
Stakeholder Input on the Food Licensing Model

A summary of stakeholder input for the Food and Feed Safety Division

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Introduction

The Minnesota Department of Agriculture (MDA) Food and Feed Safety Division (FFSD) is considering improvements to how its food licensing is structured. To ensure decisions are informed and inclusive, the MDA FFSD wanted to start by hearing from stakeholders to make sure these needs and experiences inform the consideration of any changes.

MDA FFSD hired [The Improve Group](#), a St. Paul-based consulting cooperative, to conduct interviews with stakeholders. The Improve Group interviewed 35 people in individual and group interviews from February – April 2024. All interviewees had some experience with MDA Food Licensing; the group was fairly balanced with both direct and indirect experience (e.g. through providing support to association members) with MDA food licensing. They brought experience from grocery, retail, chain stores, small entrepreneurs, cottage food, farmers, food truck vendors, farmers’ market vendors, breweries, vineyards, commercial kitchens, culturally specific enterprise support, Native Nation food systems and researchers. They were involved in a variety of products from milk, meat, wine, sauces, and baked goods, among others. Interviews were voluntary, conducted by phone/virtual meeting and lasted between 30-60 minutes. This report summarizes stakeholder input shared in these interviews.

Description of current licensing structure

The MDA issues food licenses under the provisions of Minnesota Statute 28A. Relevant to the topics covered in these interviews, the current licensing model allows one MDA license will be issued per legal entity per place of business and current categories and renewal periods are as follows:

Table 1: Current category definitions and renewal periods

License Category	Definition	Renewal Period
Food Brokers	A food broker is a person who buys and sells food and who negotiates between a buyer and a seller of food, but who at no time has custody of the food being bought and sold. (28A.05e).	January 1 - December 31

License Category	Definition	Renewal Period
Wholesale Food Processors or Manufacturers	Wholesale food processors or manufacturers are persons who process or manufacture raw materials and other food ingredients into food items, or who reprocess food items, or who package food for sale to others for resale, or who commercially slaughter animals or poultry. Included herein are persons who can, extract, ferment, distill, pickle, bake, freeze, dry, smoke, grind, mix, stuff, pack, bottle, recondition, or otherwise treat or preserve food for sale to others for resale, cold storage warehouse operators as defined in section 28.01, subdivision 3, salvage food processors as defined in section 31.495, subdivision 1, dairy plants as defined in section 32D.01, subdivision 6. (28A.05c)	January 1 - December 31
Wholesale Food Handler	Wholesale food handlers are persons who sell to others for resale. (28A.05b)	July 1 - June 30
Retail Food Handler: Main classification	Retail food handlers are persons who sell or process and sell food directly to the ultimate consumer or who custom process meat or poultry. The term includes a person who sells food directly to the ultimate consumer through the use of vending machines, and a person who sells food for consumption on site or off site if the sale is conducted on the premises that are part of a grocery or convenience store operation. (28A.05a).	July 1 - June 30
Retail Food Handler: Mobile Food Unit	Mobile food unit means a food and beverage service establishment that is a vehicle mounted unit, either: (1) Motorized or trailered, operating no more than 21 days annually at any one place, or operating more than 21 days annually at any one place with the approval of the regulatory authority as defined in Minnesota Rules, part 4626.0020, subpart 70; or (2) Operated in conjunction with a permanent business licensed under this chapter or chapter 28A at the site of the permanent business by the same individual or company, and readily movable, without disassembling, for transport to another location. (157.15 Subd. 9)	April 1 - March 31

License Category	Definition	Renewal Period
Retail Food Handler: Seasonal Temporary Food Stand	Seasonal temporary food stand means a food and beverage service establishment that is a food stand that is disassembled and moved from location to location, but which operates no more than 21 days annually at any one location except as provided below: A seasonal temporary food stand may operate for more than 21 days annually at any one place with the approval of the regulatory authority, as defined in Minnesota Rules, part 4626.0020, subpart 70, that has jurisdiction over the seasonal temporary food stand. (157.15 Subd. 13)	April 1 - March 31
Retail Food Handler: Special Event Food Stand	Special event food stand means a food and beverage service establishment which is used in conjunction with celebrations and special events, and which operates for no more than ten total days within the applicable license period. (157.15 Subd.14).	April 1 - March 31
Retail Food Handler: Food Vehicle/Portable Structure or Cart	Retail food vehicle, portable structure, or cart means a food establishment licensed under Minnesota Statutes, sections 28A.06 and 28A.07, that is a motor vehicle, portable structure, or non-motorized cart where food and food products are: A. offered to the consumer; B. intended for off-premises consumption; and C. not subject to on-site preparation. (4626.0020 Subp. 73.)	April 1 - March 31

Findings

Interviewees described their experiences and ideas for change generally and were prompted to specifically comment on:

- License categories: How license categories are helpful or not in the food licensing model as well as the relevance and clarity of existing license categories.
- Location: How well or not it works to have one license per location per business entity.
- Fees: How appropriate fee amounts and structure are.
- Time periods: How long the license period should be and when renewals should happen.

