plans or commitments are made. MDA suggests you consider renting space at a local

church, school or other licensed kitchen, or at a restaurant during times it is not in use. Such rentals would still require you to obtain a license from MDA even though the kitchen owner may be licensed by the public health department.

LICENSING- SPECIAL CONSIDERATIONS

The following food products involve more extensive preparation and processing. Greater expenditures of money are needed for construction and/or special equipment in order to meet the Michigan and Federal requirements.

Low acid and acidified foods	See page 3.
Fish & seafood	
Hot sauces	
Salad dressings	
Dairy products	Contact Animal Industry Division, Michigan Dept. of Agriculture, Box 30017, Lansing Mi 48909.
Poultry or rabbit.....	For slaughter, wholesale, or retail sale, contact MDA. See page 5.
Red meats or poultry..... fresh or any processed product with red meat or poultry as an ingredient in these products (egg rolls, pizza with meat).	Contact U.S.D.A. regional office if planning to process and wholesale these products. See page 6.
Sandwiches	Manufacture, wholesaling or selling is covered by MDA. If sandwiches are a part of catering or food services operation, contact local public health department.
Vinegar.....	Requires inspection and license by MDA.
Wine	Requires inspection by MDA, but licensing is under Michigan Liquor Control Commission with offices in Lincoln Park, Escanaba, and Lansing. (517)332-1345

Food Laws and Regulations

- Food Processing Act No 328 of 1977 (Licensing of persons who are processing, packing, storing or selling of foods for human consumption).

- Food Law of 1968 Act No 39 (Labeling, adulteration, recommended last date of sale, penalties and non-smoking area).

- Weights and Measures, Packaging and Labeling Regulation No. 551.

- Temporary Food Establishments Regulation No. 558, 1982.

- Food Establishments - Regulation No. 553, 1975.

- Pasteurized Milk Ordinance Act 233 Grade A Fluid Products - Includes yogurt and sour cream.

- Manufactured Milk Law - Act 222 Cottage cheese, butter, and all other cheeses.

LOW ACID AND ACIDIFIED FOODS

- These regulations are required because botulism could be a problem with low acid foods packaged in containers under vacuum.
- Low acid foods (those foods with a pH of 4.6 or greater) include canned vegetables, tomato mixtures, meats, poultry, fish, mushrooms and soups.
- Acidified foods (those with a pH of less than 4.6) include certain tomato varieties, sauerkraut, pickles and relishes.
- Low acid foods cannot be home canned (for commercial sale) unless the firm processing them:
 - 1) registers with the Federal Food & Drug Administration (FDA),
 - 2) files each process being used with the FDA and 3) is in compliance with the low acid regulations (21 CFR 113-114). In addition the firm must be licensed and inspected by MDA.
- Firms processing acidified foods must
 - 1) register with the FDA if intended for interstate trade,
 - 2) file each process being used with FDA and 3) be in compliance with the acidified low acid food processing regulations. Again, the firm must be licensed and inspected by MDA. Firms which are not required to register with FDA must verify the pH for each product with a pH meter or laboratory analysis with the results submitted to MDA.
- For details, contact a compliance officer, Food & Drug Administration, 1560 E. Jefferson Ave., Detroit, MI 48207, telephone (313) 226-6260 or

compliance officer for the Food Division, MDA, P.O.Box 30017, Lansing, MI 48909, telephone: (517) 373-1060.

LABELS

- All food labels must meet state requirements, but approval prior to printing labels is not mandatory. If approval is sought after the labels or containers are printed, however, and corrections are necessary, it can become costly. (Contact Food Division, Michigan Department of Agriculture for label review.)
 - Products shipped interstate must meet Federal requirements (Compiled Federal Regulations) which may include nutrition labeling. (Contact the FDA compliance officer in Detroit, telephone (313) 226-6260.
 - Nutrition labeling is not required on the labels of foods produced and sold within Michigan. However, if nutrition labeling is used, it must comply with the Federal guidelines.
- Label information required:**
- Common name of product.
 - Ingredient listing - complete, accurate and in descending order by weight. All labels printed after July 1, 1991 must list all ingredients by name; standardized foods are no longer exempt.
 - Name and place of business of manufacturer, packer, or distributor, including the city, state and zip code. Also street address if not listed in local telephone directory.

