

Minnesota Department of Agriculture
Division of Food and Feed Safety

Minnesota Department of Health
Environmental Health Division

NOTICE OF HEARING

**Proposed Amendment to *Minnesota Rules*, Chapter 4626, Minnesota Food Code;
Revisor's ID 4071; Docket No. 82-9000-34708**

Public Hearing. The Departments of Agriculture (MDA) and Health (MDH) intend to adopt rules after a public hearing following the procedures in the rules of the Office of Administrative Hearings, *Minnesota Rules*, parts 1400.2200 to 1400.2240, and the Administrative Procedure Act, *Minnesota Statutes*, sections 14.131 to 14.20.

The departments will hold a public hearing on the above-named rules in videoconference room B107, Orville L. Freeman Office Building, 625 Robert Street North, St. Paul, Minnesota 55155-2538, on January 11, 2018 from 10:00 a.m.– 4:00 p.m. Videoconference sites will also be available at the following Minnesota Department of Health District Office locations:

- Bemidji, 705 5th Street, NW, Suite A, Bemidji, MN 56601-2933
- Duluth, 11 East Superior Street, Suite 290, Duluth, MN 55802
- Fergus Falls, 1505 Pebble Lake Rd, Suite 300, Fergus Falls, MN 56537-3858
- Mankato, 12 Civic Center Plaza, Suite 2105, Mankato, MN 56001-7789
- Marshall, 1400 East Lyon Street, Suite 102, Marshall, MN 56258-2504
- Rochester, 18 Wood Lake Dr., SE, Rochester, MN 55904-5506
- St. Cloud, 3333 West Division Street, Suite 213, St. Cloud, MN 56301-4557

The departments have scheduled an additional one-half day hearing day on January 12, 2018 from 10:00 a.m.–12:00 p.m. (noon) in videoconference room B107, Orville L. Freeman Office Building, 625 Robert Street North, St. Paul, Minnesota 55155-2538 with videoconference sites at the following Minnesota Department of Health District Office locations:

- Bemidji, 705 5th Street, NW, Suite A, Bemidji, MN 56601-2933
- Duluth, 11 East Superior Street, Suite 290, Duluth, MN 55802
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All interested or affected persons will have an opportunity to participate by submitting either oral or written data, statements, or arguments. Please arrive at the beginning of each hearing day if you want to speak. You may submit a written statement without appearing at the hearing.

The hearing will continue if the connection to the videoconference sites should be lost. An alternative method for receiving public testimony from the disconnected sites will be made available.

Administrative Law Judge. Administrative Law Judge Barbara Case will conduct the hearing. Judge Case's Legal Assistant Katie Lin can be reached at the Office of Administrative Hearings, 600 North Robert Street, P.O. Box 64620, Saint Paul, Minnesota 55164-0620, telephone (651) 361-7900, and fax (651) 539-0310 or katie.lin@state.mn.us. The rule hearing procedure is governed by *Minnesota Statutes*, sections 14.131 to 14.20, and by the rules of the Office of Administrative Hearings, *Minnesota Rules*, parts 1400.2000 to 1400.2240. You should direct questions about the rule hearing procedure to the Administrative Law Judge.

Subject of Rules, Statutory Authority, and Department Contact Person. The proposed rules are about retail food safety. The rules establish requirements for management and personnel, such as:

- Food Protection Manager Certification;
- food characteristics, contamination prevention, pathogen destruction, food identity, and contaminated food;
- equipment, utensils, and linens;
- water, plumbing and waste;
- physical facilities;
- poisonous or toxic materials;
- compliance and enforcement;
- temporary and portable food establishments; and
- other related subjects.

Legal Authority. The proposed rules are authorized by *Minnesota Statutes*, sections 31.11 and 31.101 (MDA); 144.07 and 157.011 (MDH).

Rule Copies. A copy of the proposed rule is available online on the MDH website at: <http://www.health.state.mn.us/divs/eh/food/code/2009revision/draftprule/index.html>. The proposed rule is also available on the **Office of Administrative Hearings Rulemaking e-comments website** at <https://minnesotaoah.granicusideas.com>.

A free paper copy of the rule is available upon request from the department contact person. The department contact person is:

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Food, Pools, and Lodging Services Section
Environmental Health Division
Minnesota Department of Health
Freeman Building
625 Robert Street North

P. O. Box 64975
St. Paul, Minnesota 55164-0975
linda.prail@state.nm.us
Office: (651) 201-5792
Fax: (651) 201-4514

Statement of Need and Reasonableness. The Statement of Need and Reasonableness contains a summary of the justification for the proposed rules, including a description of who will be affected by the proposed rules and an estimate of the probable cost of the proposed rules. The Statement of Need and Reasonableness is available on the **Office of Administrative Hearings Rulemaking e-comments website** at <https://minnesotaoah.granicusideas.com>. It is also available on the MDH website at <http://www.health.state.mn.us/divs/eh/food/code/2009revision/draftprule/index.html>. To obtain copies for the cost of reproduction you may contact the department contact person.

Public Comment. You and all interested or affected persons, including representatives of associations and other interested groups, will have an opportunity to participate. The administrative law judge will accept your views either orally at the hearing or in writing at any time before the close of the hearing record. Submit written comments to the administrative law judge at the address above or **via the Office of Administrative Hearings Rulemaking e-comments website** at <https://minnesotaoah.granicusideas.com>. All evidence that you present should relate to the proposed rules.

You may also submit written material to the administrative law judge to be recorded in the hearing record for five working days after the public hearing ends. At the hearing the administrative law judge may order this five-day comment period extended for a longer period but for no more than 20 calendar days.

Following the comment period, there is a five-working-day rebuttal period during which the agency and any interested person may respond in writing to any new information submitted. No one may submit additional evidence during the five-day rebuttal period. The Office of Administrative Hearings must receive all comments and responses submitted to the administrative law judge no later than 4:30 p.m. on the due date. All comments or responses received are public and will be available for review at the Office of Administrative Hearings.

Alternative Format/Accommodation. Upon request, this information can be made available in an alternative format, such as large print, braille, or audio. To make such a request or if you need an accommodation to make this hearing accessible, please contact the agency contact person at the address or telephone number listed above.

Modifications. The departments may modify the proposed rules as a result of the rule hearing process. They must support modifications by data and views presented during the rule hearing process. The adopted rules may not be substantially different from these proposed rules, unless the department follows the procedure under *Minnesota Rules*, part 1400.2110. If the proposed rules affect you in any way, the departments encourage you to participate.

Adoption Procedure after the Hearing. After the close of the hearing record, the administrative law judge will issue a report on the proposed rules. You may ask to be notified of

the date when the judge's report will become available, and can make this request at the hearing or in writing to the administrative law judge. You may ask to be notified of the date that the department adopts the rules and files them with the Secretary of State, or ask to register with the department to receive notice of future rule proceedings. You may make these requests at the hearing or in writing to the department contact person stated above.

Lobbyist Registration. *Minnesota Statutes*, chapter 10A, requires each lobbyist to register with the State Campaign Finance and Public Disclosure Board. You should direct questions regarding this requirement to the Campaign Finance and Public Disclosure Board at: Suite #190, Centennial Building, 658 Cedar Street, St. Paul, Minnesota 55155, telephone (651) 539-1180 or 1-800-657-3889.

Order. We order that the rulemaking hearing be held at the date, time, and location listed above.

David Frederickson
Commissioner
Minnesota Department of Agriculture

November 17, 2017

Edward P. Ehlinger, M.D., M.S.P.H.
Commissioner
Minnesota Department of Health

November 17, 2017