

## MINNESOTA RULES

**CHAPTER 4626**  
**DEPARTMENT OF HEALTH**  
**FOOD CODE; FOOD MANAGERS**

**NOTE:** In this chapter, the hyphenated numbers following the part headnotes correspond to section numbers in the U.S. FDA Food Code.

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### FOOD CODE GENERALLY

#### 4626.0010 FOOD CODE. 1-101.10

This chapter shall be known as the Food Code, hereinafter referred to as "this Code."

**Statutory Authority:** *MS s 31.101; 31.11; 144.05; 144.07; 144.08; 144.12; 144.122; 157.011*

**History:** *23 SR 519; 24 SR 605; 43 SR 295*

**Published Electronically:** *January 2, 2019*

#### 4626.0015 FOOD SAFETY, ILLNESS PREVENTION, AND HONEST PRESENTATION. 1-102.10

The purpose of this Code is to safeguard public health and ensure that food is safe, unadulterated, and honestly presented.

**Statutory Authority:** *MS s 31.101; 31.11; 144.05; 144.07; 144.08; 144.12; 157.011*

**History:** *23 SR 519; 43 SR 295*

**Published Electronically:** *January 2, 2019*

**4626.0017 SCOPE. 1-103.10**

A. This Code establishes definitions; sets standards for management and personnel, food operations, and equipment and facilities; and provides for food establishment plan review, license issuance, inspection, employee restriction, and license suspension.

B. References to federal law used in this Code shall incorporate future amendments to the law.

C. This Code applies to food establishments licensed and inspected by the Department of Agriculture, Department of Health, or delegated regulatory authorities that conduct licensing and inspections of food establishments.

D. This Code also applies to individuals applying for certification and certification renewal as a food protection manager, persons providing training for applicants for food protection manager certification, and for certified food protection managers, persons developing and publishing food protection manager certification examinations, and persons proctoring food protection manager certification examinations.

**Statutory Authority:** *MS s 31.101; 31.11; 144.05; 144.07; 144.08; 144.12; 157.011*

**History:** *23 SR 519; 43 SR 295*

**Published Electronically:** *January 2, 2019*

**DEFINITIONS****4626.0020 STATEMENT OF APPLICATION AND DEFINITIONS. 1-201.10**

Subpart 1. **Applicability.** The terms used in this chapter have the meanings given them in this part.

Subp. 2. **Additive.**

A. "Food additive" has the meaning given in the Federal Food, Drug, and Cosmetic Act, United States Code, title 21, section 321(s), and Code of Federal Regulations, title 21, section 170.3(e)(1).

B. "Color additive" has the meaning given in the Federal Food, Drug, and Cosmetic Act, United States Code, title 21, section 321(t), and Code of Federal Regulations, title 21, section 70.3(f).

Subp. 3. **Adulterated.** "Adulterated" has the meaning given in Minnesota Statutes, section 34A.02, and the Federal Food, Drug, and Cosmetic Act, United States Code, title 21, section 342.

Subp. 4. **Approved.** "Approved" means acceptable to the regulatory authority based on a determination of conformity with principles, practices, and generally recognized standards that protect public health.

Subp. 4a. **Asymptomatic.**

A. "Asymptomatic" means without obvious symptoms or not showing or producing indications of a disease or other medical condition, such as an individual infected with a pathogen, but not exhibiting or producing any signs or symptoms of vomiting, diarrhea, or jaundice.

B. Asymptomatic includes not showing symptoms because symptoms have resolved or subsided, or because symptoms were never manifested.

Subp. 5. **a<sub>w</sub>**. "a<sub>w</sub>" means water activity that is a measure of the free moisture in a food, is the quotient of the water vapor pressure of the substance divided by the vapor pressure of the pure water at the same temperature, and is indicated by the symbol a<sub>w</sub>.

Subp. 5a. **Balut.** "Balut" means an embryo inside a fertile egg that has been incubated until the embryo reaches a specific stage of development and is then removed from incubation before hatching.

Subp. 6. **Beverage.** "Beverage" means a liquid for drinking, including water.

Subp. 7. **Bottled drinking water.** "Bottled drinking water" means water that is sealed in bottles, packages, or other containers and offered for sale for human consumption, including bottled mineral water.

Subp. 8. **Bulk food.** "Bulk food" has the meaning given in Minnesota Statutes, section 31.80, subdivision 2.

Subp. 9. [Repealed, 43 SR 295]

Subp. 10. **Certification number.** "Certification number" means a unique combination of letters and numbers assigned by a shellfish control authority to a molluscan shellfish dealer according to the National Shellfish Sanitation Program.

Subp. 10a. **Certified food protection manager or CFPM.** "Certified food protection manager" or "CFPM" means an individual who has a valid Minnesota food protection manager's certification under part 4626.0033 or an individual who is certified under Minnesota Rules 2015, parts 4626.2005 to 4626.2020.

Subp. 11. **CIP.**

A. "CIP" means cleaned in place.

B. A CIP system circulates cleaning, rinsing, and sanitizing solutions through a fixed system.

C. CIP does not include in-place, manual cleaning without the use of a CIP system for equipment such as band saws, slicers, or mixers.

Subp. 11a. [Repealed, 43 SR 295]

Subp. 12. [Repealed, 43 SR 295]

Subp. 12a. **Commingle.** "Commingle" means:

A. to combine shellstock harvested on different days or from different growing areas as identified on the tag or label; or

B. to combine shucked shellfish from containers with different container codes or different shucking dates.

Subp. 13. **Comminuted.**

A. "Comminuted" means reduced in size by methods including chopping, flaking, grinding, or mincing.

B. Comminuted products include fish or meat products that are reduced in size and restructured or reformulated such as gefilte fish, gyros, ground beef, or sausage; and a mixture of two or more types of meat that have been reduced in size and combined, such as sausages made from two or more meats.

Subp. 13a. **Commissioner.** "Commissioner" means the commissioner of health.

Subp. 14. [Repealed, 43 SR 295]

Subp. 14a. **Conditional employee.** "Conditional employee" means a potential food employee to whom a job offer is made, conditional on responses to subsequent medical questions or examinations designed to identify potential food employees who may be suffering from a disease that can be transmitted through food and done in compliance with the Americans with Disabilities Act, United States Code, title 42, chapter 126.

Subp. 15. **Confirmed disease outbreak.** "Confirmed disease outbreak" means a foodborne disease outbreak when laboratory analysis of appropriate specimens identifies a causative organism and epidemiological analysis implicates the food as the source of the illness.

Subp. 16. **Consumer.** "Consumer" means a person who is a member of the public, takes possession of food, is not functioning in the capacity of an operator of a food establishment or food processing plant, and does not offer the food for resale.

Subp. 17. [Repealed, 43 SR 295]

Subp. 18. **Corrosion-resistant material.** "Corrosion-resistant material" means a material that maintains acceptable surface cleanability characteristics under prolonged influence of food contact, the normal use of cleaning compounds and sanitizing solutions, and other conditions of the use environment.

Subp. 18a. **Counter-mounted equipment.** "Counter-mounted equipment" means equipment that is not portable and is designed to be mounted off the floor on a table, counter, or shelf.

Subp. 19. **Critical control point.** "Critical control point" means a point or procedure in a specific food system where loss of control may result in an unacceptable health risk.

Subp. 19a. **Critical limit.** "Critical limit" means the maximum or minimum value to which a physical, biological, or chemical parameter must be controlled at a critical control point to minimize the risk that the identified food safety hazard may occur.

Subp. 19b. **Cross-contamination.** "Cross-contamination" is the movement or transfer of bacteria, microorganisms, or other harmful substances from one person, object, place, or food item to another.