Finally, in addition to commenting on these elements of the MDA Food License structure, interviewees gave advice on how best to engage stakeholders in the future, when the MDA seeks feedback on a proposed model.

Overall impressions

In general, people with years of experience know how to use the system and get questions answered. Interviewees said the system works smoothly once they have their license. About a third of interviewees described that their experience with the MDA food licensing has generally been positive. They are clear about how they fit and what they need to do.

Interviewees generally described benefits to being licensed around the reassurance it provides to themselves and their customers for food safety. As one put it, “I would do anything to avoid a problem as opposed to fixing a problem.” The license provides an opportunity to scale, add value, ship, or get the product into more locations. Several interviewees described the benefits of their own learning about food-safe practices. One interviewee who supports small businesses noted how this commitment to food safety reflects well on their small entrepreneur community.

Challenges on whether to be licensed were not necessarily about licensing itself. For example, a couple people noted the challenge that access to and cost of a commercial kitchen poses, especially in rural communities. Also, an interviewee who supports immigrant entrepreneurs noted that many may be coming from cultures where the norm was to avoid regulation, so part of the support to these entrepreneurs is clarifying why licensing is helpful and important.

Figuring out classifications and what license is needed are primary complaints among those who find the system challenging. This is all likely more challenging for people for whom English is not their first language – multiple interviewees raised this, though not all from their own direct experience.

Challenges more deeply affect newer, smaller entrepreneurs trying to do innovative things. As one said, “These boundaries-straddling innovative things ... are not what the licensing system was designed for.” Importantly, one interviewee said they have heard of people not continuing on to licensing when they wanted to scale up because they could not figure out what license to get.

Some interviewees perceive that the current system promotes more of a focus on following rules and tracking due dates of different renewals than on food safety. This was one of the themes of the few comments about rigidity. Interviewees pointed out that it was important to maintain a clear link to the logic for food safety, so licensing does not feel just like more hoops to go through, especially for people whose activities do not fit in

traditional boxes (selling food on the farm, e-commerce). While not the focus of interviews, many mentioned challenges getting help to understand the current system and getting questions answered on the MDA's website.

A few interviewees noted that this confusion may result in people not being licensed. One interviewee who supports others in licensing noted that farmers may assume they do not need a license because of the exclusion for products of the farm. Another noted that they are maintaining both Cottage Food registration and Wholesale Food Handler license because of the "gray area" for fit of activities in different categories.

License categories

Some say it is relatively clear to determine whether you need an MDA license and which (especially compared to other licensing agencies). The structure is clearer with straightforward situations, like single-location businesses that fit well into an existing category. A minority of interviewees described the benefits of license categories, noting:

- Different activities will come with different requirements (e.g. handwashing sink) and the license can reflect that.
- Supporting materials can align with the type of license to help licensees be compliant and also to learn more about good practices.
- Categories can help align inspector expertise and expectations; the right inspector comes and knows what they need to look for at the business.
- License options can reflect a diversity of businesses, even giving an entrepreneur a more concrete idea about what they want to do.

While some described both pros and cons, about half of the interviewees expressed some dissatisfaction with the current approach to categorization and recommended changing this aspect of the current model.

Interviewees described that the number of categories can in general be overwhelming to figure out for someone new to the system. In particular, interviewees described situations in which businesses don't fit neatly into one category or straddle multiple categories. While more detail on specific category conflicts is below, interviewees generally described that they were doing multiple activities in their business and didn't know which should preside for licensing, or whether they needed to get separate licenses for each activity. Multiple licenses then translate to multiple fees, multiple application processes to track and confusion about how to allocate revenue from each activity separately to estimate license fees.