-Quantity declaration must be placed on the principal display panel in the lower third of the panel.

- Packaged perishable foods (those with a shelf life of less than 90 days) must include recommended last date of sale consisting of the month and day.

- Processed foods must have a meaningful code identification (to enable lot identification).

Size of print on label

- 1/16 inch minimum for name, ingredient listing and name of manufacturer.

- Quantity declaration -depends on size of principal panel (see regulation 551 Rule 41043).

WEIGHTS and MEASURES

- All scales used for commercial transactions must be checked for accuracy (sealed) by the MDA food inspector. Before using a scale, notify the food inspector in your area and indicate that a scale is available for testing (sealing). There is no charge to the individual, unless it would require a special, immediate checking by the inspector. If the scale is condemned (i.e., not accurate) it must be reinspected at a charge to the individual. Reinspection of a counter scale is \$16.00.

- Commercial scales are required if food products are weighed at the time of sale. Scales used solely for prepackaging products are not required to be checked by the food inspector. However, packages themselves are subject to checks for accurate net weight by MDA food inspectors.

TAX ASPECTS

Sales tax - Most foods sold for off-premise consumption are not subject to sales tax. However, hot prepared foods and prepared foods for immediate consumption on-premise are subject to tax. See pages 7 and 8. For application, contact Michigan Department of Treasury, Sales Tax Division, (517) 373-3190 or district office.

PRODUCT LIABILITY INSURANCE

- Cost depends on type of product and potential risk.

- Some companies won't give insurance unless the building is licensed (i.e., must be separate from private areas of the home, and with separate food preparation and wash-up area). Moreover, most insurance policies will not be valid unless the facility is properly licensed.

YOU SHOULD BE AWARE

- Under food Processing Act 328 - a city or any local unit of government cannot impose additional license fees.

- If you plan to sell food or food products at the Michigan State Fair or county fairs, a special separate license is required (obtained from the Michigan Department of Agriculture). One license covers all the fairs for one year.

- Returnable, reusable glass or plastic bottles shall be used only if they are washed in a minimum of 3.5% caustic solution at 140 degrees Fahrenheit or above for at least 5 minutes, and shall be

properly rinsed to avoid any product contamination before reuse. (Regulation No. 553-15). Otherwise new containers must be used. New lids or tops always must be used.

- The water supply and sewage disposal must be approved by the local health department for a commercial business.

Exemptions from Food Processing Act (licensing)

Growers or producers selling unprocessed products which are primarily of their own production.

Consumers or a non-profit cooperative of consumers providing products only for their own use.

Non-profit cooperatives who are growers or producers selling unprocessed products of their own production.

Retail outlets for the sale of prepackaged honey or maple syrup produced in Michigan if the outlet is operated by the producer and the processing facility is licensed under the act.

Although some establishments are exempt from licensing, all food establishments are required to be inspected. The only exemption is listed below.

Exemptions from Temporary Food Establishment Regulation (inspection)

Growers selling fresh fruits and vegetables primarily of their own production on their own premises, or selling fresh fruits

and vegetables only of their own production anywhere within the state, are exempt from licensing requirement.

SUMMARY

1. Write to the Food Division, Michigan Department of Agriculture for information concerning the laws and regulations governing food establishments operated in Michigan. They will send you:

1) A copy of each law and regulation appropriate for the type of facility you propose to operate.

