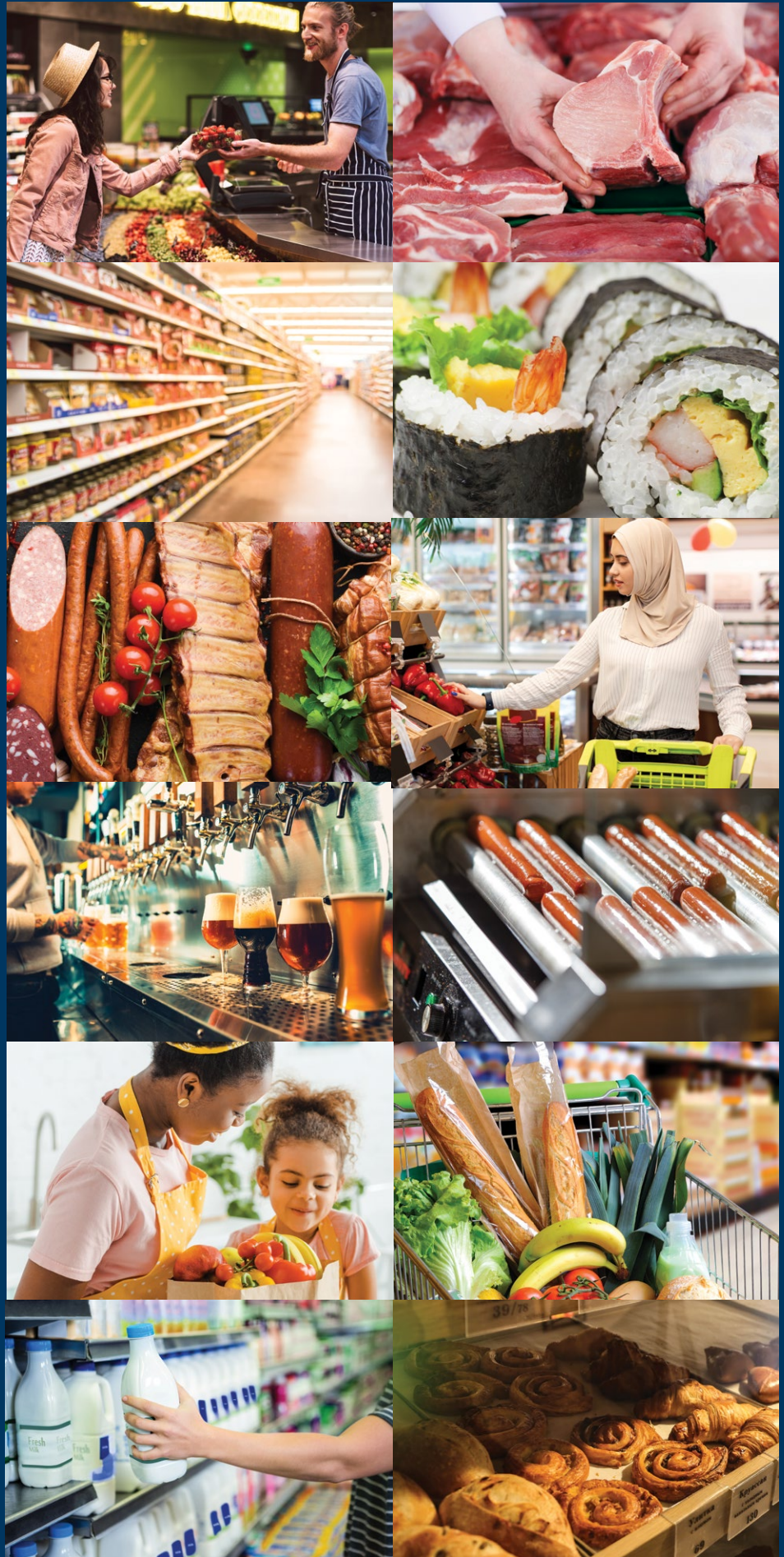


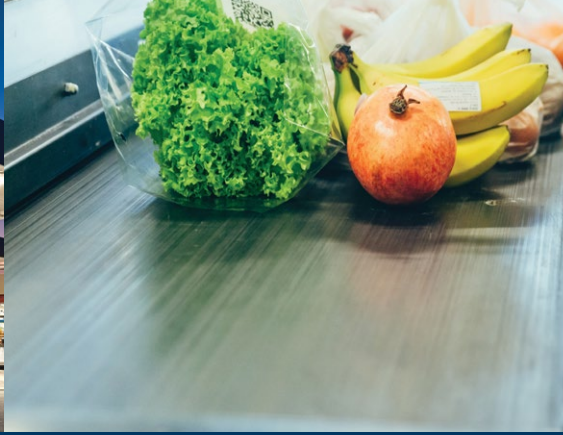
# Retail Food Program Annual Report

Fiscal Year 2022

A look at retail program data and services across Minnesota







# RETAIL FOOD PROGRAM ANNUAL REPORT FISCAL YEAR 2022

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# RETAIL FOOD PROGRAM OVERVIEW



The Minnesota Department of Agriculture’s (MDA) Retail Food Program is responsible for conducting periodic inspections of food establishments to assess their food safety plans, facilities, employee knowledge and performance to verify they have the necessary capacity to protect retail food and consumer health. Preventing illness from the consumption of unsafe food is the shared objective between the Retail Food Program and the food establishments. Managing risks to health through sound food safety practices, sanitary facilities, and informed consumers is the most reliable way to reach that goal.

A retail food establishment sells food directly to the consumer or indirectly through a delivery service or online sales. Some examples of retail food establishments include, but are not limited to:

- Grocery stores
- Meat markets
- Convenience stores
- Bakeries
- Mobile food units
- Wineries/taprooms
- Vending machines/micro markets
- Farmers’ market stands

In addition to food safety inspections at retail food establishments, the Retail Food Program also conducts the following activities:

- Retail Construction Plan Review – This involves an evaluation of documents to assess the design, construction, and processes within a retail food establishment prior to building and/or licensing.
- Hazard Analysis Critical Control Plan (HACCP) Review – This entails an assessment of specialized food processing done at retail facilities to ensure specific food safety hazards are controlled. Operators must have their HACCP plans approved prior to conducting the specialized process. The MDA Plan Review team implemented a consultative approach to HACCP plan reviews to assist operators in building their HACCP plans.