Subp. 20. [Repealed, 43 SR 295]

Subp. 20a. **Cut leafy greens or leafy greens.** "Cut leafy greens" means fresh leafy greens whose leaves have been cut, shredded, sliced, chopped, or torn. "Leafy greens" includes iceberg lettuce; romaine lettuce; leaf lettuce; butter lettuce; baby leaf lettuce such as immature lettuce or leafy greens; escarole; endive; spring mix; spinach; cabbage; kale; arugula; and chard. Leafy greens does not include herbs such as cilantro or parsley.

Subp. 20b. **Dealer.** "Dealer" means a person who is authorized by a shellfish control authority for the activities of shellstock shipper, shucker-packer, repacker, reshipper, or depuration processor of molluscan shellfish according to the provisions of the National Shellfish Sanitation Program.

Subp. 20c. **Disclosure.** "Disclosure" means a written statement that clearly identifies the animal-derived foods or items containing ingredients that contain animal-derived foods that are, or can be ordered, raw, undercooked, or without otherwise being processed to eliminate pathogens.

Subp. 21. **Drinking water.** "Drinking water" means water from a source that meets chapters 4720 and 4725 and Code of Federal Regulations, title 40, part 141.

Drinking water includes the term water except the terms boiler water, mop water, rainwater, wastewater, nondrinking water, and other terms that connote that the water is not potable.

Subp. 22. **Dry storage area.** "Dry storage area" means a room or area designated for the storage of packaged or containerized food that is not time/temperature control for safety food, and dry goods such as single-service items.

Subp. 23. **Easily cleanable.** "Easily cleanable" means a characteristic of a surface that:

- A. allows effective removal of soil by normal cleaning methods; and
- B. is dependent on the material, design, construction, and installation of the surface.

Subp. 24. **Easily movable.** "Easily movable" means:

A. portable; mounted on casters, gliders, or rollers; or provided with a mechanical means to safely tilt a unit of equipment for cleaning; and

B. having no utility connection, a utility connection that disconnects quickly, or a flexible utility connection line of sufficient length to allow the equipment to be moved for cleaning of the equipment and adjacent area.



Subp. 24a. **Egg.**

A. "Egg" means the shell egg of avian species such as chicken, duck, goose, guinea, quail, ratite, or turkey.

B. Egg does not include:

- (1) a balut;
- (2) the egg of reptile species such as alligator; or
- (3) an egg product.

Subp. 24b. **Egg product.**

A. "Egg product" means all, or a portion of, the contents found inside eggs separated from the shell in a food processing plant, and processed to be free of viable *Salmonella* microorganisms.

B. Egg product does not include food that contains eggs only in a relatively small proportion such as cake mixes.

Subp. 25. **Employee.** "Employee" means a licensee, person in charge, food employee, person having supervisory or management duties, person on the payroll, family member, volunteer, person performing work under contractual agreement, or other person working in a food establishment.

Subp. 26. **Equipment.**

A. "Equipment" means an article that is used in the operation of a food establishment such as a freezer, grinder, hood, ice maker, mixer, oven, reach-in refrigerator, sink, slicer, stove, table, vending machine, warewashing machine, grill, and fryer.

B. Equipment does not include apparatuses used for handling or storing large quantities of packaged foods that are received from a supplier in a cased or overwrapped lot, such as hand trucks, forklifts, dollies, pallets, racks, and skids.

Subp. 26a. **Exclude.** "Exclude" means to prevent a person from working as an employee in a food establishment or entering a food establishment as an employee.

Subp. 27. [Repealed, 43 SR 295]

Subp. 28. [Repealed, 43 SR 295]

Subp. 28a. **FDA.** "FDA" means the U.S. Food and Drug Administration.

Subp. 29. **Fish.**

A. "Fish" means fresh or saltwater finfish, crustaceans, and other forms of aquatic animal life other than birds or mammals, including alligator, frog, aquatic turtle, jellyfish, sea cucumber, and sea urchin, and the roe of such animals, if the animal life is intended for human consumption.

B. Fish includes an edible human food product derived in whole or in part from fish, including fish that have been processed in any manner.

Subp. 30. **Food.** "Food" means a raw, cooked, or processed edible substance, ice, beverage, or ingredient used or intended for use or for sale in whole or in part for human consumption, or chewing gum.

Subp. 31. **Foodborne disease outbreak.**

A. "Foodborne disease outbreak" means an incident, except as specified in item B, when:

(1) two or more persons experience a similar illness after ingestion of a common food;  
and

(2) epidemiological analysis implicates the food as the source of the illness.

B. Foodborne disease outbreak includes a single case of illness from botulism or chemical poisoning.

Subp. 32. **Food cart.** "Food cart" has the meaning given in Minnesota Statutes, section 157.15, subdivision 6. A food cart must be a single self-contained unit.

Subp. 32a. **Food catering.** "Food catering" means food that is prepared for service in support of an event with a predetermined guest list such as a reception, party, luncheon, conference, ceremony, or trade show. A food establishment doing catering is responsible for maintaining control of and ensuring the safety of the food from preparation to service to the consumer.

Subp. 33. **Food-contact surface.** "Food-contact surface" means:

A. a surface of equipment or a utensil with which food normally comes into contact; or

B. a surface of equipment or a utensil from which food may drain, drip, or splash:

(1) into a food; or

(2) onto a surface normally in contact with food.

Subp. 34. **Food employee.** "Food employee" means an individual working with unpackaged food, food equipment or utensils, or food-contact surfaces.

Subp. 35. **Food establishment.**

A. "Food establishment" means an operation that stores, prepares, packages, serves, vends, caters, delivers, or otherwise provides food for human consumption, 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.

Food establishment includes:

(1) an element of an operation such as a transportation vehicle or central preparation facility that supplies a vending location or satellite feeding location unless the vending or feeding location is licensed by the regulatory authority; or

(2) retail operations located within the following establishments:

(a) wholesale food processors, wholesale food handlers, food manufacturers, or food brokers as classified in Minnesota Statutes, section 28A.05, paragraphs (b), (c), and (d);

(b) custom processors as defined in Minnesota Statutes, section 28A.03, subdivision 8, or custom processing as defined in Minnesota Statutes, section 31A.02, subdivision 5; or

(c) animal food manufacturers as defined in Minnesota Statutes, section 31A.02, subdivision 8; and

(d) those food service operations within a hospital, nursing home, or boarding care home licensed under Minnesota Statutes, sections 144.50 to 144.56, that are not limited to patient or resident care.

B. Food establishment does not include:

(1) an establishment excluded from licensure under Minnesota Statutes, sections 28A.15, 28A.151, and 28A.152, or 31.56;

(2) an establishment exempted under Minnesota Statutes, section 157.22;

(3) a private home or other location that receives catered or home-delivered food when only invited guests are present; or

(4) a food service limited to patient or resident care within a hospital, nursing home, boarding care home, or supervised living facility licensed under Minnesota Statutes, sections 144.50 to 144.56, except for those operations subject to the rules and laws administered by the Minnesota Department of Agriculture.

Subp. 36. **Food processing plant.** "Food processing plant" means a commercial operation that manufactures, packages, labels, or stores food for human consumption and provides food for sale or distribution only to other business entities such as food processing plants or food establishments.

Subp. 37. **Game animal.**

A. "Game animal" means an animal, the products of which are food.

B. Game animals include (1) big and small game as defined in Minnesota Statutes, section 97A.015, subdivisions 3 and 45; and (2) game birds as defined in Minnesota Statutes, section 97A.015, subdivision 24.

C. Game animal does not include animals classified as livestock in Code of Federal Regulations, title 9, section 301.2, or as animals as defined in Minnesota Statutes, section 31A.02, subdivision 4, or poultry or fish; or animals raised as livestock, Cervidae, Ratitae, or llama as defined in Minnesota Statutes, sections 17.452, 17.453, and 17.455.

Subp. 38. **General use pesticide.** "General use pesticide" means a pesticide that is not classified by the U.S. Environmental Protection Agency for restricted use as specified in Code of Federal Regulations, title 40, section 152.175.

