



Department of Agriculture and Markets

Alcohol Manufacturer Guidance

Authority and Jurisdiction

This document outlines the authority and jurisdiction determination for alcoholic beverage producers. In addition to oversight by the NYS Liquor Authority, firms making alcoholic beverages will fall under the New York State Department of Agriculture and Market's (AGM) jurisdiction for food processing activities, which includes the production of the alcoholic beverages, and/or the New York State Department of Health (DOH) for food service operations.

AGM has the authority to inspect "food processing establishments" under AGM Article 20-C, section 251-z-1 to assure that "foods are... pure and wholesome and ...are manufactured or processed, conform to proper operating and sanitary standards." Alcohol is considered a "food" under AGM Law Article 20-C, section 251-z-2(1).

Alcohol manufacturers that operate under a NYS State Liquor Authority permit/license other than those designated as a farm operation **will require** an AGM Article 20-C license. A license is required if **any portion** of the business is not designated as a farm alcoholic beverage producer.

In addition, alcohol manufacturers that also produce packaged food items will require an Article 20-C license. Examples of when a 20-C Food Processing license is required, include: making condiments or sauces; making juice; bottling vinegar; etc. (<https://agriculture.ny.gov/food-business-licensing>)

Alcohol manufacturers that are exclusively designated by NYS State Liquor Authority as a Farm Winery, Farm Brewery, Farm Distillery, Farm Cidery, or Farm Meadery **will not** require a 20-C license (as stated in 1 NYCRR 276.4) unless conducting other food processing operations (**see examples**) for which licensing under Article 20-C of the Agriculture and Markets Law is required. A sanitary inspection is required regardless of licensing requirement.

Alcohol manufacturers that prepare and serve food for on-site consumption **will require a NYS Department of Health (DOH)** or local health department permit. Complex onsite food preparation and service also requires a food service establishment permit from DOH. In addition, food service operations (except simple beverage tastings) not located at the alcoholic beverage manufacturing location, such as satellite tasting rooms, requires a food service establishment permit from DOH.

A food service establishment permit from DOH is **not required** for on-site promotional beverage tastings accompanied by incidental foods where preparation is limited to:

- pouring commercially bottled or draft beverages.
- combining commercially prepared juices or sodas with spirits to enhance the tasting experience (i.e. making cocktails).

- slicing or portioning and plating of raw fruits, raw vegetables, and commercially prepared foods, such as cheeses and cured meats, which require no additional mixing, assembly, or other preparation except heating where limited to warming of non-Time Temperature Control for Safety (foods that do not need strict temperature monitoring-like refrigeration or hot holding) foods for immediate service.

Frozen foods sold frozen to customers, e.g., pizza or sandwiches, and heated via customer self-serve area will remain under the jurisdiction of AGM **and will not require** a 20-C license.

DOH is responsible for regulatory oversight of water supplies at facilities licensed by AGM. Generally, any establishment that operates more than 60 days per year, and has at least 25 employees and/or prepares food for service (excluding the production of alcoholic beverages) must be served by a Public Water Supply. Contact your local health department for more information.

- A Public Water Supply will require DOH approval of the water system. (10 NYCRR Part 5). A non-Public Water Supply will remain under AGM jurisdiction (21 CFR 117.37) and require:
 - Pre-opening testing of **Coliform, Nitrate and Nitrite-once only**.
 - After opening: **Quarterly Coliform testing and yearly nitrate**.

Regardless of licensing, all alcohol manufacturers must comply with current Good Manufacturing Practices (cGMP), 1 NYCRR Part 260, and are subject to yearly sanitation inspections. Dual jurisdiction between AGM and DOH may exist if food service operations require a DOH permit. Additionally, products other than alcoholic beverages may be subject to Preventive Controls. (cGMP highlights are on page 3&4).

The following information is related to the sanitary inspection at manufacturing firms, including those making alcoholic beverages. Additional information may be viewed online at the below linked websites.

Current Good Manufacturing Practices (cGMP):

NYS Department of Agriculture and Markets adopted the CGMP's on June 21, 2017. New York State did not adopt section 117.201 of Subpart D and did not adopt Subpart E.

<https://www.accessdata.fda.gov/scripts/cdrh/cfdocs/cfcfr/CFRSearch.cfm?CFRPart=117>

Highlights to Current Good Manufacturing Practices:

21 CFR Part 117

Subpart A – General Provisions, section 117.4: Qualifications of individuals who manufacture, process, pack or hold food

(b) Qualifications of all individuals engaged in manufacturing, processing, packing, or holding food. Each individual engaged in manufacturing, processing, packing, or holding food (including temporary and seasonal personnel) or in the supervision thereof must:

- (1) Be a qualified individual as that term is defined in [§ 117.3](#) - *i.e.*, have the education, training, or experience (or a combination thereof) necessary to manufacture, process, pack, or hold clean and safe food as appropriate to the individual's assigned duties; and

(2) Receive training in the principles of food hygiene and food safety, including the importance of employee health and personal hygiene, as appropriate to the food, the facility, and the individual's assigned duties.

(c) **Additional qualifications of supervisory personnel.** Responsibility for ensuring compliance by individuals with the requirements of this part must be clearly assigned to supervisory personnel who have the education, training, or experience (or a combination thereof) necessary to supervise the production of clean and safe food.

(d) **Records.** Records that document training required by [paragraph \(b\)\(2\)](#) of this section must be established and maintained.

Subpart A – General Provisions, section 117.5 – Exemptions (i)

(1) [Subparts C](#) and [G of this part](#) do not apply with respect to alcoholic beverages at a facility that meets the following two conditions:

(i) Under the Federal Alcohol Administration Act ([27 U.S.C. 201 et seq.](#)) or chapter 51 of subtitle E of the Internal Revenue Code of 1986 ([26 U.S.C. 5001 et seq.](#)) the facility is required to obtain a permit from, register with, or obtain approval of a notice or application from the Secretary of the Treasury as a condition of doing business in the United States, or is a foreign facility of a type that would require such a permit, registration, or approval if it were a domestic facility; and

(ii) Under section 415 of the Federal Food, Drug, and Cosmetic Act the facility is required to register as a facility because it is engaged in manufacturing, processing, packing, or holding one or more alcoholic beverages.

(2) [Subparts C](#) and [G of this part](#) do not apply with respect to food that is not an alcoholic beverage at a facility described in [paragraph \(i\)\(1\)](#) of this section, provided such food:

(i) Is in prepackaged form that prevents any direct human contact with such food; and

(ii) Constitutes not more than five percent of the overall sales of the facility, as determined by the Secretary of the Treasury.

A 20-C Food Processing license can be obtained at: [Food Business Licensing | Agriculture and Markets](#)

For firms that require inspection only or have additional questions, please email: fsiwebinquiries@agriculture.ny.gov

Food Service Establishment Permits

Food service establishment permits are issued by the local health department that oversees the city or county where the establishment is located. Contact the local health department directly to apply for a permit. The DOH Interactive Map (https://www.health.ny.gov/environmental/water/drinking/doh_pub_contacts_map.htm) can help identify the appropriate local health department and their contact information.