- Country of Origin Labeling (COOL) Review - The MDA conducts COOL reviews on behalf of the United States Department of Agriculture’s (USDA) Agricultural Marketing Service. The reviews are assigned under a cooperative agreement each year.
- Delegation Oversight - The MDA delegates its licensing and inspection authority to, and provides support for, seven local health agencies. Oversight

involves administrative and technical support, annual training, and formal program evaluations.

- Quality Management System – The MDA Retail Food Program is enrolled in the Voluntary National Retail Food Regulatory Program Standards designed by the U.S. Food and Drug Administration. The program currently conforms to eight of the nine standards and continuously works to improve services to accommodate both traditional and emerging approaches to food safety.

## Program Resources

The MDA’s Retail Food inspectors are well-trained professionals who use their experience and food safety expertise to evaluate risks to the food supply and consumer health during processing and storage of food throughout the state of Minnesota. *See figure 1 for Retail Food Program organizational chart.* Inspectors assess and evaluate food safety using a risk-based approach to inspections. They assist food establishments in identifying

reasonable solutions to comply with state food safety regulations and focus on education during each inspection.

MDA Retail Food inspectors work towards obtaining a professional credential for regulators, similar to inspectors at the Minnesota Department of Health (MDH) and local health agencies. This credential is either the Registered Environmental Health Specialist or the Certified Food Professional – Food Safety. Currently, 27 of 33 (81.8%) Retail Food inspectors hold one of these credentials.

## Budget

Program activities are primarily funded through the Protection Services appropriation with license fee revenue going to the General Fund. Additional program funds come through plan review fees and appropriation, a Delegation Oversight appropriation, and contracts or grants from federal agencies.