Subp. 38a. **Grade A standards.** "Grade A standards" means the requirements found in "Grade A Pasteurized Milk Ordinance" produced with guidance from the U.S. Public Health Service and the FDA, and with which certain fluid and dry milk and milk products must comply. This publication is incorporated by reference, is subject to frequent change, and is available through the FDA website at [www.fda.gov/downloads/Food/GuidanceRegulation/GuidanceDocumentsRegulatoryInformation/Milk/UCM513508.pdf](http://www.fda.gov/downloads/Food/GuidanceRegulation/GuidanceDocumentsRegulatoryInformation/Milk/UCM513508.pdf).

Subp. 39. [Repealed, 43 SR 295]

Subp. 40. **HACCP plan.** "HACCP plan" means a written document that delineates the formal procedures for following the hazard analysis and critical control point principles developed by the National Advisory Committee on Microbiological Criteria for Foods. This publication is incorporated by reference, is subject to infrequent change, and is available at [www.fsis.usda.gov](http://www.fsis.usda.gov).

Subp. 40a. **Handwashing sink.**

A. "Handwashing sink" means a lavatory, a basin, or a vessel for washing; a wash basin; or a plumbing fixture dedicated to handwashing.

B. Handwashing sink includes an automatic handwashing facility.

Subp. 41. **Hazard.** "Hazard" means a biological, chemical, or physical property that may cause an unacceptable consumer health risk.

Subp. 42. **Hermetically sealed container.** "Hermetically sealed container" means a container that is designed and intended to be secure against the entry of microorganisms and, in the case of low acid canned foods, to maintain the commercial sterility of its contents after processing.

Subp. 42a. **Highly susceptible population.** "Highly susceptible population" means persons who are more likely than others in the general population to experience foodborne disease because they are immunocompromised, preschool-age children, or older adults and they are obtaining food at a facility that provides services such as custodial care, health care, or nutritional or socialization services.

Subp. 43. **Imminent health hazard.** "Imminent health hazard" means a significant threat or danger to health that exists when there is evidence sufficient to show that a product, practice, circumstance, or event creates a situation that requires immediate correction or cessation of operation to prevent injury based on:

A. the number of potential injuries; and

B. the nature, severity, and duration of the anticipated injury.

Subp. 44. **Injected.** "Injected" means manipulating meat by introducing a solution into its interior by processes referred to as "injecting," "pump marinating," or "stitch pumping."

Subp. 44a. **Juice.**

A. "Juice" means the aqueous liquid expressed or extracted from one or more fruits or vegetables, purees of the edible portions of one or more fruits or vegetables, or any concentrates of the liquid or puree.

B. For purposes of HACCP, juice does not include liquids, purees, or concentrates that are not used as beverages or ingredients of beverages.

Subp. 45. **Kitchenware.** "Kitchenware" means food preparation and storage utensils.

Subp. 46. **License.** "License" means the authorization issued by the regulatory authority to a person to operate a food establishment.

Subp. 47. **Licensee.** "Licensee" means the person licensed by the regulatory authority who:

A. is the owner, the owner's agent, or other person legally responsible for the operation of the food establishment; and

B. possesses a valid license to operate a food establishment according to Minnesota Statutes, chapter 28A or 157.

Subp. 48. **Linens.** "Linens" means fabric items such as cloth hampers, cloth napkins, tablecloths, wiping cloths, cloth gloves, and other work garments.

Subp. 48a. **Major food allergen.**

A. "Major food allergen" means:

(1) milk; egg; fish, such as bass, flounder, or cod; crustacean shellfish, including crab, lobster, or shrimp; tree nuts, such as almonds, pecans, or walnuts; wheat; peanuts; and soybeans; or

(2) a food ingredient that contains protein derived from a food, as specified in subitem (1).

B. Major food allergen does not include:

(1) any highly refined oil derived from a food specified in item A, subitem (1), and any ingredient derived from the oil; or

(2) any ingredient that is exempt under the petition or notification process specified in the Food Allergen Labeling and Consumer Protection Act of 2004, Public Law 108-282.

Subp. 49. [Repealed, 43 SR 295]

Subp. 50. **Meat.**

A. "Meat" means the flesh of animals used as food including the dressed flesh of cattle, swine, sheep, or goats and other edible animals.

B. Meat does not include fish, poultry, and wild animals as defined in Minnesota Statutes, section 97A.015, subdivision 55, and as specified in part 4626.0160, item C.

Subp. 50a. **Mechanically tenderized.**

A. "Mechanically tenderized" means manipulating meat with deep penetration by processes such as blade tenderizing, jaccarding, pinning, needling, or using blades, pins, needles, or any mechanical device.

B. Mechanically tenderized does not include processes by which solutions are injected into meat.

Subp. 51. **mg/L.** "mg/L" means milligrams per liter, which is the metric equivalent of parts per million (ppm).

Subp. 52. **Molluscan shellfish.** "Molluscan shellfish" means an edible species of fresh or frozen oysters, clams, mussels, and scallops or edible portions thereof, except when the scallop product consists only of the shucked adductor muscle.

Subp. 52a. [Repealed, 43 SR 295]

Subp. 52b. **Mushrooms.**

A. "Mushrooms, wild" means edible species of mushrooms that have been harvested from their naturally occurring environment where no human intervention occurred to support their growth.

B. "Mushrooms, cultivated" means edible species of mushrooms that have been grown by a person or persons under controlled conditions, outdoors or indoors, on natural or artificial substrate.

Subp. 52c. **Neighborhood kitchen.** "Neighborhood kitchen" means a satellite or auxiliary kitchen in residential buildings for adults age 55 or older that is secondary to the primary approved commercial kitchen where most of the food is received, stored, and prepared.

Subp. 52d. **Noncontinuous cooking.**

A. "Noncontinuous cooking" means the cooking of food in a food establishment using a process in which the initial heating of the food is intentionally halted so that it may be cooled and held for complete cooking at a later time prior to sale or service.

B. Noncontinuous cooking does not include cooking procedures that only involve temporarily interrupting or slowing an otherwise continuous cooking process.

Subp. 52e. **Nonpublic water system.** "Nonpublic water system" means any water system that does not meet the definition of a public water system as defined in subpart 66.

Subp. 53. **Packaged.**

A. "Packaged" means bottled, canned, cartoned, bagged, or wrapped, whether packaged in a food establishment or a food processing plant.

B. Packaged does not include food delivered to a consumer by a food employee, upon consumer request, that is wrapped or placed in a carry-out container to protect the food during delivery to the consumer.

Subp. 54. **Person.** "Person" means an association, corporation, individual, partnership, government, or governmental subdivision or agency.

Subp. 55. **Person in charge.** "Person in charge" means the individual present at a food establishment who is responsible for the operation at the time of inspection.

Subp. 56. **Personal care item.** "Personal care item" means an item or substance that may be poisonous, toxic, or a source of contamination and is used to maintain or enhance a person's health, hygiene, or appearance.

Subp. 57. **pH.** "pH" is the symbol for the negative logarithm of the hydrogen ion concentration, which is a measure of the degree of acidity or alkalinity of a solution.

Subp. 58. **Physical facility.** "Physical facility" means the structure and interior surfaces of a food establishment including accessories such as soap and towel dispensers, and attachments such as light fixtures and heating or air conditioning system vents.

Subp. 59. **Plumbing fixture.** "Plumbing fixture" means a receptacle or device that:

A. is permanently or temporarily connected to the water distribution system of the premises and demands a supply of water from the system; or

B. discharges used water, waste materials, or sewage directly or indirectly to the drainage system of the premises.

Subp. 60. **Plumbing system.** "Plumbing system" means the water supply and distribution pipes; plumbing fixtures and traps; soil, waste, and vent pipes; sanitary and storm sewers and building drains, including their respective connections, devices, and appurtenances within the premises; and water-treating equipment.