Interviewees noted that this blending of multiple activities may be increasingly common and is often a source of frustration with the category system as shifts in activities move a business back and forth across current boundaries. This was especially raised in the context of local food efforts and farmer entrepreneurs. One interviewee noted that with public interest in "local" food, it makes sense that this entails needing "people who do it all." Another noted that farmers "need three to four licenses just to go out and do what they love to do in the summer," from roadside food stands to farmer's market stands to special events. This blending of activities extends to retail; one interviewee gave the example of a retailer wanting to host a rib fest in their parking lot, and asked "how can we navigate that to be fluid and meet today's realities?" Another described an example of a

jam and jelly producer who 1) rents a kitchen to make a product so is licensed at that location as a food manufacturer, 2) stores the product at second location so is licensed as food handler at that location because it's not being processed but only stored, and 3) goes to shows and events with their jam so is licensed as a retail mobile food handler. To the business, these activities are all a seamless way of advancing their product, but the current licensing structure treats them as discrete activities requiring separate licenses.

A related issue is that businesses are quickly evolving. One category may seem like a good fit at one point in the year but not later. A few interviewees gave examples of what they see as the direction that businesses are going with evolving activities that blend these categories, such as a grocery with a restaurant or a food truck with their brand of product. Another noted that small entrepreneurs are innovating in important niches; for example, the innovations of entrepreneurs in minority communities allow them to serve their community by providing culturally appropriate foods not easily available elsewhere. A November 2022 Food Innovation Team (FIT) Report to the Food Safety and Defense Taskforce noted blended business models and a wide array of topics (considered evidence of innovation) were two of the three major themes of challenges present in the cases they reviewed.

The notion of a single or just a couple license categories as a solution came up organically in eight of the interviews. Interviewees described that this could bring the focus back to food safety issues instead of focusing on differentiating categories in ways that are not apparently related to food safety. The ideas on how to do this included:

- A single license with certifications on the side or extra gold stars, using a ladder-type structure much like a Driver's License with endorsements.
- Umbrella food sales license (noting a separate license would be needed for manufacturing) covering both retail and wholesale, whether something is packaged or raw agricultural commodities (e.g. produce).
- All mobile food units licensed under a single license.
- Single "food business" license encompassing all current categories that notes the training and regulations required for the activity of that business.

Those advocating for combining categories said the streamlined licenses could shift the work of figuring out exactly how a business fits in the structure and which regulations are required from the license applicant to agencies like MDA (though the business would have to provide situation detail to the agency initially and update over time). They also described how this makes the connection directly to food safety needs and promotes tailored regulations for the specific situation/food.

Categories that are working

Retail food handler was mentioned most often as a category which felt like a good fit. Interviewees also described that categories felt right when there was a real distinction in business activities, especially related to food safety such as manufacturing versus retail. Retail and wholesale were familiar terms to interviewees, though the application in licensing caused some issues as described below.

Categories that are not working

Mobile Food Unit – Seasonal Temporary Food Stand – Special Event Food Stand - Retail Food Vehicle/Portable Structure or Cart:

Several interviewees questioned whether there were meaningful differences between these and brought up interpretation questions. Several interviewees also expressed confusion over why some selling at a farmers' market are steered to Wholesale Food Handler license instead of a Retail or one of these mobile licenses. Another interviewee said the distinction between different mobile licenses was whether you were at different locations simultaneously or sequentially, though there was no need to use the same equipment with either. Another was confused about why someone would not just use a cottage food registration for a special event if that was a "one-off" event. Another interviewee wondered why the Special Event license would not just be a Retail Food Handler. One said the confusion could lead to not remembering that a separate license is needed, for instance if you have a mobile food license and are invited to do the same at a special event.

Food broker:

Several interviewees questioned the meaning of this category, with a couple saying it just does not fit in food licensing because it "doesn't belong in our world."

Wholesale Food Handler, Wholesale Food Processor or Manufacturer and Retail Food Handler:

The distinctions between these caused some confusion; in particular, interviewees struggled to make sense of the use of (1) who sales are to or (2) where sales are taking place driving the license classification. Some say the 51% threshold between wholesale and retail sales works well to determine license category and helps someone just hold one license versus two (e.g. a retail OR wholesale food handler license); others have challenges with it. Challenges stem from hovering above and below 51% wholesale versus retail sales year to year and/or not being able to clearly determine what activity is retail versus wholesale. One interviewee gave the example of removing the product from a store in their facility (considered wholesale) to a mobile trailer parked on location (considered retail).

One interviewee gave another example about the different classifications of selling a single product: "I'm a pig farmer selling bacon off-farm, so I need a Retail Food Handler license. To sell at a farmer's market, now [I need] a retail mobile license. If I send it to another food plant to put chocolate on it, now [I] have to buy [a] wholesale food handler processor because I'm selling my food from me the wholesaler to me the retailer."