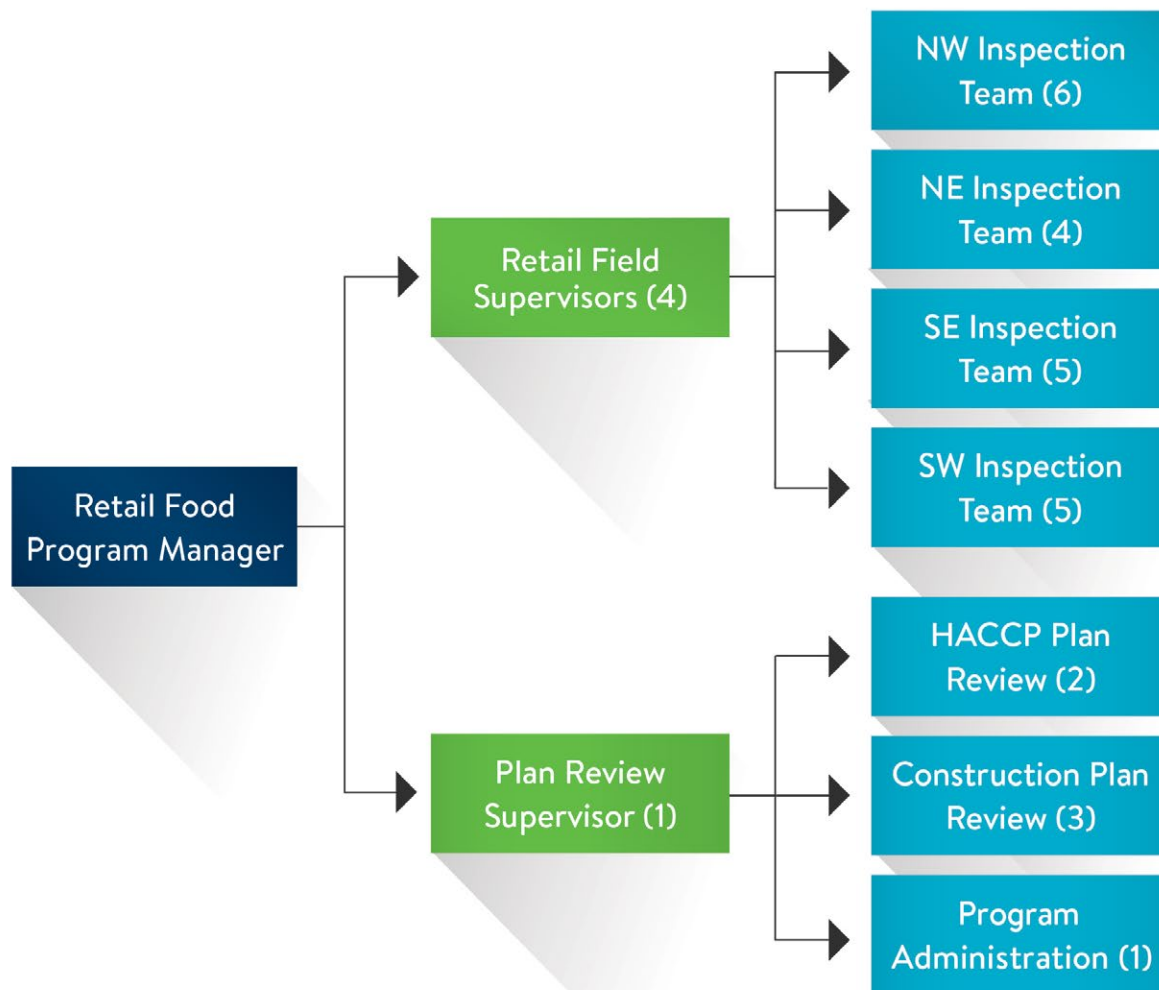


Figure 1: Retail Food Program organizational chart

# RETAIL PROGRAM ANNUAL HIGHLIGHTS

The Retail Food Program conducts a variety of inspections such as licensing, routine inspections, follow-ups, re-inspections, complaints, investigations, and sampling. These inspections assess compliance with the applicable rules and regulations to ensure a safe food supply for consumers. See Figure 2 for the total annual retail inspections by type.