Subp. 61. **Poisonous or toxic material.** "Poisonous or toxic material" means a substance that is not intended for ingestion and is included in one of the following 4 categories:

A. cleaners and sanitizers, such as cleaning and sanitizing agents and other chemicals such as caustics, acids, drying agents, and polishes;

B. pesticides, except sanitizers, including substances such as insecticides and rodenticides;

C. substances necessary for the operation and maintenance of the establishment, such as non-food-grade lubricants and personal care items that may be deleterious to health; or

D. substances that are not necessary for the operation and maintenance of the establishment and are on the premises for retail sale, such as petroleum products and paints.

**Subp. 62. Potentially hazardous food.**

A. "Potentially hazardous food" means a food that is natural or synthetic and is in a form capable of supporting:

- (1) the rapid and progressive growth of infectious or toxigenic microorganisms;
- (2) the growth and toxic production of *Clostridium botulinum*; or
- (3) in raw shell eggs, the growth of *Salmonella enteritidis*.

B. Potentially hazardous food includes a food of animal origin that is raw or heat-treated, a food of plant origin that is heat-treated or consists of raw seed sprouts, cut melons, and garlic and oil mixtures that are not acidified or otherwise modified at a food processing plant in a way that results in mixtures that do not support growth as specified in item A.

C. Potentially hazardous food does not include:

- (1) an air-cooled hard-boiled egg with shell intact;
- (2) a food with an  $a_w$  value of 0.85 or less;
- (3) a food with a pH level of 4.6 or below when measured at 24 degrees C (75 degrees F);
- (4) a food, in an unopened hermetically sealed container, that is commercially processed to achieve and maintain commercial sterility under conditions of nonrefrigerated storage and distribution;
- (5) a food for which laboratory evidence demonstrates that the rapid and progressive growth of infectious and toxigenic microorganisms or the growth of *Salmonella enteritidis* in eggs or *Clostridium botulinum* cannot occur, including a food that has an  $a_w$  and a pH that are above the levels specified in subitem (2) or (3) and that may contain a preservative, other barrier to the growth of microorganisms, or a combination of barriers that inhibit the growth of microorganisms; or
- (6) a food that may contain an infectious or toxigenic microorganism or chemical or physical contaminant at a level sufficient to cause illness, but that does not support the growth of microorganisms as specified in item A.

**Subp. 63. Poultry.** "Poultry" means:

A. any domesticated bird, such as chickens, turkeys, ducks, geese, guineas, ratites, or squabs, whether live or dead, as defined in Code of Federal Regulations, title 9, part 381.1; and

B. any migratory waterfowl or game bird, whether live or dead, as defined in Code of Federal Regulations, title 9, part 362.1, including pheasant, partridge, quail, grouse, or pigeon.

**Subp. 64. Premises.** "Premises" means:

A. the physical facility, its contents, and the contiguous land or property under the control of the licensee; or



B. the physical facility, its contents, and the land or property not described in item A, if its facilities and contents that are under the control of the licensee and may impact food establishment personnel, facilities, or operations, and a food establishment is only 1 component of a larger operation such as a health care facility, hotel, motel, school, recreational camp, or prison.

Subp. 64a. **Prepare.** "Prepare" means to process food by means such as heating, cooking, canning, extracting, fermenting, distilling, pickling, freezing, baking, drying, smoking, grinding, cutting, mixing, coating, stuffing, packing, bottling, packaging, or any other treatment or preservation process.

Subp. 65. **Primal cut.** "Primal cut" means a basic major cut into which carcasses and sides of meat are separated, such as a beef round, pork loin, lamb flank, or veal breast.

Subp. 65a. **Priority 1 item or p<sub>1</sub>.**

A. "Priority 1 item" or "p<sub>1</sub>" means a provision in this Code whose application contributes directly to the elimination, prevention, or reduction to an acceptable level of hazards associated with foodborne illness or injury, and there is no other provision that more directly controls the hazard. This is the same as the FDA's "priority designation."

B. A priority 1 item includes an item with a quantifiable measure to show control of hazards such as cooking, reheating, cooling, and handwashing.

Subp. 65b. **Priority 2 item or p<sub>2</sub>.**

A. "Priority 2 item" or "p<sub>2</sub>" means a provision in this Code whose application supports, facilitates, or enables one or more priority 1 items. This is the same as the FDA's "priority foundation designation."

B. A priority 2 item includes an item that requires the purposeful incorporation of specific actions, equipment, or procedures by industry management to attain control of risk factors that contribute to foodborne illness or injury such as personnel training, infrastructure or necessary equipment, HACCP plans, documentation or record keeping, and labeling.

Subp. 65c. **Priority 3 item.**

A. "Priority 3 item" means a provision in this Code that is not designated as a priority 1 item or a priority 2 item. This is the same as the FDA's "core designation."

B. A priority 3 item includes an item that usually relates to general sanitation, operational controls, sanitation standard operating procedures (SSOPs), facilities or structures, equipment design, or general maintenance.

C. Items not designated with a p<sub>1</sub> or p<sub>2</sub> are priority 3 items.

Subp. 66. **Public water system.** "Public water system" has the meaning given in Code of Federal Regulations, title 40, part 141.2.

Subp. 66a. **Ratite.** "Ratite" or "Ratitae" means a flightless bird such as an emu, ostrich, or rhea.

**Subp. 67. Ready-to-eat food.**

A. "Ready-to-eat food" means food that:

(1) is in a form that is edible without additional preparation to achieve food safety as specified in part 4626.0340 or 4626.0350;

(2) is a raw or partially cooked animal food and the consumer is advised as specified in part 4626.0340, item D, subitem (3); or

(3) is prepared according to a variance that is granted under part 4626.0340, item D, subitem (4); and

(4) may receive additional preparation for palatability or aesthetic, epicurean, gastronomic, or culinary purposes.

B. Ready-to-eat food includes:

(1) raw animal food that is cooked as specified under part 4626.0340 or 4626.0345, or frozen as specified under part 4626.0350;

(2) raw fruits and vegetables that are washed as specified under part 4626.0255;

(3) fruits and vegetables that are cooked for hot holding, as specified in part 4626.0347;

(4) plant food for which further washing, cooking, or other processing is not required for food safety, and from which rinds, peels, husks, or shells, if naturally present, are removed;

(5) all TCS food as defined in subpart 90a that is cooked to the temperature and time required for the specific food under parts 4626.0340 to 4626.0349 and cooled as specified in part 4626.0385;

(6) substances derived from plants such as spices, seasonings, and sugar;

(7) bakery items such as bread, cakes, pies, fillings, or icing for which further cooking is not required for food safety;

(8) products that are produced according to USDA guidelines and have received a lethality treatment for pathogens; and

(9) food manufactured as specified in Code of Federal Regulations, title 21, part 113.

**Subp. 68. Reduced oxygen packaging.**

A. "Reduced oxygen packaging" means:

(1) the reduction of the amount of oxygen in a package by removing oxygen, displacing oxygen and replacing it with another gas or combination of gases, or otherwise controlling the oxygen content to a level below that normally found in the atmosphere, which is approximately 21 percent at sea level; and

(2) the process in subitem (1) that involves a food for which the hazards *Clostridium botulinum* or *Listeria monocytogenes* require control in the final packaged form.

B. Reduced oxygen packaging includes:

(1) vacuum packaging in which air is removed from a package of food and the package is hermetically sealed so that a vacuum remains inside the package;

(2) modified atmosphere packaging in which the atmosphere of a package of food is modified so that its composition is different from air but the atmosphere may change over time due to the permeability of the packaging material or the respiration of the food. Modified atmosphere packaging includes reduction in the proportion of oxygen, total replacement of oxygen, or an increase in the proportion of other gases such as carbon dioxide or nitrogen;

(3) controlled atmosphere packaging in which the atmosphere of a package of food is modified so that until the package is opened, its composition is different from air, and continuous control of that atmosphere is maintained, such as by using oxygen scavengers or a combination of total replacement of oxygen, nonrespiring food, and impermeable packaging material;

(4) cook-chill packaging in which cooked food is hot filled into impermeable bags that have the air expelled and are then sealed or crimped closed. The bagged food is rapidly chilled and refrigerated at temperatures that inhibit the growth of psychotropic pathogens; or

(5) sous-vide packaging in which raw or partially cooked food is vacuum packaged in an impermeable bag, cooked in the bag, rapidly chilled, and refrigerated at temperatures that inhibit the growth of psychotropic pathogens.

