REVISING MINNESOTA’S FOOD CODE:

What Hunger Relief and Healthy Food Advocates and Partners Need to Know
HOW TO USE ZOOM

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• **All attendees are muted.** Click the Q & A button at the bottom of the Zoom window and type a question for our panelists to answer. Send your questions in at any time.
• **This webinar is being recorded.** If you arrive late, miss details or would like to share it, we will send you a link to this recording after the session has ended.
REVISING MINNESOTA’S FOOD CODE:

What Hunger Relief and Healthy Food Advocates and Partners Need to Know
PRESENTATION OBJECTIVES

• Understand background and structure of Minnesota Food Code.

• Discuss potential areas of impact on healthy food access from proposed Food Code revisions.

• Navigate process of current Food Code revisions and identify possible opportunities for involvement going forward.
INTRODUCTIONS

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LEGAL TECHNICAL ASSISTANCE

- Legal Research
- Policy Development, Implementation, Defense
- Publications
- Trainings
- Direct Representation
- Lobby

MN Food Code Revisions 2018
Two systems to improve public health...

Healthy Foods: To prevent chronic diseases like obesity, diabetes and heart disease.

and

Safe Foods: To prevent foodborne illness - acute illness from food borne pathogens and other hazards.

Access to healthy, safe foods – also essential for people with chronic disease, disabilities, and for persons highly susceptible to communicable diseases.
HEALTHY FOOD/SAFE FOOD


MN Food Code Revisions 2018
Using Law, Policy and Practice to Support Access to Healthy and Safe Food in Minnesota

October 17, 2016

Any legal information provided in this presentation does not constitute legal advice or legal representation.

http://www.publichealthlawcenter.org/sites/default/files/Healthy-Food-Safe-Food-Webinar-Final-2016.pdf
PURPOSE OF MINNESOTA FOOD CODE

Designed to protect consumers of retail food and food service by preventing:

**Foodborne illness or injury** (aka foodborne disease, foodborne infection, food poisoning) caused by ingesting food contaminated by: bacteria, viruses, parasites, and natural or human-made chemicals, or other foreign or hazardous objects.
WHY IS MINNESOTA’S FOOD CODE BEING UPDATED?

MN Food Code Revisions 2018
WHERE FOOD CODE FITS:

**Minnesota Statutes**
- Legally enforceable (supersedes rules)
- Minnesota Legislature Passes
- Gives authority to MDA and MDH:
  *to develop rules for food safety and sanitation standards and
  *delegate authority to local governments

**Minnesota Rules**
- Legally enforceable – must be consistent with authorizing statutes
- If any inconsistency between rule and statute, statute controls
- Minnesota Food Code - Minn. Rules Chapter 4626
- Developed by state agencies - MDH and MDA

**Guidance Documents**
- Advisory. Not legally controlling but indicate agency or other authority interpretation of statute or rule
- Developed by state agencies, i.e. MDA and MDH, House Research, and other experts to provide additional information on rules
WHERE THE FOOD CODE APPLIES IN THE FOOD SYSTEM (AN OVER-SIMPLIFICATION)
PROPOSED FOOD CODE REVISIONS:
SOME AREAS OF INTEREST

• Personnel
• Equipment
• Inspections
• Labeling and Disclosures
• Scope
• Readability and Language
PERSONNEL: STAFFING

Example: Proposed rules regarding certified food protection manager (CFPM) requirements

• Proposed: Requiring most food establishments subject to the Code to have a food “Certified Food Protection Manager.” (Proposed Rule 4626.0033)

• Currently: the rules require most food establishments to have a full-time “certified food manager” (CFM) on staff, with some exemptions. (Rule 4626.2010)
PERSONNEL: STAFFING

Proposed rules regarding CFPM requirements (cont.):

- The term “Certified Food Manager” will change to “Certified Food Protection Manager” (CFPM) and exemption categories will be reworked. (Proposed Rule 4626.0033)
PERSONNEL: STAFFING

Proposed rules regarding CFPM requirements (cont.):