Figure 2: Annual retail inspections by type

## Inspection Observations

The inspection program exceeded a 2021 program goal by achieving greater than 90% average on-time routine inspections by the end of December 2021 in territories which a permanent inspector was assigned. Routine inspections conducted on time per the identified frequencies is the program's main objective to a safe retail food supply. The program focuses on outreach and education during routine inspections to identify areas that need improvement and provide options to support food establishments and achieve a safer food supply. See Figure 3 for the least and most corrective notices issues during inspections.

## Advancing Active Managerial Control of Foodborne Illness Risk Factors

In 2021, to reduce foodborne illness risk factor violations, specific food handler practices that contribute to majority of the foodborne illness outbreaks, corrective action plans (CAPs) and risk control plans (RCPs) were utilized in a more intentional and structured approach to modernize the program's efforts. These tools are used to help gain compliance by building a food establishment's long-term control.



A CAP is a written plan created by the food establishment to identify steps to resolve an issue or violation within the business. These written plans are an important first step to successfully monitor, manage, and improve food safety outcomes. An RCP is a long-term intervention strategy to control a chronic food safety compliance problem within a food establishment. These plans are a written agreement between the food inspector and the food establishment that implements a strategy to control a specific food safety risk factor. Working collaboratively together, a plan

is created, and the food establishment shares results back to an inspector, demonstrating continued oversight and improvement.

This structured shift resulted in 1,095 CAPs requested and 104 RCPs issued in the last year, and hundreds of violations corrected. These efforts allow food establishments opportunities to focus on risk factor violations and enhance active managerial control without an inspector to improve year-round consumer safety.



Figure 3: least and most corrective notices issued during retail food routine assessments



## Improving the Processes

To enhance consumer safety, new programmatic approaches are necessary to not only understand where support and guidance are needed but how that information is shared with the food establishments. The Retail Program's focus in the last year has been to broaden that reach to improve communication and access while improving customer service to food establishments. The program works to explain regulations and provide options to ensure food establishments can navigate the complex process of running a food business.

**Improving communication:** In the last year, the [Retail Food for Thought Newsletter](#) was initiated to improve information access and communication with all licensed food establishments by providing resources and food safety insight outside of an inspection. The newsletter includes a survey for direct and ongoing feedback from food establishments to ensure the newsletter provides relevant information.

**Improving the Quality Management System:** The Retail Program Standards are designed to help food regulatory programs enhance the services they provide to the public. The Retail Food Program currently conforms to eight of the nine standards. In 2021, five standards were due or ready for verification audits. Verification audits are a systematic, independent examinations by an external party to determine a standard is met. The five standards were verified to include the [Retail Risk Factor Study](#) (Standard 9) which provided information to target intervention strategies. These standards provide confidence the services provided by the Retail Food Program are consistent and equitable throughout the state.

**Utilizing technology:** In the last year, a procedure was created to initiate inspections remotely, which allows the use of technology such as video conferences to conduct inspections without being onsite. These inspections provide alternate options with flexibility in mind for food establishments for more timely inspections. A total of 47 offsite inspections were conducted within the last year for licensing, plan review, and follow-up inspections.

## Applying Reasonable Use of Statutory Flexibility:

- In limited circumstances, licensing agreements have been used when a change of ownership was sought for an existing food establishment that had non-compliant conditions making them unable to be licensed (such as unapproved floors). These legal agreements allow an extension on capital improvements which previously could delay, or in some situations prevent, a business from opening. In the last year, several food establishments successfully completed the conditions of their licensing agreement. These agreements reduce barriers for new business owners by offering more flexibility on when to make necessary financial improvements for the business while maintaining a safe food supply.
- The modification of MN Statute 31.175 in 2020, which previously required water supply for all food establishments, now allows food establishments to safely operate without water in limited circumstances, such as prepackaged only operations. In the last year, an additional six food establishments were able to benefit from this statutory change to prevent the over-burdensome requirements to install an approved water source.



## Consultative Support

**Construction Plan Review:** The MDA encouraged potential business owners to consult with the Plan Reviewers prior to submitting their application, creating a more seamless process. The Plan Review Team also implemented an online payment system for applications. This allowed food establishments to pay the fee the same day their documents were submitted without having to write a paper check.