Terminology of categories can cause confusion. Some expressed concern and have noticed confusion over MDA's definition of "wholesaling" and how this lines up with people's colloquial use of the word and how it is used in practice/by inspectors. One example was shared about a group of farmers selling product to grant-funded buyers who planned to distribute the product to customers. Because farmers had an organization serving as an aggregator, they needed a wholesale license and weren't excluded under product-of-the-farm.

A couple questions came up about the food safety reasoning behind retail license interpretations, such as whether packaged food should have the same oversight or why a retail license applies when food is

shipped (since the business no longer has control over it). Another interviewee mentioned feeling uncomfortable with being under the “retail” license, even though it is the majority of their sales, because it could convey that their other operations are not inspected or approved.

License by location

Currently, MDA food licenses are structured to have one license per location per business. In general, many interviewees understood the need for MDA to understand the safety of both each location and the practices (of a person or business). Further, interviewees also tended to agree with practices that align the effort of inspections to the license, so aligning a license per facility makes sense to them since it relates to the effort of inspections. For those who support others in getting licensed, this has not been a significant issue of concern.

Concerns centered around the needs of smaller businesses, such as the implications for multiple fees, especially for a small business using shared facilities (kitchen, storage, manufacturer). Those businesses, and organizations who support them, wondered if the site could be licensed or just inspected as part of a single license. A couple individuals raised interesting ideas to consider about this dimension of licensing. One interviewee talked about the potential disincentive of moving from a space where there are cleanliness challenges because of having to pay a new license fee (perhaps near the end of the license period). Another raised the idea of a “fleet license” for multiple trucks.

Fees

Costs of single licenses feel reasonable and appropriate to many interviewees given the effort for an inspection. Those who support businesses in navigating licensing processes do not hear many meaningful complaints around fees. Interviewees shared negative feedback about more complicated situations, (which some noted are increasingly common with food innovation), such as when:

- people need to get two licenses within a short time period (e.g., if they start their business toward the end of the license time period);
- have to get a new license due to a change; and/or
- have multiple licenses spanning categories/locations.

In these situations, costs add up, especially for smaller businesses that produce and sell across different locations. One interviewee wondered, could fees be pro-rated if assessed later in the licensing period, or could license for the last three months of a period be rolled into a license for the next year to avoid two fees in a short time? Finally, one interviewee with multiple locations mentioned some concern about the level of effort to calculate the revenue/location in order to establish the appropriate fee.

Some interviewees had suggestions for more gradations in the fee schedule. “For somebody that’s small and starting out, [being] categorized as someone profiting 100K a year and you’re paying the same amount of money,” one interviewee said of the Wholesale Food Manufacturer fees. They suggested breaking the category in half: up to \$50K and \$50K-100K. Another related idea raised by an interviewee is to charge lower fees for nonprofits/organizations that serve high-need areas.

Time period

Continuity and consistency are helpful for businesses to know what to expect. For renewal timing, slightly more interviewees desired a consistent calendar date, rather than focusing on a year from initial application. Interviewees acknowledged pros and cons with both standard renewal periods (i.e., every license renewing on the same day) and rolling renewal periods. Different industries have different busy or slow periods. For small businesses, there is tension between having more time to complete licensing applications or renewals in slow periods and recognizing that is when their cash flow may be at its lowest. Also, different kinds of businesses may have different planning periods, so they may not have a clear idea of the planned activities and resulting licensing needs at the same point in the year.

Different renewal periods across licenses are challenging if switching licenses (e.g., retail to wholesale) and businesses have to either go a few months unlicensed or double up; similarly, some said it is hard to keep track of different renewal periods with different licenses. Partial license periods can also be challenging for a small business, based on when it starts up (e.g., if you start in November and have to re-apply right away in January).

Some said a year feels like an appropriate length for a license given how often they make changes; people pointed to benefits of a longer license period like 5 years — less money spent on fees and less work for MDA and the business. A couple interviewees described the idea that this could be based on risk or past performance, with lower risk or a good track record leading to a longer renewal period. The short time periods of some licenses (10 days, 21 days) were criticized by a couple interviewees for the lack of flexibility these offered, the lack of clear connection to food safety and the potential for compounding licensing fees.

MDA Licensing and Native Nations

Jurisdictional issues are present in the current licensing practices for Native Nations. Currently, food producers and vendors are being asked to comply with multiple, overlapping licensing bodies, from their own nation to the Indian Health Service (IHS) to MDA. Producers and vendors are experiencing that they are licensed in their own nation and by IHS, but these licenses are not accepted by local authorities in the areas around the Nation, outside of the reservation boundaries. If the responsibilities and penalties are the same for State licensing, the perspective is that the federal licensing should be accepted outside of the reservation boundaries as well. Fond du Lac currently offers the reciprocal of this; when vendors come for pow wows, they will inspect the equipment free of charge and not require additional licensing. Native Nations food systems staff could be trained by MDA to have a “train the trainer” model and ensure alignment. The Great Lakes Indian Fish and Wildlife Commission (GLIFWC) is a model to reference, where the agricultural code is developed to follow the Federal Department of Agriculture but structured toward Indigenous culture. The conversation on next steps should include IHS staff in Minnesota as well as the Native Nations that share Minnesota’s geography.