• Some exemption categories are slightly different or framed somewhat differently (Proposed Rule 4626.0033):
  – Food establishments that meet the statutory definition of a “low-risk food establishment” will be exempted from the CFPM requirement.
  – Additionally, some food establishments that the departments have determined “pose little or no risk to public health” will be also exempted.
PERSONNEL: STAFFING

Proposed rules regarding CFPM requirements (cont.):

• Key categories of food establishments no longer specifically exempted (unless another exemption applies) (Proposed Rule 4626.0033):
  – Seasonal temporary food stands
  – Seasonal permanent food stands
  – Food carts
  – Mobile food units
  – Schools with satellite or catered feeding locations
  – Boarding and lodging establishments
  – Bed and breakfasts serving fewer than 18 persons per mealtime
PERSONNEL: STAFFING

Proposed rules regarding CFPM requirements (cont.):

• Also some changes to the education and certification requirements to ensure that CFPMs participate in continuing education at least every 42 to months. (Proposed Rule 4626.0033)
PERSONNEL: REQUIREMENTS

Example: Proposed revisions to rule regarding bare-hand food contact (Rule 4626.0225)

• Will require food employees to minimize bare hand contact with food that is not in a ready-to-eat form.

• Will prohibit touching ready-to-eat-food with bare hands:
  – Exceptions:
    • Ready-to-eat food if that food will be combined with other food(s) and cooked.
    • Establishments not serving highly susceptible populations, if certain requirements are met (including a written procedure for each ready-to-eat food touched by bare hands, a written health policy, and additional documentation requirements).
EQUIPMENT

Image source: https://www.wikihow.com/Start-a-Catering-Business | used under CC BY-NC-SA 3.0 with modification
Example: Easing/relaxing of certified equipment requirements (Proposed Rule 4626.0506)

Will replace equipment requirements at rule 4626.0505 and require only 10 types of equipment and food-contact surfaces to be American National Standards Institute (ANSI) certified:

- Manual warewashing sinks
- Mechanical warewashing equipment
- Mechanical refrigeration units (except for units or equipment designed and used to keep foods frozen)
- Walk-in freezers
- Food hot-holding equipment
- Cooking equipment, except microwave ovens and toasters
- Ice machines
- Mechanical slicers
- Mechanical tenderizers and grinders
- Food preparation surfaces including sinks used for food preparation
EQUIPMENT

Easing/relaxing of certified equipment requirements
(Proposed Rule 4626.0506) (cont.)

• Changes to allow adult and child care centers to avoid ANSI equipment certification requirements if serving exclusively foods that are not time/temperature control for safety food (TCS food) or preparing TCS food for same day service.
EQUIPMENT

Example: warewashing requirements (Rule 4626.0680):

• Elimination of need for manual warewashing* in addition to mechanical warewashing.

* = cleaning/sanitizing of utensils and surfaces of equipment that food contacts
EQUIPMENT

Example Revision:

4626.0780 FOOD PREPARATION SINKS; NEW OR EXTENSIVELY REMODELED ESTABLISHMENT.

For a food establishment newly licensed,
A. A newly licensed food establishment must have a separate food preparation sink if food will be washed or thawed using a sink.

B. If a food establishment is extensively remodeled, or adding adds a food product to the menu that requires washing or thawing in a sink, if food will be washed or thawed using a sink, the food establishment shall have a separate food preparation sink must be provided.

C. A food preparation sink must not be used for anything other than food preparation.
INSPECTIONS

Example: Performance and Risk-Based Inspections (Proposed Rule 4626.1787)

- Ties frequency of inspections to risk-levels associated with food-borne illness.

New food labels and consumer advisory disclosures requirements (Proposed Rules 4626.0435-.0442)

- Packaged food label requirement standards have been updated to reflect federal requirements. (Revisions to Rule 4626.0435)

- Disclosure requirements will require identification of foods with high risk ingredients (undercooked meats, raw eggs, etc.) and warnings regarding the same by way of brochures, menus, table tents, labels, etc. (Proposed Rule 4626.0442)
SCOPE: GENERAL APPLICABILITY

Revision:
4626.0020 Statement of Application and Listing of Terms Definitions

Subp. 35
A. "Food establishment" means an operation that:
1. stores, prepares, packages, serves, vends, caters, delivers, or otherwise provides food for human consumption, including a restaurant, satellite or catered feeding location, market, grocery store, convenience store, special event food stand, school, boarding establishment, vending machine and vending location, institution, and retail bakery; or where consumption is on or off the premises and regardless of whether there is a charge for the food, and relinquishes possession either directly or indirectly to a consumer.