The MDA typically receives 450-550 plans per year. In 2021, a total of 528 plans were submitted to the Department for review. The review process helps establishments avoid future problems in their facility. Convenient location of hand sinks and installing shielding around food preparation areas were two deficiencies that were consistently corrected on reviews. By consulting with the food business on the front end of the project, it can prevent costly changes down the line and start to build a working relationship between the MDA and the regulated businesses.

**Hazard Analysis Critical Control Plan:** The HACCP team has shifted to a more consultative approach with the business owner. Approximately 20% of their work time was spent consulting with business owners to ensure their projects were completed as smoothly as possible and their application is complete with all the necessary

information. HACCP is used to identify possible risks in food that is prepared using unique methods. The plan helps validate those risks are accounted for. By contacting the Department beforehand, it often improves the review time, communication with the operators and consumer outcomes by having plans in place to make complex foods safely. A consultative approach can expand opportunities for operators to initiate new processes not previously allowed or understood.

## Highlights from the Recall Notice

In the last year, a sample of imported cauliflower collected by the Retail Food Program resulted in a positive result for the potentially deadly *Listeria monocytogenes* which triggered a nationwide voluntary recall due to possible contamination. The MDA, as the only state regulatory entity that collects food samples in Minnesota, conducts routine sampling and often assists with sampling. These efforts can have major impacts on consumer safety as demonstrated with the cauliflower sampling.





## RETAIL FOOD HANDLER SPOTLIGHT

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My experience with the MDA has been very professional and helpful. All the help in perfecting my HACCP plan with me to get my plan where I want it has been very helpful. Also inspectors that stop in roughly once every nine months are very good at working with me. If there is something that could be done better or more efficient they are always able to walk me through ways to help me with that. All the staff with the MDA that I have dealt with in my years of business has been perfect. I am very happy and thankful to have good people to help

– Coln Doffing  
DC Foods, dba “Duffs Meats 2”  
Hastings, Minnesota



The MDA inspection staff have been incredible to work with. Throughout our communication in terms of what was needed to obtain our license, the MDA has been very thorough with their answers to our questions, as well as prompt. We mentioned that we were wanting to move as quickly as possible to get the license, and the MDA worked with our schedule. We also want to highlight how seamless it was to move forward and get the license approved after showing our office space. We felt like the MDA took us seriously in regards to getting our license approved efficiently. We appreciate the MDA for their quick turnaround and diligence during this process.

– Damani Bediako  
Local Guru, Saint Paul, Minnesota

The current direction the MDA seems to be moving has been very encouraging for us at Von Hanson’s Meats. It feels like there has been a shift away from a punitive relationship towards one that focuses on how we can all work towards safer food. The MDA HACCP Consultant has been invaluable to us in that with their help our stores have been able to have one point of contact for all our locations. Instead of trying to cater our HACCP plan to the interpretation of an individual inspector, we can submit a single plan that meets the needs of our many locations doing extremely similar activities. The feeling that we are pulling in the same direction, providing safer food for all, takes the pressure off where we might have been hesitant to reach out previously. We now feel we can use the MDA as a very knowledgeable resource.

– Philip Carlson  
Von Hanson’s Meats, Multiple Locations



# RETAIL FOOD HANDLER SPOTLIGHT

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The MDA Retail Inspection staff have done an exceptional job guiding our deli staff in many ways, including teaching our staff how to make sure all Food MN State Health Dept [Minnesota Food Code] regulations are followed well, instructing staff why various sanitizing measures are paramount, and coaching with an attitude of positivism and professionalism. The MDA inspection staff have been exemplary in every respect. Their assessments were always fair. The outcome of their visits have always helped keep our stores in compliance and the MDA helped make our stores better.

- Virgil Gilyard, John Gilyard, Kristi Kelly  
Becker Food Pride, Becker, MN

At first, our experience with MDA was a little worrying. The concern was due to the comments our employees told us before we took over the store. Because time after time, they did not apply what the MDA told them to do for their benefit. The least we wanted was to fail in every aspect of hygiene & care for our customers. Thanks to the MDA's inspection staff suggestions, we have applied them with our workers & us as employees. We feel more confident that we are doing things right. We already have a base of what the MDA told us, to keep our premise clean & on par with MDA's standards.