Subp. 69. **Refuse.** "Refuse" means solid waste not carried by water through the sewage system.

Subp. 70. **Regulatory authority.** "Regulatory authority" means the local, state, or federal enforcement body or authorized representative having jurisdiction over the food establishment.

Subp. 70a. **Reminder.** "Reminder" means a written statement concerning the health risk of consuming animal foods raw, undercooked, or without otherwise being processed to eliminate pathogens.

Subp. 70b. **Re-service.** "Re-service" means food that is served or sold to a consumer who then returns the unused food, which is then transferred by means of serving or selling to another person.

Subp. 70c. **Restrict.** "Restrict" means to limit the activities of a food employee so that there is no risk of transmitting a disease that is transmissible through food and the food employee does not work with exposed food or handle clean equipment, utensils, linens, or unwrapped single-service or single-use articles.

Subp. 70d. **Restricted egg.** "Restricted egg" means any egg as defined in Code of Federal Regulations, title 9, section 590.5, that is a check, incubator reject, inedible, leaker, loss, or dirty egg.

Subp. 71. **Restricted use pesticide.** "Restricted use pesticide" means a pesticide product that contains the active ingredients specified in Code of Federal Regulations, title 40, section 152.175, and that is limited to use by a licensed applicator.

Subp. 72. [Repealed, 43 SR 295]

Subp. 73. **Retail 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 nonmotorized 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.

Subp. 73a. **Risk.** "Risk" means the likelihood that an adverse health effect will occur within a population as a result of a hazard in a food.

Subp. 74. **Safe material.** "Safe material" means:

- A. an article manufactured from or composed of materials that may not reasonably be expected to result directly or indirectly in their becoming a component or otherwise affecting the characteristics of any food;
- B. an additive that is used as specified in the Federal Food, Drug, and Cosmetic Act, United States Code, title 21, section 348 or 379e; or
- C. any other material that is not an additive and that is used in conformity with applicable regulations of the Food and Drug Administration.

Subp. 75. **Sanitization.** "Sanitization" means the application of cumulative heat or chemicals on cleaned food-contact surfaces that, when evaluated for efficacy, yields within 1 minute a reduction of 5 logs, which is equal to a 99.999 percent reduction, of representative disease microorganisms of public health importance.

Subp. 76. **Sealed.** "Sealed" means free of cracks or other openings that allow the entry or passage of moisture.

Subp. 76a. **Service animal.** "Service animal" means an animal such as a guide dog, signal dog, or other animal individually trained to provide assistance to a person with a disability.

Subp. 77. **Servicing area.** "Servicing area" means an operating base location to which a food cart, special event food stand, temporary food establishment, retail food vehicle, portable structure, cart, or transportation vehicle returns regularly for such things as vehicle and equipment cleaning, discharging liquid or solid wastes or refilling water tanks and ice bins, and loading food.

Subp. 78. **Sewage.** "Sewage" means liquid waste containing animal or vegetable matter in suspension or solution and may include liquids containing chemicals in solution.

Subp. 78a. [Repealed, 43 SR 295]

Subp. 78b. **Shellfish control authority.** "Shellfish control authority" means a state, federal, foreign, tribal, or other government entity legally responsible for administering a program that includes certification of molluscan shellfish harvesters and dealers for interstate commerce.

Subp. 79. **Shellstock.** "Shellstock" means raw, in-shell molluscan shellfish.

Subp. 79a. **Shiga toxin-producing *Escherichia coli* or STEC.** "Shiga toxin-producing *Escherichia coli* " or "STEC" means any *E. coli* capable of producing Shiga toxins, also called verocytotoxins or Shiga-like toxins. Examples of serotypes of STEC include both O157 and non-O157 *E. coli*.

Subp. 80. **Shucked shellfish.** "Shucked shellfish" means molluscan shellfish that have 1 or both shells removed.

Subp. 81. **Single-service articles.** "Single-service articles " means tableware, carry-out utensils, and other items such as bags, containers, placemats, stirrers, straws, toothpicks, and wrappers, that are designed and constructed to be used 1 time by 1 person, after which they are intended to be discarded.

Subp. 82. **Single-use article.**

A. "Single-use article" means a utensil or bulk food container designed and constructed to be used once and discarded.

B. Single-use article includes items such as wax paper, butcher paper, plastic wrap, formed aluminum food containers, jars, plastic tubs or buckets, bread wrappers, pickle barrels, ketchup bottles, number 10 cans, and other items that do not meet the materials, durability, strength, and cleanability specifications contained in parts 4626.0450, 4626.0505, and 4626.0515 for multiuse utensils.

Subp. 83. **Slacking.** "Slacking" means the process of moderating the temperature of a food, such as allowing a food to gradually increase from a temperature of -10 degrees F (-23 degrees C) to 25 degrees F (-4 degrees C) in preparation for deep-fat frying or for even heat penetration during the cooking of previously block-frozen food such as shrimp.

Subp. 84. **Smooth.** "Smooth" means:

A. a food-contact surface, free of pits and inclusions with a cleanability equal to or exceeding that of number 3 (100 grit) stainless steel;

B. a non-food-contact surface of equipment having a surface equal to that of commercial grade hot-rolled steel free of visible scale; or

C. a floor, wall, or ceiling having an even or level surface with no roughness or projections that render the surface difficult to clean.

Subp. 85. **Special event food stand.** "Special event food stand" has the meaning given in Minnesota Statutes, section 157.15, subdivision 14.

Subp. 86. [Repealed, 43 SR 295]

Subp. 87. [Repealed, 43 SR 295]

Subp. 88. [Repealed, 43 SR 295]

Subp. 89. **Temperature measuring device.** "Temperature measuring device" means a thermometer, thermocouple, thermistor, or other device that indicates the temperature of food, air, or water.

Subp. 90. **Temporary food establishment.** "Temporary food establishment" means a food establishment that is a mobile food unit, seasonal permanent food stand, or seasonal temporary food stand, as those terms are defined in Minnesota Statutes, section 157.15, subdivisions 9, 12a, and 13.

Subp. 90a. **Time/temperature control for safety food (TCS).**

A. "Time/temperature control for safety food (TCS)" means a food that requires time/temperature control for safety to limit pathogenic microorganism growth or toxin formation.

B. TCS includes:

(1) an animal food that is raw or heat-treated; a plant food that is heat-treated or consists of raw seed sprouts, cut melons, cut leafy greens, cut tomatoes, or mixtures of cut tomatoes that are not modified in a way so that they are unable to support pathogenic microorganism growth or toxin formation, or garlic-in-oil mixtures that are not modified in a way so that they are unable to support pathogenic microorganism growth or toxin formation; and

(2) except as specified in item C, subitem (4), a food that because of the interaction of its  $a_w$  and pH values is designated as product assessment (PA) required in Table A or B:

TABLE A. Interaction of pH and $a_w$ for control of spores in food heat-treated to destroy vegetative cells and subsequently packaged			
$a_w$ values	pH values		
	4.6 or less	> 4.6 up to 5.6	> 5.6
$\leq 0.92$	non-TCS FOOD*	non-TCS FOOD	non-TCS FOOD
> 0.92 up to 0.95	non-TCS FOOD	non-TCS FOOD	PA**
> 0.95	non-TCS FOOD	PA	PA