B. Food establishment does not include:

3) a food processing plant, wholesale food handler, or a custom operator as described in Code of Federal Regulations, title 9, section 303.1, paragraph (a), subparagraph (2), except:
(a) a custom processor as defined in Minnesota Statutes, section 28A.03, subdivision 8;
(b) a person engaged in custom processing as defined in Minnesota Statutes, section 31A.02, subdivision 5; or
(c) an animal food manufacturer as defined in Minnesota Statutes, section 31A.02, subdivision 8;
SCOPE: EXEMPTIONS/EXCLUSIONS

Exemptions per Minn. Rule 4626.0020, subp. 35:

- Product of the farm or garden
- Educational, charitable, or religious organizations
- Food sampling and demonstration and farmers' markets or community events
- Cottage foods producers
- Meals served by faith-based organization in worship buildings
- Food served at some family day cares and small group residential facilities
- “Potlucks”
- Food served to children in homeschool settings
- Etc., etc., etc.
READABILITY & LANGUAGE CONSIDERATIONS

• How easy is the code to navigate for those without food science or legal backgrounds?

• How easy is the code to understand for non-English speakers?
  – No official translations of the Code.
FOOD CODE REVISION PROCESS

• Ongoing process of review and revision of food code – 2009 - present
• Notice of Hearing released – Monday, November 27, 2017
• Public hearings – (in person and video conference available)
  January 11, 2018 from 10:00 am – 4:00 pm
  January 12, 2018 from 10:00 am – 12:00 pm (noon)
  Hearing information available at:
• End of comment period – January 22, 2018, 4:30 pm (anticipated)
• Rebuttal period – currently ends January 29, 2018, 4:30 pm
• ALJ report issued
• MDA/MDH review and revision to rules
• Rule finalization
HOW TO SUBMIT A COMMENT

https://minnesotaoah.granicusideas.com
FOLLOW SIGN-UP PROCESS

https://minnesotaoah.granicusideas.com/users/sign_up
ONCE BACK AT THE COMMENT WEBSITE
SIGN IN

https://minnesotaoah.granicusideas.com
AFTER LOGGING IN CLICK ON THE DISCUSSIONS TAB LOCATED AT THE TOP LEFT OF THE SCREEN

https://minnesotaoah.granicusideas.com
FIND “MINNESOTA DEPARTMENTS OF AGRICULTURE AND HEALTH NOTICE OF HEARING” DISCUSSION AND CLICK ON “VIEW DISCUSSION”

https://minnesotaaoah.granicusideas.com/discussions
ONCE VIEWING THE DISCUSSION “REVIEW RULEMAKING” CLICK ON THE VIEW TOPIC BUTTON IN THE BOTTOM RIGHT CORNER
PROVIDE COMMENTS, ATTACH UP TO THREE DOCUMENTS – THEN CLICK POST
JANUARY 11-12, 2018 HEARINGS

Agenda:

• Explanation of hearing procedure by Administrative Law Judge.
• Submission of written exhibits by the agencies.
• Oral presentation by the agencies.
• Questions and statements by the public.

For more information about hearings go to:

Hearing Procedure:

– Everyone attending the hearing is requested to **sign the hearing register**.

– When you go to the designated speaker’s area:
  
  • **State and spell your name, address, and the interest or group you represent**, if any.
  
  • **Provide questions/comments about the rule(s) you want to address.**
    
    – **Identify the specific rule part** either by rule number (e.g. Minn. R. 1400.2200), or by page number.
  
  • **Possible Q&A**: any speaker may ask questions of the agency panel and, in turn, may be questioned by the agency panel, the Administrative Law Judge, or other persons.

  • **There may be time restrictions.**

  • **If you have a written copy of your oral remarks, you can leave them as an exhibit.**
ADDITIONAL RESOURCES


20 Questions: The Proposed Major Changes of Concern to the Minnesota Food Code

GOING FORWARD