- Victor Reyes  
SuperMex Market, Saint Paul, MN

MDA has continued to provide a hands-on and helpful approach to our licensing needs. We've worked with MDA since 2018 and the whole team has been very supportive as our revenue has grown, as we've purchased bigger equipment, as we've moved to larger spaces, and as we opened a retail operation last spring! Throughout the pandemic, they continued to be responsive, communicative, and helped us think outside the box when it came to our retail design's code compliance. We iterated together to make sure that the end result was safe for our employees and patrons, and also met our aesthetic vision. Thanks, MDA team!

- Nate Broadbridge  
SK Coffee, Saint Paul, MN

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# ESSENTIAL AIMS FOR THE NEXT PROGRAM YEAR

The Retail Food Program will further the success from the past year by continuing to provide quality protection services while focusing on specific aspects of program support and services to improve outcomes for applicants, food establishments, and consumers.

## DESIRED OUTCOMES, KEY CHALLENGES, AND RECOMMENDED ACTIONS

### Desired Outcome #1

A financially stable program equitably ensuring safe food by providing quality protection services to applicants, food establishments, and consumers.

#### Key Challenges:

- ▶ License fee revenues are directed to the General Fund and are not maintained in a program account within the Agricultural Fund. The Retail Food Program is funded primarily through protection services appropriation.
- ▶ Current license fee revenues are not representative of current program costs. License fee revenues cover approximately 50% of the cost of administering program protection services.
- ▶ Large discrepancy in license and plan review fees when compared to partner retail food protection agencies. MDH and local delegated agencies collect larger fees than the MDA for retail food licenses and plan review.

- ▶ Increasing need demonstrated for consultative and educational services, such as preliminary technical review and guidance on required food safety plans and variance requests, places a considerable demand on limited program resources.

#### Recommended Actions:

- ▶ Seek a Retail Food Program account in the Agricultural Fund to improve program financial stability.
- ▶ Revise the food licensing structure and fees to align more closely with the cost to deliver services, similar to the structure that exists for the MDH and delegated agencies.
- ▶ Revise the plan review fees to align more closely with the cost to deliver services without significant delays.
- ▶ Establish a retail food safety (HACCP) plan and variance fee structure account within the Agricultural Fund to financially support the consultative and technical services necessary to support business operators.
- ▶ Further explore improvements to program review systems and services to enable timely, risk-based assessments and transparency of requirements so that applicants and operators can make informed business decisions to operate without delay while meeting safety requirements.





## Desired Outcome #2

Reduced administrative, cultural, and language barriers for applicants, operators, and consumers to build a more equitable retail food landscape while maintaining and enhancing retail food safety.

### Key Challenges:

- Current licensing classification requirements do not reflect many current food business operational models and unnecessarily burden emerging business models.
- Program standards and services are directed at ensuring safe food and consumer health. Eliminating or lowering requirements may have unintended negative consequences to safety and health.
- Equal application of protection services may be perceived as fair but does not equitably ensure a safe food supply or support an equitable retail food landscape inclusive of all applicants and operators.
- Priorities that are not directly funded compete for use of limited program resources, such as time and relationships needed for meaningful engagement to reach desired outcomes.

### Recommended Actions:

- Engage stakeholders and propose license categories that reduce complexity and meet the needs of emerging and evolving businesses.
- Encourage the use of licensing agreements and other statutory tools, when appropriate, so applicants and business operators may safely serve consumers while investing in food safety requirements for future business plans.
- Pursue funding opportunities for extra resources, including information and assistance, to serve applicants and operators facing language, cultural, or technological barriers to build equity in their capacity to operate in compliance with food safety laws.
- Improve website content and navigation to meet the needs of applicants, operators, and consumers.
- Produce multi-modal electronic training modules and provide them online free of charge as additional food safety resources for business operators.
- Provide and promote program food safety documents newly translated into Spanish, Hmong, and Somali.