Summary of Feedback on License Model Changes

In general, people with years of experience know how to use the system and get questions answered. People said the system works smoothly once they have their license. About a third of interviewees described that their experience with MDA food licensing has generally been positive. They are clear about how they fit and what

they need to do. Figuring out classifications and what license is needed are primary complaints among those who find the system challenging.

Categorization

While many stakeholders understood the relevance of some form of categorization for licensing to align with level of inspection effort and relevant regulations, this was the area of greatest concern and feedback. The connection between license types and food safety concerns was not always evident, which causes concern among stakeholders. Further, a number of entrepreneurs have flexible business models and work across MDA food license categories. Of note, the Food Innovation Team’s Report to the Food Safety & Defense Task Force (November 1, 2022) also noted that the cases they reviewed “... often involved straddling or shifting of license categories” and that cases showed trends of “blended business models” and “evidence of innovation” among food entrepreneurs. Parting advice from one interviewee was “keep it simple!”

Location

In general, many interviewees understood the need for MDA to understand the safety of both the location and the practices (person or business). Further, interviewees also tended to agree with practices that align the effort of inspections to the license, so aligning one license per facility makes sense to them since it relates to the effort of inspections. Recommendations for change focused on how to address the financial and workload impact on small businesses whose functions are spread out across several sites, and, perhaps relatedly, how to address shared-use facilities.

Fees

Costs of single licenses feel reasonable and appropriate to many interviewees given the effort for an inspection. Stakeholders made recommendations for attention to places where multiple fees stack up, especially for businesses working across categories and/or evolving over the license period.

Time periods

Continuity and consistency are helpful for businesses to know what to expect. Slightly more interviewees desired a consistent calendar date for renewals, instead of focusing on a year from initial application. Interviewees acknowledged pros and cons with both standard renewal periods (i.e., every license renewing on the same day) and rolling renewal periods, with consideration for adjustments in the way to pay or adjust fees.

Finally, a set of issues related to jurisdiction are identified for attention in addressing how food licensing coordination happens with the Native Nations which share Minnesota’s geography.

Recommendations for Feedback on Model Changes

Interviewees shared ideas for framing as MDA shapes its food licensing model. A recurrent theme in interviews was the importance of food safety; if the case can clearly be made that the requirement or process is driven by food safety, then stakeholders are more ready to embrace the fees, rules, etc. Aligned with this was some input, provided specifically from a perspective within the Latino community but likely relevant elsewhere as well, that

the sense of a license as a marker of quality and something to feel proud about was more powerful in driving action and attention than framing licensing as a compliance action.

Interviewees also gave advice on how MDA could request feedback on a proposed model. In terms of process, suggestions included sharing the proposed model and opportunities for feedback ahead of time through multiple channels in different languages - email, mail, website, social media. This would allow time for stakeholders to process their thoughts and not feel rushed. Then, they suggested giving an opportunity for feedback through a combination of virtual town hall or meeting events and asynchronous feedback (e.g., a feedback form) opportunities for feedback. Some mentioned the idea of focus groups and/or breakout groups for people who would be covered by different license types. Content should be presented in plain language and incorporate real world examples. In terms of timing, one of the larger entities interviewed requested at least 3-6 months' notice before any change needs to be implemented in order to adjust systems.

Interviewees also gave suggestions of who should be notified of this opportunity for feedback, including:

- Membership groups who can spread the word.
- Anyone currently licensed.
- Those who may be considering licensing, from cottage food vendors to those with a basic permit from federal government's tax and trade bureau, DEED small business association participants, or commercial kitchen users.
- Peer agencies.
- Mission-driven organizations.
- Related boards/task forces that are already convened.

Other individual ideas for the process included:

- Identify 6-20 people from these interviews; ask them to carefully read draft and leave comments.
- Train leaders of community groups for data collection and communication.
- Ensure connection with Hispanic, Asian, Native American, Black and immigrant producers.

Appendix A: Summary of Comments on Other Issues

While the interviews focused on the Food Licensing structure, stakeholders also gave input on a number of other issues. This report summarizes stakeholder input on these other issues.