\* TCS FOOD means TIME/TEMPERATURE CONTROL FOR SAFETY FOOD

\*\* PA means Product Assessment required

TABLE B. Interaction of pH and $a_w$ for control of vegetative cells and spores in food not heat-treated or heat-treated but not packaged				
$a_w$ values	pH values			
	< 4.2	4.2 - 4.6	> 4.6 - 5.0	> 5.0
< 0.88	non-TCS food*	non-TCS food	non-TCS food	non-TCS food
0.88 - 0.90	non-TCS food	non-TCS food	non-TCS food	PA**
> 0.90 - 0.92	non-TCS food	non-TCS food	PA	PA
> 0.92	non-TCS food	PA	PA	PA
* TCS FOOD means TIME/TEMPERATURE CONTROL FOR SAFETY FOOD				
** PA means Product Assessment required				

C. TCS does not include:

(1) an air-cooled hard-boiled egg with shell intact, or an egg with shell intact that is not hard-boiled but has been pasteurized to destroy all viable *Salmonellae*;

(2) a food in an unopened, hermetically sealed container that is commercially processed to achieve and maintain commercial sterility under conditions of nonrefrigerated storage and distribution;

(3) a food that because of its pH or  $a_w$  value, or interaction of  $a_w$  and pH values, is designated as a non-TCS food in item B, Table A or B;

(4) a food that is designated as product assessment (PA) required in item B, Table A or B, and has undergone a product assessment showing that the growth or toxin formation of pathogenic microorganisms that are reasonably likely to occur in that food is precluded due to:

(a) intrinsic factors including added or natural characteristics of the food such as preservatives, antimicrobials, humectants, acidulants, or nutrients;

(b) extrinsic factors including environmental or operational factors that affect the food such as packaging, modified atmosphere such as reduced oxygen packaging, shelf life and use, or temperature range of storage and use; or

(c) a combination of intrinsic and extrinsic factors; or

(5) a food that does not support the growth or toxin formation of pathogenic microorganisms according to subitems (1) to (4) even though the food may contain a pathogenic microorganism or chemical or physical contaminant at a level sufficient to cause illness or injury.

Subp. 90b. **USDA.** "USDA" means the U.S. Department of Agriculture.

Subp. 91. **Utensil.** "Utensil" means a food-contact implement or container used in the storage, preparation, transportation, dispensing, sale, or service of food, including kitchenware or tableware that is multiuse, single-service, or single-use; gloves used in contact with food; temperature-sensing probes of food temperature measuring devices; and probe-type price or identification tags used in contact with food.

Subp. 92. **Vending machine.** "Vending machine" means a self-service device that, upon insertion of a coin, paper currency, token, card, or key, or by optional manual operation, dispenses unit servings of food in bulk or in packages without the necessity of replenishing the device between each vending operation.

Subp. 93. **Vending machine location.** "Vending machine location" means the room, enclosure, space, or area where one or more vending machines are installed and operated and includes the storage areas and areas on the premises that are used to service and maintain the vending machines.

Subp. 94. **Warewashing.** "Warewashing" means the cleaning and sanitizing of utensils and food-contact surfaces of equipment.

Subp. 94a. **Whole-muscle, intact beef.** "Whole-muscle, intact beef" means whole muscle beef that is not injected, mechanically tenderized, reconstructed, or scored and marinated, from which beef steaks may be cut.

Subp. 95. [Repealed, 43 SR 295]

Subp. 96. [Repealed, 43 SR 295]

Subp. 97. [Repealed, 43 SR 295]

Subp. 98. [Repealed, 43 SR 295]

**Statutory Authority:** *MS s 31.101; 31.11; 144.05; 144.07; 144.08; 144.12; 157.011*

**History:** *23 SR 519; L 2005 1Sp1 art 1 s 97; 43 SR 295*

**Published Electronically:** *January 2, 2019*

#### **4626.0024 RESPONSIBILITY TO MEET STANDARDS.**

The licensee shall meet the standards that this Code prescribes, by carrying out its requirements directly or ensuring that other entities subject to the licensee's control or direction do so. The licensee bears the responsibility for complying and for acts and omissions of its employees, vendors, and subcontractors with respect to this Code.

**Statutory Authority:** *MS s 31.101; 31.11; 144.07; 157.011*

**History:** *43 SR 295*

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**SUPERVISION****4626.0025 ASSIGNMENT OF PERSON IN CHARGE. 2-101.11**

The licensee shall be the person in charge or shall designate a person in charge and shall ensure that a person in charge is present at the food establishment during all hours of operation.<sup>p2</sup>

**Statutory Authority:** *MS s 31.101; 31.11; 144.05; 144.07; 144.08; 144.12; 157.011*

**History:** *23 SR 519; 43 SR 295*

**Published Electronically:** *January 2, 2019*

**4626.0030 DEMONSTRATION OF KNOWLEDGE BY PERSON IN CHARGE. 2-102.11**

Based on the risks inherent to the food operation, during inspections and upon request by the regulatory authority, the person in charge shall demonstrate knowledge of foodborne disease prevention, application of the hazard analysis critical control point principles, and the requirements of this Code. The person in charge shall demonstrate this knowledge by responding correctly to the inspector's questions as they relate to the specific food operation. The areas of knowledge include:

A. describing the relationship between the prevention of foodborne disease and the personal hygiene of a food employee;<sup>p2</sup>

B. explaining the responsibility of the person in charge for preventing the transmission of foodborne disease by a food employee who has a disease or medical condition that may cause foodborne disease;<sup>p2</sup>

C. describing the symptoms associated with diseases that are transmissible through food;<sup>p2</sup>

D. explaining the significance of the relationship between maintaining the time and temperature of TCS food and the prevention of foodborne illness;<sup>p2</sup>

E. explaining the hazards involved in the consumption of raw or undercooked meat, poultry, eggs, and fish;<sup>p2</sup>

F. stating the required food temperatures and times for safe cooking of TCS food including meat, poultry, eggs, and fish;<sup>p2</sup>

G. stating the required temperatures and times for the safe refrigerated storage, hot holding, cooling, and reheating of TCS food;<sup>p2</sup>

H. describing the relationship between the prevention of foodborne illness and the management and control of the following:

(1) cross-contamination;<sup>p2</sup>

(2) hand contact with ready-to-eat foods;<sup>p2</sup>

(3) handwashing;<sup>p2</sup> and

- (4) maintaining the food establishment in a clean condition and in good repair;<sup>p2</sup>
- I. describing foods identified as major food allergens and the symptoms that a major food allergen could cause in a sensitive individual who has an allergic reaction;<sup>p2</sup>
- J. explaining the relationship between food safety and providing equipment that is:
  - (1) sufficient in number and capacity;<sup>p2</sup> and
  - (2) properly designed, constructed, located, installed, operated, maintained, and cleaned;<sup>p2</sup>
- K. explaining correct procedures for cleaning and sanitizing utensils and food-contact surfaces of equipment;<sup>p2</sup>
- L. identifying the source of water used and measures taken to ensure that the water source remains protected from contamination such as providing protection from backflow and precluding the creation of cross connections;<sup>p2</sup>
- M. identifying poisonous or toxic materials in the food establishment and the procedures necessary to ensure that they are safely stored, dispensed, used, and disposed of according to Minnesota Statutes, chapter 18B;<sup>p2</sup>
- N. identifying critical control points in the operation from purchasing through sale or service that when not controlled may contribute to the transmission of foodborne illness, and by explaining the steps to be taken to ensure that the points are controlled according to this Code;<sup>p2</sup>
- O. explaining the details of how the person in charge and food employees comply with the HACCP plan if a plan is required;<sup>p2</sup>
- P. explaining the responsibilities, rights, and authorities assigned by this Code to the:
  - (1) food employee;<sup>p2</sup>
  - (2) conditional employee;<sup>p2</sup>
  - (3) person in charge;<sup>p2</sup> and
  - (4) regulatory authority;<sup>p2</sup> and
- Q. explaining how the person in charge, food employees, and conditional employees comply with reporting requirements and explaining the exclusion or restriction of a food employee who has a disease or medical condition that may cause foodborne disease.<sup>p2</sup>

**Statutory Authority:** *MS s 31.101; 31.11; 144.05; 144.07; 144.08; 144.12; 157.011*

**History:** *23 SR 519; 43 SR 295*

**Published Electronically:** *January 2, 2019*

**4626.0033 CERTIFIED FOOD PROTECTION MANAGER (CFPM) REQUIREMENTS FOR FOOD ESTABLISHMENTS.**

A. A food establishment licensee shall employ a certified food protection manager (CFPM) for each establishment including a food establishment that reheats ready-to-eat TCS foods for hot holding, except as provided in item B.

