

**NOTICE OF PUBLIC HEARINGS  
DEPARTMENT OF HEALTH  
STATE OF HAWAII  
(DOCKET NUMBER 24-FSB-EO-2)**

Pursuant to chapters 91, 92, and 321-11, Hawaii Revised Statutes, notice is hereby given that the Department of Health of the State of Hawaii will hold public hearings on amendments to Hawaii Administrative Rules, Title 11, Chapter 50 ("HAR chapter 11-50"), entitled "Food Safety Code".

In Sept 2017, the Food Safety Branch (FSB) adopted the 2013 FDA Model Food Code as an integral part of Hawaii Administrative Rules (HAR), Chapter 11-50, Food Safety Code that governs the food industry. Since then, the FDA has updated and published the 2017 and 2022 Model food Codes, respectively.

The FSB was charged by the 2023 legislature to update HAR to include a new definition for "Homemade Foods". The FSB at the same time will update our current rule to adopt the 2022 FDA Model Food Code near verbatim with one notable exception:

- 1) The 2022 FDA Model Code requires that all Persons-In-Charge (PIC) at a permitted food establishment, must be a Certified Food Protection Manager. The FSB will not adopt this requirement at this time as part of the amended HAR 11-50 being proposed. The FSB is of the opinion that we currently have adequate control of food illness risk factors in the regulated community through the mandatory Food Handlers Education Certification for all PICs in conjunction with the placarding program.

The proposed amendments updates provisions of HAR chapter 11-50 dealing with food establishment sanitation by clarifying certain definitions, requirements, and permitting procedures and establishing new requirements for food establishments. The proposed amendments:

- 1) Homemade Food (HMF) definition changed to include pickled, fermented, or acidified plant food products that must have a pH at or below 4.2 OR a Water Activity (Aw) level at or below 0.88.
- 2) HMF producers will be allowed to sell to 3<sup>rd</sup> parties and wholesale their non-Temperature Controlled for Safety (TCS) products.
- 3) On April 23, 2021, the Food Allergy Safety, Treatment, Education, and Research (FASTER) Act was signed into law, declaring **sesame** as the 9th major food allergen recognized by the United States. The change was effective on January

1, 2023. All FDA requirements applicable to major food allergens, including labeling and manufacturing requirements, apply to sesame as of January 1, 2023. **Permitted FE's will now be required to post signage or label foods if the FE uses any of the nine allergens as ingredients or used in their food operations.**

- 4) Written Vomiting and Diarrhea clean-up plans required for FE's.
- 5) Band-aids, finger cots, or finger stalls shall be covered with gloves.
- 6) Codifies that foods that meet the requirements of HAR may be offered for donation.
- 7) References to "Fruits and Vegetables" have been changed to "Plant foods."
- 8) Revising the definition of "Intact Meat" for cooking temperatures.
- 9) Create new requirements for the allowance of pet dogs in outdoor dining spaces.

The amendments proposed are designed to improve public health outcomes by directly and indirectly lowering the risk of contracting food borne illnesses in the State.

The public hearings will be held virtually on ZOOM on:

Dec 12, 2024 01:00 PM Hawaii Time

Register in advance for this meeting:

[https://zoom.us/meeting/register/tJErceigrDloHt0TNS395jt-P0qcu\\_pg3r4a](https://zoom.us/meeting/register/tJErceigrDloHt0TNS395jt-P0qcu_pg3r4a)

After registering, you will receive a confirmation email containing information about joining the meeting.

A copy of the amended rules, HAR chapter 11-50, and the existing HAR chapter 11-50, will be mailed to any person who requests a copy and pays in advance for the copy and postage. Requests may be made by writing to the Food Safety Branch at the address below or by calling (808) 586-8000.

Food Safety Branch  
Department of Health  
99-945 Halawa Valley St.  
Aiea, Hawaii 96701

A copy of the proposed rules will be e-mailed or mailed at no cost to any existing HAR Chapter 11-50, Food Safety Code, permit holder who requests a copy.

Interested parties are invited to attend the virtual hearing and to state their views on the proposed amendments to rule. Written statements are recommended and may be submitted at the public hearings or to the Food Safety Branch Sanitation Branch at the previously noted Aiea address any time prior to close of business on Friday, December 20, 2024.

The amended HAR chapter 11-50 and HAR chapter 11-50 may be reviewed in person from 7:45 a.m. to 4:30 p.m. at the following locations:

1. Oahu: Food Safety Branch  
Department of Health  
99-945 Halawa Valley St.  
Aiea, Hawaii 96701  
Phone: (808) 586-8000
  
  2. Kauai: Environmental Health Services  
Kauai District Health Office  
3040 Umi Street, 2nd Floor.  
Lihue, Kauai  
Phone: (808) 241-3323
  
  3. Maui: Environmental Health Services  
Department of Health  
State Office Building, Room 300  
54 High Street  
Wailuku, Maui  
Phone: (808) 984-8230
  
  4. Hawaii: Environmental Health Services  
Department of Health  
1582 Kamehameha Avenue  
Hilo, Hawaii  
Phone: (808) 933-0917.
- and: Sanitation Branch, Department of Health  
Keakealani Building  
79-1020 Haukapila Street, Room 115  
Kealahou, Hawaii  
Phone: (808) 322-1507

5. Internet: <http://health.hawaii.gov/san/>

Any person desiring to view the hearing who may require special accommodations (i.e., taped materials or sign language interpreter) may request assistance provided such a request is made ten working days prior to the scheduled hearing. This request may be made by writing to the Food Safety Branch at the previously noted Aiea address or by calling (808) 586-8000.

State of Hawaii  
Department of Health  
Kenneth S. Fink, M.D., MGH, MPH  
Director of Health

Posted: November 12, 2024