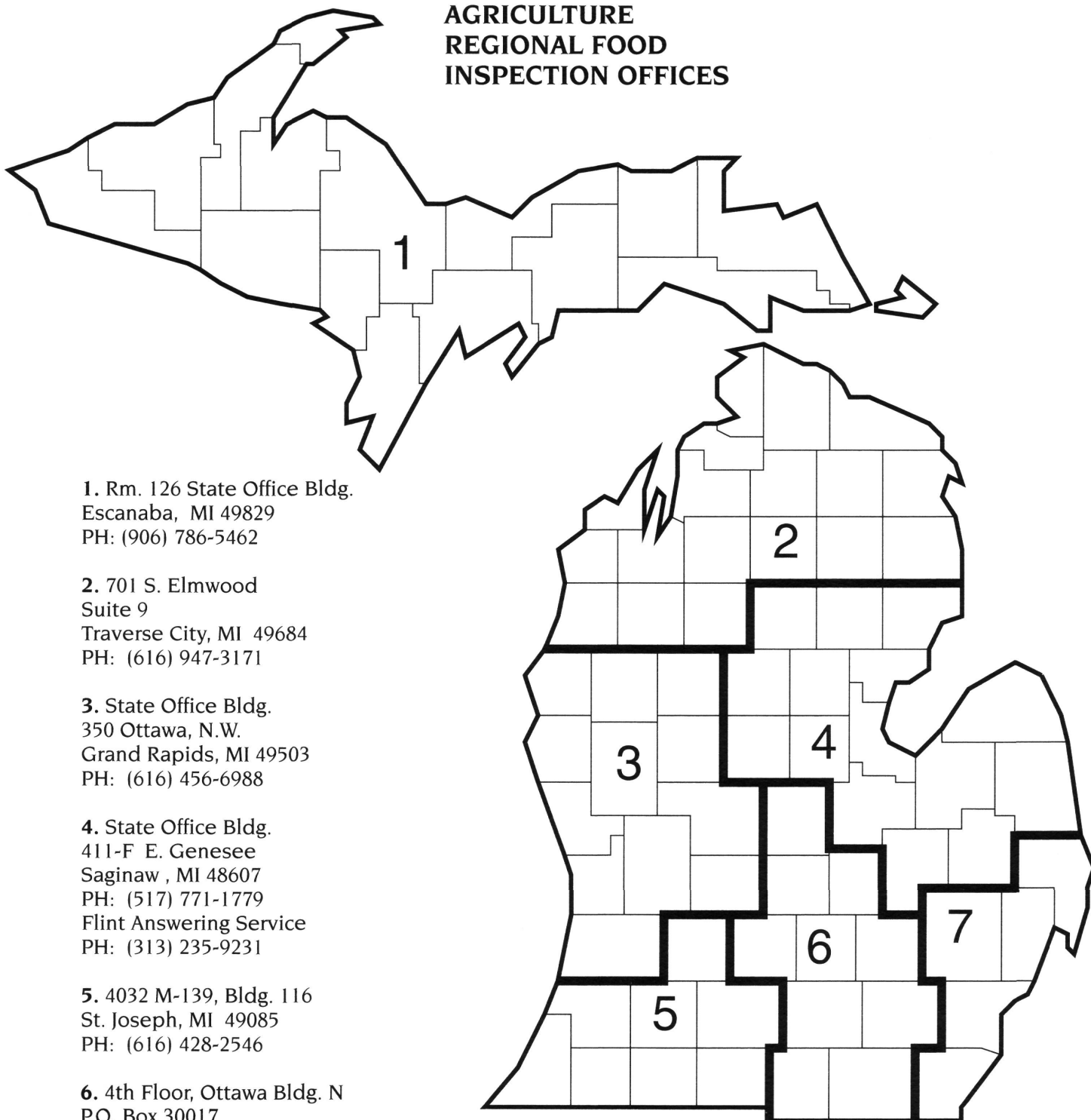
2) PA 328 License Application.

3) Basic plant evaluators used by the inspectors as a guide during inspection of the type of facility you propose to operate.

2. After reviewing the information, it is suggested you contact the regional supervisor in your area (see page 5) to discuss any questions you have, and to provide further assistance.

3. Food establishments are routinely inspected by the MDA staff for compliance with minimum sanitation and construction requirements. Thirty days prior to beginning operation, application for a license is required. Additional fees are charged for late applicants. Before approving a firm for licensing, the proposed facility must be inspected and approved by the MDA inspectors.