Overlap with local jurisdictions

Participants brought up the challenge of overlapping MDA and local food licensing jurisdictions in 11 of the 27 interviews. Multiple interviewees pointed to this as a priority issue to address regarding the current food licensing structure. This section addresses overlapping non-Tribal jurisdictions; see the main report for insights on how MDA and Tribal/Indian Health Service jurisdictions overlap to create challenges for Native Nations. See another section below on overlapping MDH and MDA jurisdictions.

Interviewees suggested a couple ways MDA could use its influence to resolve this. They said MDA should work with other jurisdictions to create consistent requirements, definitions, and processes. MDA could also aim to make its license automatically cover and supersede city and county requirements. In suggesting this, one interviewee cited another state, where state-licensed mobile markets are automatically covered for any city and county ordinances.

Inconsistency and confusion

In five interviews, participants said inconsistent requirements (e.g., commercial kitchen requirements) across MDA and local jurisdictions create confusion.

*“What Minneapolis asks for in terms of rules, MDA is like, ‘That’s not even what we do.’”
Interviewee*

A couple interviewees shared how Minneapolis requires its own food licensing while other local jurisdictions (Maplewood, St. Paul) are fine with the MDA license.

In two interviews, people cited farmer’s markets as occasions where food producers experience this problem, since they are selling their foods across different cities and counties in the state.

“There isn’t any level of consistency or predictability.” -Interviewee

Increased burden

Interviewees said the need to be both state- and city- and/or county-licensed for food activities across jurisdictions creates a bigger licensing burden. One interviewee who regularly interacts with small businesses, including small businesses who rent commercial kitchens, said this is a top issue small businesses bring up. This person called the current structure a “broken delegated authority system.” One interviewee compared this burden to the lower requirements of cottage food license-holders:

“Cottage food licensees have to do one set of things; those of us who are processors have to do all that and more.” -Interviewee

Another interviewee cited what feel like duplicative food safety inspections. They said Minneapolis has strict inspections and does not care if a producer is licensed by someone else. If a business is already licensed with the U.S. Food and Drug Administration and the State, “Why do I have to be inspected by [the] city too?” they asked.

Communication

Interviewees in several interviews shared feedback on communication with MDA. A minority of the feedback was positive. For example, one person said MDA makes it easy to determine whether you need a license. A few interviewees also complimented the online renewal process; one said it is “easy to find who to talk to,” though many interviewees had different experiences than this.

Six interviewees cited challenges getting questions answered by MDA or figuring out who to contact. One person said they had to call “about 20 times” and did not receive a response for 3 months; they ended up turning to other companies to get answers.

One person recommended ombudsperson-type roles to help food producers navigate licensing. Another cited the success of the recently created MDA meat processing licensing liaison, whose job is to problem-solve and answer questions.

Information that is available is not accessible to people who do not speak English or who have literacy barriers.

*“They find [the] process cumbersome because they cannot understand it.” -Interviewee,
regarding people with language and literacy barriers trying to understand MDA
communications*

Overall, one interviewee called on MDA to be more proactive to reach out to people with information. “It’s one thing to come out with information and another to make sure info actually gets through,” this person said. In particular, “...immigrant farmers [are] exposed to information but don’t get it,” they said.

Some people shared specific types of information that would be helpful:

- Guidance on how to close out old licenses.
- A flowchart or map of steps to follow for licensing, including steps outside of MDA (e.g., if someone needs to register with the FDA). Another described a similar idea of a checklist of what you need to do to get a license (e.g., checking in with zoning, the fire marshal, sanitation).
- Spelling out how licensure works for starting a business (this interviewee said this is done well but could always improve).
- Funding information on value-added grants.
- A list of approved off-site storage locations with directions on what to do from a licensing standpoint for each option.

One interviewee suggested MDA partner with the Secretary of State to provide licensing education when someone registers a business.

Consistency and inspections

Some interviewees shared positive feedback on MDA inspectors, including that inspectors were:

- Flexible and accommodating
- Fair and took time to educate them
- Helpful

Interviewees also mentioned inconsistencies among inspectors. One person shared their frustration at hearing that the type of flooring they had heard was acceptable was no longer OK after a year-and-a-half and a move to a new location.

One interviewee blamed “regulatory discretion” on a lot of grey area in licensing, as inspectors may be making decisions “one by one but not recording [them] anywhere and not [being] transparent.” Another said while not unique to Minnesota, 10 food inspectors would come up with 11 different answers to licensing questions. They attributed this to a lack of training.

Another person said it “seems like inspectors come and at least try to find something that’s wrong,” infractions that end up costing producers a lot of money and don’t necessarily relate to food safety.