B. A food establishment does not need to employ a CFPM:

(1) where the method of food preparation meets the definition of a low-risk food establishment in Minnesota Statutes, section 157.20;

(2) where the food establishment is licensed as a special event food stand;

(3) where the establishment operates as a retail food vehicle, portable structure, or cart as defined in part 4626.0020, subpart 73; or

(4) where food preparation activities are solely limited to one or more of the following:

(a) preparing or packaging non-TCS foods that are made from ingredients that are not TCS;

(b) processing raw meat, poultry, fish, or game animals intended for cooking by the consumer; or

(c) heating or serving precooked hot dog or sausage products, popcorn, nachos, pretzels, or frozen pizza.

C. Only upon opening or reopening a food establishment, a licensee may employ 1 full-time employee who:

(1) at the time of opening or reopening meets the requirements in item G, subitem (1); and

(2) within 60 days of opening or reopening meets the requirements in item A.

D. A food establishment licensee required to employ a CFPM shall display a current original CFPM certificate or a current duplicate CFPM certificate in the establishment.

E. A food establishment licensee that ceases to employ a CFPM shall employ a new CFPM within 60 days.

F. A food establishment licensee through the CFPM is responsible for:

(1) identifying hazards in the day-to-day operation of the food establishment;

(2) developing or implementing specific policies, procedures, or standards to prevent foodborne illness in the food establishment;

(3) coordinating training, supervising or directing food preparation activities, and taking corrective action as needed in the food establishment to protect the health of the consumer; and

(4) completing in-house self-inspections of daily operations in the food establishment at a frequency that ensures food safety policies and procedures are followed.

G. The requirements for CFPM initial certification are as specified in this item.

(1) An applicant for initial certification as a CFPM shall complete a training course and pass an examination that is accepted under item H on the date taken. The examination must have been taken within 6 months directly preceding the application for certification under subitem (2).

(2) An applicant for initial certification as a CFPM shall submit to the commissioner:

(a) a completed application on a form provided by the commissioner containing the name; telephone number; mailing address, including county; e-mail address, if applicable; and Social Security number of the applicant;

(b) documentation of the applicant's qualifications under this subitem and subitem (1); and

(c) the fee specified in Minnesota Statutes, section 157.16, subdivision 2a.

H. The commissioner shall accept only examinations that are evaluated and listed by a Conference for Food Protection recognized accrediting agency as conforming to the Conference for Food Protection Standards for Accreditation of Food Protection Manager Certification Programs.

I. The requirements for CFPM renewal certification are as specified in this item.

(1) An applicant for renewal as a CFPM shall successfully complete at least 4 contact hours of continuing education within the effective dates of the valid certificate. The continuing education must meet the requirements of item K.

(2) An applicant for renewal as a CFPM shall submit to the commissioner:

(a) a completed application on a form provided by the commissioner containing the name; telephone number; mailing address, including county; e-mail address, if applicable; and Social Security number of the applicant;

(b) documentation of the applicant's qualifications specified in item J; and

(c) the fee specified in Minnesota Statutes, section 157.16, subdivision 2a.

(3) An applicant for renewal whose certification expires before the effective date of this rule shall meet the requirements in part 4626.2015, subpart 8. An applicant for renewal whose certification expires after the effective date of this rule shall meet the requirements in subitem (2) no more than 6 months following the expiration date of the certificate. If more than 6 months has elapsed since the expiration date, an applicant for renewal shall meet the requirements listed under item G.

J. Documentation of a continuing education course must include:

(1) the applicant's name;

- (2) the title of the approved course;
- (3) the number of approved contact hours;
- (4) the course date;
- (5) the instructor's name; and
- (6) the instructor's telephone number or e-mail address.

K. A continuing education course:

- (1) must address food safety and sanitation topics included in this Code;
- (2) must be submitted to and approved by the commissioner before the course is offered and when changes to an approved course are proposed;
- (3) must be taught in an interactive format approved by the commissioner to ensure competency and use an assessment, such as a quiz, test, demonstration, or other mechanism, approved by the commissioner to evaluate learning;
- (4) must be a minimum of 1 hour;
- (5) is subject to periodic review by the commissioner of health; and
- (6) is subject to audit at no cost to the commissioner to verify that instructor qualifications, course content, and course length are being met.

L. A continuing education course instructor shall:

- (1) be a Minnesota CFPM;
  - (2) review developments in topics included in approved courses at least every 2 years;
- and
- (3) maintain course records, including attendance records, for 5 years.

M. Upon review and verification, as needed, of the documents submitted under this part, the commissioner shall issue a certificate or a letter of denial within 45 days of receiving the application. Grounds for the commissioner to deny an application are provided in Minnesota Statutes, section 144.99, subdivision 8, paragraphs (a) and (b).

N. CFPM certificate effective dates and transferability are as specified in this item.

- (1) A certificate issued under this section is valid statewide for 3 years from the effective date printed on the certificate.
- (2) The effective date of the initial CFPM certificate is the date the applicant passed an approved examination.
- (3) The effective date of the renewal CFPM certificate is 1 day after the expiration date of the previous certificate.

(4) A CFPM certificate is not transferable to another person.

O. The commissioner shall issue a duplicate certificate to replace a lost, destroyed, or damaged certificate if the applicant submits a completed application on a form provided by the commissioner for a duplicate certificate and pays the fee specified in Minnesota Statutes, section 157.16, subdivision 2a.

**Statutory Authority:** *MS s 31.101; 31.11; 144.07; 157.011*

**History:** *43 SR 295*

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#### **4626.0035 DUTIES OF PERSON IN CHARGE. 2-103.11**

The person in charge shall:

A. ensure food establishment operations are not conducted in a private home or in a room used as living or sleeping quarters as specified in part 4626.1425;p<sub>2</sub>

B. ensure persons unnecessary to the food establishment operation are not allowed in the food preparation, food storage, or warewashing areas, except that brief visits and tours may be authorized by the person in charge if steps are taken to ensure that exposed food; clean equipment, utensils, and linens; and unwrapped single-service and single-use articles are protected from contamination;p<sub>2</sub>

C. ensure employees and other persons, such as delivery and maintenance persons and pesticide applicators, entering the food preparation, food storage, and warewashing areas comply with this Code;p<sub>2</sub>

D. ensure employees are effectively cleaning their hands, by routinely monitoring the employees' handwashing;p<sub>2</sub>

E. ensure employees are visibly observing foods as they are received to determine that they are from approved sources, delivered at the required temperatures, protected from contamination, unadulterated, and accurately presented, by routinely monitoring the employees' observations and periodically evaluating foods upon their receipt;p<sub>2</sub>

F. ensure employees are verifying that foods delivered to the food establishment during nonoperating hours are from approved sources and are placed into appropriate storage locations so that they are maintained at the required temperatures, protected from contamination, unadulterated, and accurately presented;p<sub>2</sub>

G. ensure employees are properly cooking TCS food, such as through the daily oversight of the employees' routine monitoring of the cooking temperatures using appropriate temperature measuring devices properly scaled and calibrated as specified in parts 4626.0555 and 4626.0820, item B;p<sub>2</sub>

H. ensure employees are using proper methods to rapidly cool TCS foods that are not held hot or are not for consumption within 4 hours, through daily oversight of the employees' routine monitoring of food temperatures during cooling;<sub>p2</sub>