**MICHIGAN
DEPARTMENT OF
AGRICULTURE
REGIONAL FOOD
INSPECTION OFFICES**



1. Rm. 126 State Office Bldg.
Escanaba, MI 49829
PH: (906) 786-5462

2. 701 S. Elmwood
Suite 9
Traverse City, MI 49684
PH: (616) 947-3171

3. State Office Bldg.
350 Ottawa, N.W.
Grand Rapids, MI 49503
PH: (616) 456-6988

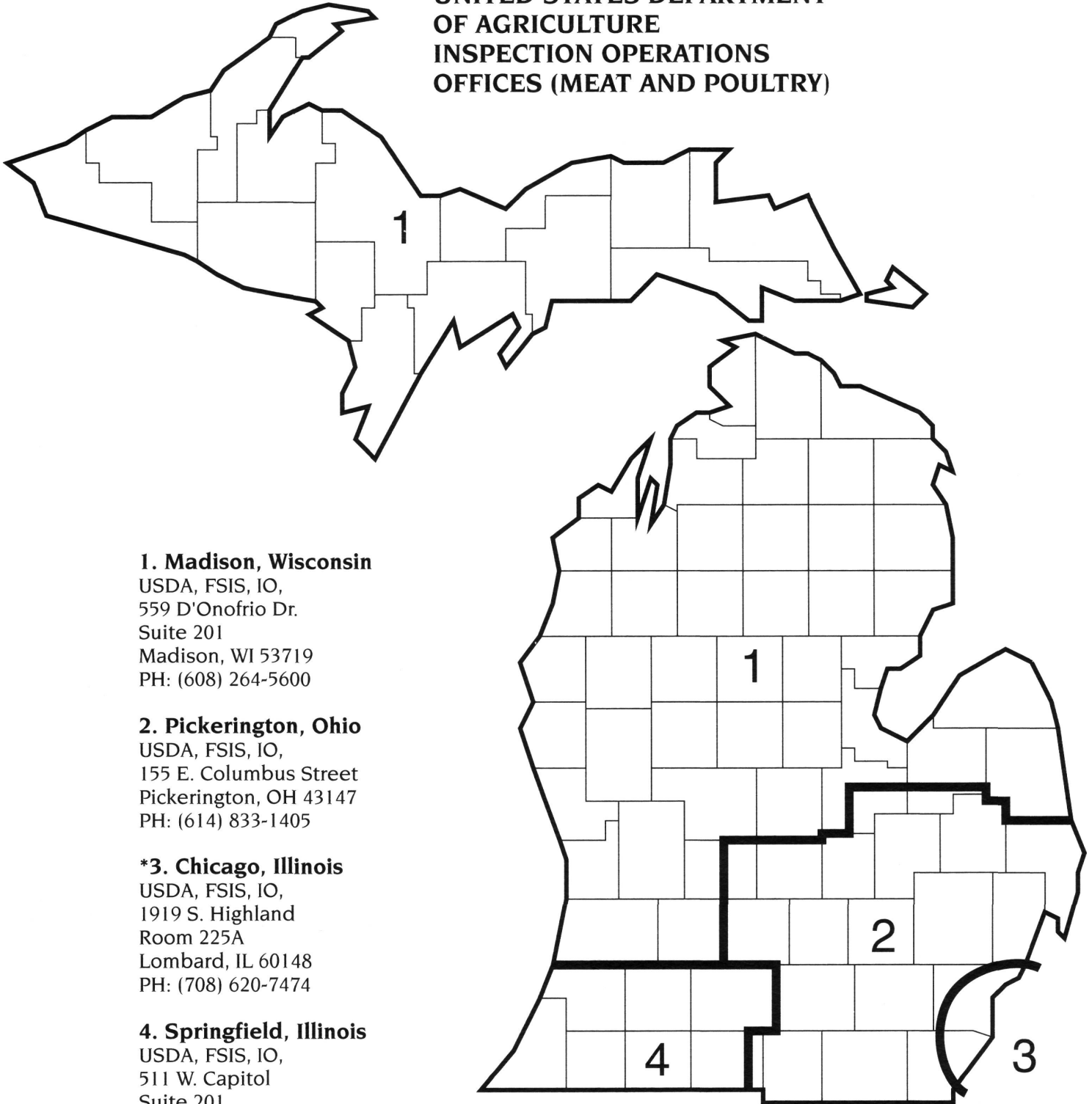
4. State Office Bldg.
411-F E. Genesee
Saginaw, MI 48607
PH: (517) 771-1779
Flint Answering Service
PH: (313) 235-9231