One interviewee suggested having a mission statement that State health and safety staff are committed to helping food producers, so they feel more able to help producers do what they need to do for food safety and building a strong food system. They lauded a COVID-era flex in the regulations to get local processors to be able to sell meats to local consumers, in recognition of the need to be flexible because national meat processors’ staff was sick from COVID. Minnesota farmers had meat they could not sell because of state law, but MDA found a way to allow them to be MN-inspected instead of USDA-inspected. The State also gave loans to small Minnesota processors to do more processing. This interviewee said they would love to see this support for local food systems all the time, “not just during emergencies.”

Overlap with MDH

A few interviewees brought up challenges from overlapping licensing between MDA and the Minnesota Department of Health (MDH). Some suggested MDA increase its collaboration with MDH to improve licensing experiences for people who are licensed by both agencies.

Speaking about the experience of businesses they support, one interviewee said those licensed by both MDH and MDA can deal with headaches and some contention. This person suggested improving alignment across agencies, as “people complain about overlap between MDH and MDA when [they] require different things.” Another interviewee similarly suggested collaborating with MDH to try to make some practices universal.

Overlapping MDH and MDA licensing can particularly affect small-scale entrepreneurs and stymie innovation, one interviewee said.

One interviewee mentioned a mismatch with another state agency, though not directly related to food licenses. They said Minnesota Department of Revenue sales tax regulations on prepared versus packaged foods do not map to MDA categories, which has caused confusion at farmer’s markets.

Additional comments

Additional challenges that did not fit into categories above include:

- A sense MDA was not accurate about food licensing requirements for wineries, leading to higher costs for food safety investments that went unused.
- Lacking commercial kitchens to work with.
- Conflicting goals between store safety and food safety. For example, a store may want to make sure nobody slips from food or misting machines. At the same time, food safety needs it to be a washable surface. A carpet or pig mat could be in conflict with food safety requirements.
- Conflicting goals between food safety and energy conservation. For example, manufacturers are restricted in how much power they can consume; with higher humidity, lower-power fridges stop operating as they should and create food safety risks.
- Rigidity at the federal (FDA) level that MDA has to enforce. For example, Federal Food Safety and Modernization Act (“FSMA”) estimates of what is safe use what they can measure (5 percent) and multiply it by 20 to estimate risk. An interviewee said this seems to overestimate risks of raw milk, foodborne illness; they encouraged MDA to do anything in its power to help assess risks more based on real potential within this federal regulation.
- Current licensing is a hurdle to farmers being able to take their raw products and add value in terms of alcohol production. This interviewee said: “Law says fruit must be involved; would argue in botany, plants are anything coming from a plant. Argue that if you’re a farmer you can have a brewery, distillery under MDA license. I think that’s what we all want to promote. Expand that as much as possible so farmers can take their raw products and add value, and licensing is a hurdle to that currently.”
- One interviewee shared feedback for how MDA handles current license-holders’ renewals. This interviewee noted a lot of organic farmers are leaving organic farmers because of paperwork (all the jurisdictions, not MDA-specific), including in Minnesota. Their key suggestions for change included:
 - MDA should provide guidance and provide provisional permits until inspected for current license holders. The current process works well for buying all new equipment, but farms shop in used and auction markets, which can cause delays in the application process. As another example, if an applicant is building and installing a new septic system, which has its own complicated approval process, MDA can issue a permit and say not to start until they have the septic permit.
 - Current license-holders should get a fast-track, saving applicants and MDA money.
 - Current license-holders could just fill out an amendment form reminding them of rules and get an inspection later.
 - Change the requirement of paying \$800 for “guidance” to build a plan ahead of scheduling an inspection. For plan renewals, they said it would save applicants and MDA time and money to not fill out a plan and not have a review process. “We could simply be at risk of inspection... or have no inspection since we are already inspected by FDA and MDA in our plant, MDA in our other manufacturing plants (winery/distillery) and technically we could have even had MDH stop by.”
- Minnesota has been aggressive about prosecuting raw milk. This person pointed to Vermont and California as examples of states that intensively regulate raw milk rather than prosecuting people who sell it.
- Consider how to work with adjacent states, such as through reciprocity agreements and harmonizing regulations.
- Check that there are no regulatory barriers for farmer co-ops to do group insurance and if there could be incentives in place to promote farmer co-ops.

- Interviewees were not sure whether Minnesota includes gas sales in “total sales” for determining licensing for businesses that sell both gas and food; if it is part of the sales total, they said this does not make sense.
- Meat processors could potentially get their license paid for while the inspector is there – a way a simplify things.

