

## Rhode Island Food Code Update Comments

Submitted by:

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October 2, 2022

My name is Andrew Morley, and I am a member of the Rhode Island Food Policy Council. I suggest the following modifications to the proposed rule (216-RICR-50-10-1) in order to make the rule fully compliant with the relevant statutes (RIGL 21-27 and 23-1):

While the proposed language in Parts 1.10 (Farm Home Food Manufacturers) and 1.11 (Cottage Food Manufacturers) of the proposed rule simply states that those two types of food manufacture must comply with the relevant Rhode Island General Laws, additional language is needed to clarify that compliance with the law is the only compliance requirement for Farm Home Manufacture and Cottage Food Manufacture under the rule (Rhode Island Food Code).

### **Suggested Modification 1:**

In order for the Department of Health to comply with the RI GL §21-27-6.1, I propose the following language to be added as a second sentence in Part 1.10:

“Other requirements found in Part 1 of this Subchapter that are not included in Rhode Island General Laws §21-27-6.1 do not apply to Farm Home Food Manufacture.”

### **Suggested Modification 2:**

In order for the Department of Health to comply with the RI GL §21-27-6.2, I propose the following language to be added as a second sentence in Part 1.11:

“Other requirements found in Part 1 of this Subchapter that are not included in Rhode Island General Laws §21-27-6.2 do not apply to Cottage Food Manufacture.”

If those modifications are not made, other Parts of the rule (Rhode Island Food Code) could be interpreted as imposing additional requirements on Farm Home Food Manufacture and Cottage Food Manufacture that are not allowed under the law. One such example would involve the defined term “food business” (Part 1.3.13), which is reasonably be interpreted as including Farm Home Food Manufacture and Cottage Food Manufacture. Elsewhere in the rule (Rhode Island Food Code), a “food business” is subject to additional requirements, including plan review and public water system requirements. Rhode Island General Law expressly does not allow the Department of Health to impose such requirements on Farm Home Food Manufacture and Cottage Food Manufacture. My suggested language additions above would provide needed clarity that the Department of Health is complying with

the law and not adding further requirements. There are other aspects of the proposed rule that would benefit similarly from this clarification.

I would be happy to discuss further if that would be of help to the Department. Thank you for your consideration.

**For background:**

RI General Laws Chapter 21-27 requires that the department of health register cottage food manufacture and the sale of the products of cottage food manufacture, provided the requirements laid out in the statute are met. (see RI GL 21-27-6.2). RI General Laws Chapter 21-27 also gives the director of health “the authority to develop and issue a standard form for the affidavit of compliance to be used by persons applying for a certificate of registration.” (See RI GL 21-27-6.2(4)). However, that form “shall impose no requirements or certifications beyond those set forth in this section and § 21-27-1(6).” (See RI GL 21-27-6.2(4)).

Similarly, RI General Laws Chapter 21-27 requires the department of health to “permit farm home food manufacture and the sale of the products of farm home food manufacture at farmer’s markets, farmstands, and other markets and stores operated by farmers for the purpose of the retail sale of the products of Rhode Island farms, provided that the requirements of this section are met.” (See RI GL 21-27-6.1). RI General Laws Chapter 21-27 goes on to state a “certificate of registration shall be issued by the department upon the payment of a fee as set forth in § 23-1-54 and the submission of an affidavit of compliance.”

**ONLINE PUBLIC COMMENTS FOR REVIEW**

**Date: 10/05/2022**

Regulation: 216-RICR-50-10-1

Title: Rhode Island Food Code (216-RICR-50-10-1)

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Comments Pending Review

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**Comment ID:** 12820-518

**Comment By:** Meri Spicer

**On:** 09/22/2022

This comment is currently disabled for public display.

**Comment:**

We believe the cap of \$50,000 annual revenue is too high for home-based production. At that level, production times could reach most of every day, blurring the lines between home and business space.

Is selling over state lines direct to consumers allowed? We would like this clarified.

"Notwithstanding this subsection, the cottage food products may also be produced in a commercial kitchen licensed by the department and is leased or rented by the cottage food registrant provided that a record be maintained as to the dates the commercial kitchen was used and that ingredients used in the production of cottage foods are transported according to applicable food safety standards and regulations promulgated by the department."

Regarding the above: Are cottage food producers allowed to produce in two locations (home and a commissary kitchen)? Are they required to have a DOH Food Processor License if producing in a commissary kitchen in addition to their homes?

We would like to see clarity around reviews and inspections.

We approve the requirement that a cottage food producer hold a Food Safety Manager Certification.

We would like to see the fee schedule and how it compares to a Food Processor License.

Regarding the annual gross sales documentation, is that submitted annually, and to whom? Are there penalties or consequences to going over?

We would like a mandatory two-compartment sink, with an optional 150-degree dishwasher.

September 30, 2022

Cheryl A LeClair  
Department of Health  
3 Capitol Hill  
Providence, RI 02908

Re: Rhode Island Food Code (216-RICR-50-10-1)

Dear Ms. LeClair:

On behalf of the RI Hospitality Association, we write regarding the proposed rule in 216-RICR-50-10-1.

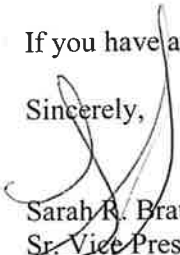
RIHA's overarching concern with the new law and the regulations is its impact on food safety and the lack of enforcement. While we believe that the proponents of the law have every intention of following the rules limiting sales and items that can be sold, it should also be noted that many home kitchens have been operating illegally throughout the state without any type of enforcement for several years.

The Office of Food Protection is severely understaffed, leaving them unable to inspect the existing restaurants in the State. This new law has massively expanded their duties, while only providing a small number of funds for new inspectors. The chances of these Cottage Food manufacturers being properly inspected is incredibly low.


The proposed regulation does not include any details about the requirements that Cottage Food manufacturers register their business and certify the annual income with the Department of Health as required in RIGL 21-27-6.2(4) and (6). This is an important part of the enforcement process and the only way the State can ensure these businesses are complying with the requirements of the law.


If you have any questions, please don't hesitate to contact us at 401-223-1120 or [sarah@rihospitality.org](mailto:sarah@rihospitality.org).


Sincerely,



Sarah R. Bratko, Esq.  
Sr. Vice President of Advocacy/General Counsel

 94 Sabra Street  
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 [www.RIHospitality.org](http://www.RIHospitality.org)

## Leclair, Cheryl (RIDOH)

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**From:** Vernon Martin <kinfolkben@gmail.com>  
**Sent:** Monday, October 3, 2022 2:57 AM  
**To:** Leclair, Cheryl (RIDOH)  
**Subject:** [EXTERNAL] : "Cottage Food" RIFPC comments

Hello. I'm a member of the RIFPC who has a few insights and thoughts about the portion of the budget regarding Cottage Food.

For transparency there isn't much not to like at all. My concerns are only enforcement, kitchen culture and available subsidies for participants to renovate spaces to meet minimum code standards.

I recommend the program director who spear heads the program keep a keen eye. Potential hazards could cause unwanted backlash from patrons of these new small businesses. Many thanks.

Regards,

Vernon R. Martin II  
Founder: Kinfolk Benefit Trust

Strengths: Achiever | Strategic | Relator | Analytical | Restorative |