5. 4032 M-139, Bldg. 116
St. Joseph, MI 49085
PH: (616) 428-2546

6. 4th Floor, Ottawa Bldg. N
P.O. Box 30017
Lansing, MI 48909
PH: (517) 373-1333

7. 26400 Lahser Rd.
Suite 220
Southfield, MI 48034
PH: (313) 356-1700

**UNITED STATES DEPARTMENT
OF AGRICULTURE
INSPECTION OPERATIONS
OFFICES (MEAT AND POULTRY)**



1. Madison, Wisconsin

USDA, FSIS, IO,
559 D'Onofrio Dr.
Suite 201
Madison, WI 53719
PH: (608) 264-5600

2. Pickerington, Ohio

USDA, FSIS, IO,
155 E. Columbus Street
Pickerington, OH 43147
PH: (614) 833-1405

***3. Chicago, Illinois**

USDA, FSIS, IO,
1919 S. Highland
Room 225A
Lombard, IL 60148
PH: (708) 620-7474

4. Springfield, Illinois

USDA, FSIS, IO,
511 W. Capitol
Suite 201
Springfield, IL 62704
PH: (217) 492-4500

*** Detroit Processing Plants
Only.**

MICHIGAN DEPARTMENT OF TREASURY

Rule 86. (R205.136) Specific Sales Use and Tax Rules.

Food for Home Consumption

(1) Retail sales of food for human consumption normally considered as grocery items for home consumption are tax exempt.

(2) Alcoholic products, such as beer, wine and liquor, are taxable.

(3) Tobacco and tobacco products are taxable.

(4) Prepared food intended for immediate consumption is taxable. All prepared food and drink items sold by a restaurant, coffee shop, cafeteria, short order cafe, luncheonette, lunch counter, grill, tea room, take-out food service, drive-in, or similar establishments, are taxable.

(5) Prepared food sold by various organizations, such as churches or charitable, benevolent, social, or fraternal groups, including fund raising projects, is taxable. Such organizations shall have a sales tax license for the purpose of reporting the tax due.

(6) Sales of prepared food and drink by a caterer are subject to tax.

(7) Sales of prepared food cooked to the order of the purchaser, or maintained at a temperature higher than normal room temperature, are taxable.

(8) Vending machine sales of tangible personal property are subject to sales tax, except sales of milk, juices, fresh fruit, candy, nuts, chewing gum, cookies, crackers, and chips. If both taxable and exempt merchandise are sold through the same vending machine, sales tax applies on the total gross proceeds from that machine, unless it can be determined and substantiated to the satisfaction of the department that a percentage or other apportionment of sales is equitable and practical.

(9) Examples of nontaxable food items normally sold by a grocer or other food retailer for off-premises consumption are listed below to serve as a guide for both the retailer and the consumer.

Baby foods
Bakery products
Baking soda
Boullion cubes
Candy and confectionery
Carbonated beverages
(bottle deposits are exempt)
Candied apples
Carmel-coated popcorn
Cereal and cereal products
Chewing gum (nonmedicated)
Chocolate
Cocoa
Coconut
Coffee & coffee substitutes
Condiments
Cookies
Crackers

Dehydrated fruit & veg.
Diet food
Dietary supplements
Eggs and egg products
Extracts, flavoring as an ingredient of food products
Fish and fish products
Flour
Food coloring
Fruit and fruit products
Fruit juices
Gelatin
Health foods
Honey
Ice cream, topping & novelties
Insulin
Jams
Jellies
Lard
Marshmallows
Mayonaise
Meat & meat products
Milk and milk products
Mustard
Nuts
Oleomargarine
Olive oil
Olives
Peanut butter
Pepper
Pickles
Pop
(bottle deposits are exempt)
Popcorn
Potato chips
Powdered drink mixes
(presweetened or natural)
Prescription drugs
Relishes
Salad dressings & dressing mixes
Salt
Sauces

(continued on next page)

Sherbets
 Shortenings
 Soft drinks
 Soups
 Spices
 Sandwich spreads
 Sugar, sugar products & sugar
 substitutes
 Syrups
 Tea
 Vegetables & vegetable
 products
 Vegetable juices

Vegetable oils
 Vitamins
 Water, including mineral and
 distilled
 Yeast

**10) The following examples of
 nonfood items are subject to tax:**

Alcoholic beverages
 Cocktail mixes (dry or liquid)
 Drugs (nonprescription)
 Household supplies

Hot prepared foods
 Ice
 Nonprescription medicines
 Paper products
 Pet foods and supplies
 Prepared foods for immediate
 consumption
 Soap and soap products
 Toothpaste

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