Appendix B: Interview Protocol

MDA Food Licensing Input Stakeholder Interview

Time: 45-60 min

Introduction

The purpose of our conversation today is to hear about your experience with food licensing and your perspective on what would work best for you [and those you represent in the association]. The Minnesota Department of Agriculture (MDA) is starting the process of gathering stakeholder input for modernizing the food licensing structure. They really want to hear your perspectives in this early phase about what is important to you so this can inform them as they consider different approaches to the licensing model. After they have heard from you and used that input to inform ideas of a possible new model, they plan to return to ask for additional stakeholder input on those ideas. Each stakeholder's role and reality is different for food licensing; we are so grateful for you taking the time to share your perspective today! There is no wrong answer for you to give.

PRIVACY NOTICE: Please be aware that any information collected via this interview is public data and as such must be released by the MDA to anyone who properly submits a request to see it, as required by Minnesota law. For more information, please visit the Minnesota Statute Chapter 13 Government Data Practices website (<https://www.revisor.mn.gov/statutes/cite/13>). Keep this in mind when providing your responses.

Our conversation will last approximately 45-60 minutes. I'll be taking notes during our conversation to ensure I don't miss any of the insights you have to share. Before we proceed, is it okay if I record the conversation so I have something to reference later for note taking? The recording will be deleted after use for this purpose.

Our team will then summarize your responses along with those of other interviewees to share with the MDA. In our reporting to the MDA, your responses will be made as anonymous as possible. As we are writing up our summary, if there are details in your answers that we believe may identify you, we will ask you to review the content before sharing it with the MDA. We may use quotes in the report that describe experiences or provide insight into common themes across interviews, but they will not be connected to your name without your explicit approval.

Please remember, however, that while we will not proactively provide data that identifies you to the MDA, if we receive a formal request to see the information you are about to provide to us in its original, un-edited form, we are legally obligated to provide it to them.

Do you have any questions before we start?

Questions

1. [Warm up/context] I understand you are [position/role]. About how long have you done this? Have you had direct interaction with food licensing? Where have you heard about others' experiences with food

licenses? What else have you had experiences with that is like food licensing, for example Cottage Food Registration?

Today, I will be asking mostly about the licensing structures, so classifications such as retail and manufacturing, license time periods, and things like that. We won't be digging into regulations or process improvement (like application or software improvements) at this point.

2. I'd like to hear your thoughts on what is working well and not with the current license structure. Please think back to your experience, from initiating the process (learning you needed a license, figuring out what license to apply for) or perhaps an update (needing an additional license, or a change to license from a change in your activities).
 - a. What has been challenging for you? Where are the current licensing definitions such as place of business, or classifications (retail/manufacturer-processor/wholesale food handler/broker) confusing or not relevant for you?
 - b. What fits or works well?
3. If you have not been licensed so far, what are some reasons why you have not done so? How is this working for you? Would you prefer to be licensed? Why/why not? Prompt for why this is an issue, good/bad fit for their stakeholder group/community
4. From your perspective, what is helpful about having organizations classified into different categories for food licensing?

The current categories are (provide list to interviewee to look at): Food Broker, Wholesale Food Handler, Wholesale Food Processor/Manufacturer, Retail Food Handler, Mobile Food Unit, Seasonal Temporary Food Stand, Special Event Food Stand, Retail Food Vehicle/Portable Structure or Cart.

 - a. What feels relevant for you? What is a poor fit? What other activities do you do that don't fit well in these buckets?
5. Next, I'd like to ask about license time period. What makes sense for the different activities you need a license for? For example, a license period might be the calendar year, or just a year from initial licensing, or something else. What periods are appropriate for temporary licenses? For example, seasonal activity or special events or something else?
6. Currently, the food licensing statute requires a license for each unique entity at each specific location (aka established place of business). Have you experienced any challenges or benefits from this approach? What pros or cons do you see to this approach? Do you have any suggestions for a different approach that would address the challenges you experienced or address the "cons"?
7. Where does the current process or the current requirements feel too rigid? Where should model flex?
8. What is your perspective on licensing fees? Prompt around fee amount, or number of fees (one per license), and what the fee is based on (currently correlates to gross annual food sales). Prompt for why
9. If there are proposed changes, what advice do you have for MDA about how to share those ideas for feedback? Format? Timing? Language? With whom?
10. Who else should we be talking to? What additional perspectives will they bring that are important to include?

Wrap up

Those are all the questions that I have for you. What other advice or ideas about food licensing would you like to share before we wrap up? Thank you for your time. Have a good day!