I. ensure employees are properly maintaining the temperatures of TCS foods during hot and cold holding through daily oversight of the employees' routine monitoring of food temperatures;<sub>p2</sub>

J. ensure consumers who order raw or partially cooked ready-to-eat food of animal origin are informed as specified in part 4626.0442 that the food is not cooked sufficiently to ensure its safety;<sub>p2</sub>

K. ensure employees are properly sanitizing cleaned multiuse equipment and utensils before they are reused, through routine monitoring of solution temperature and exposure time for hot water sanitizing, and chemical concentration, pH, temperature, and exposure time for chemical sanitizing;<sub>p2</sub>

L. ensure consumers are notified that clean tableware is to be used when they return to self-service areas such as salad bars and buffets as specified in part 4626.0290, item B;<sub>p2</sub>

M. ensure employees are preventing cross-contamination of ready-to-eat food with bare hands by properly using suitable utensils such as deli tissue, spatulas, tongs, single-use gloves, or dispensing equipment, except as specified in part 4626.0225, item D;<sub>p2</sub>

N. ensure employees are properly trained in food safety, including food allergy awareness, as it relates to their assigned duties;<sub>p2</sub>

O. ensure food employees and conditional employees are informed of their responsibility to report, to the person in charge, information about their health and activities as they relate to diseases that are transmissible through food, as specified in part 4626.0040, item A;<sub>p2</sub> and

P. ensure written procedures and plans, where specified by this Code and as developed by the food establishment, are maintained and implemented as required.<sub>p2</sub>

**Statutory Authority:** *MS s 31.101; 31.11; 144.05; 144.07; 144.08; 144.12; 157.011*

**History:** *23 SR 519; 43 SR 295*

**Published Electronically:** *January 2, 2019*

## EMPLOYEE HEALTH

### **4626.0040 RESPONSIBILITY OF LICENSEE; PERSON IN CHARGE; FOOD EMPLOYEES; AND CONDITIONAL EMPLOYEES. 2-201.11**

A. The licensee shall require food employees and conditional employees to report to the person in charge information about their health and activities as they relate to diseases transmissible through food. A food employee or conditional employee shall report the information in a manner that allows the person in charge to reduce the risk of foodborne disease transmission, including providing necessary additional information, such as the date of onset of symptoms and an illness, or of a diagnosis without symptoms, if the food employee or conditional employee:

(1) has any of the following symptoms:

- (a) vomiting;<sub>P1</sub>
- (b) diarrhea;<sub>P1</sub>
- (c) jaundice;<sub>P1</sub>
- (d) sore throat with fever;<sub>P1</sub> or
- (e) a lesion containing pus such as a boil or infected wound that is open or draining

and is:

i. on the hands or wrists, unless an impermeable cover such as a finger cot or bandage protects the lesion and a single-use glove is worn over the impermeable cover;<sub>P1</sub>

ii. on exposed portions of the arms, unless the lesion is protected by an impermeable cover;<sub>P1</sub> or

iii. on other parts of the body, unless the lesion is covered by a dry, durable, tight-fitting bandage;<sub>P1</sub>

(2) has an illness diagnosed by a health practitioner due to, or is known to be infected with:

- (a) norovirus;<sub>P1</sub>
- (b) hepatitis A virus;<sub>P1</sub>
- (c) *Salmonella* spp.;<sub>P1</sub>
- (d) *Shigella* spp.;<sub>P1</sub>
- (e) Shiga toxin-producing *Escherichia coli*;<sub>P1</sub> or
- (f) other enteric bacterial, viral, or parasitic pathogens;<sub>P1</sub> or

(3) has been exposed to, or is the suspected source of, a probable or confirmed disease outbreak within the last 30 days.<sub>P1</sub>

B. The person in charge shall notify the regulatory authority of a food employee known to be infected with:

- (1) norovirus;<sub>P1</sub>
- (2) hepatitis A virus;<sub>P1</sub>
- (3) *Salmonella* spp.;<sub>P1</sub>
- (4) *Shigella* spp.;<sub>P1</sub>
- (5) Shiga toxin-producing *Escherichia coli*;<sub>P1</sub> or
- (6) other enteric bacterial, viral, or parasitic pathogens.<sub>P1</sub>



C. The person in charge shall record all reports of diarrhea or vomiting made by food employees and report those illnesses to the regulatory authority at the specific request of the regulatory authority.<sup>p1</sup>

D. The person in charge shall notify the regulatory authority of any complaint from a consumer having or suspected of having:

- (1) diarrhea or vomiting;<sup>p1</sup>
- (2) norovirus;<sup>p1</sup>
- (3) hepatitis A virus;<sup>p1</sup>
- (4) *Salmonella* spp.;<sup>p1</sup>
- (5) *Shigella* spp.;<sup>p1</sup>
- (6) Shiga toxin-producing *Escherichia coli*;<sup>p1</sup> or
- (7) other enteric bacterial, viral, or parasitic pathogens.<sup>p1</sup>

E. A food employee or conditional food employee shall:

- (1) report to the person in charge the information specified in item A;<sup>p1</sup> and
- (2) comply with exclusions and restrictions specified in part 4626.0045.<sup>p1</sup>

**Statutory Authority:** *MS s 31.101; 31.11; 144.05; 144.07; 144.08; 144.12; 157.011*

**History:** *23 SR 519; 43 SR 295*

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#### **4626.0045 EXCLUSIONS AND RESTRICTIONS. 2-201.12**

The person in charge shall:

A. exclude a food employee from a food establishment if the food employee is ill with vomiting or diarrhea;<sup>p1</sup>

B. exclude a food employee from working with exposed food, clean equipment, and clean utensils in a food establishment if the food employee has an enteric bacterial, viral, or parasitic pathogen capable of being transmitted by food, such as norovirus, *Salmonella* spp., *Shigella* spp., hepatitis A, or Shiga toxin-producing *E. coli*;<sup>p1</sup>

C. restrict an employee if the results of an epidemiological investigation by the commissioner of health under Minnesota Statutes, section 31.171, determines that a food employee or conditional employee presents a risk for transmission of foodborne disease;<sup>p1</sup>and

D. restrict an employee if the employee is infected with a skin lesion containing pus such as a boil or infected wound that is open or draining and not properly covered as specified in part 4626.0040, item A, subitem (1), unit (e).<sup>p1</sup>

**Statutory Authority:** *MS s 31.101; 31.11; 144.05; 144.07; 144.08; 144.12; 157.011*

**History:** *23 SR 519; 43 SR 295*

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**4626.0050 REMOVAL, ADJUSTMENT, OR RETENTION OF EXCLUSIONS AND RESTRICTIONS. 2-201.13**

The exclusion specified in part 4626.0045, item A, may be removed by the person in charge after the food employee has been asymptomatic for at least 24 hours. The exclusion and restriction specified in part 4626.0045, items B and C, must remain in effect for a food employee until the commissioner and the regulatory authority determine that the risk of foodborne disease transmission has been adequately mitigated.<sub>p1</sub>

**Statutory Authority:** *MS s 31.101; 31.11; 144.05; 144.07; 144.08; 144.12; 157.011*

**History:** *23 SR 519; 43 SR 295*

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**4626.0055** [Repealed, 43 SR 295]

**Published Electronically:** *January 2, 2019*

**4626.0060** [Repealed, 43 SR 295]

**Published Electronically:** *January 2, 2019*

**PERSONAL CLEANLINESS**

**4626.0065 CLEAN HANDS. 2-301.11**

A food employee shall keep hands and exposed portions of arms clean.<sub>p1</sub>

**Statutory Authority:** *MS s 31.101; 31.11; 144.05; 144.07; 144.08; 144.12; 157.011*

**History:** *23 SR 519; 43 SR 295*

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**4626.0070 CLEANING PROCEDURE. 2-301.12**

A. Except as specified in item D, food employees shall clean their hands and exposed portions of their arms, including surrogate prosthetic devices for hands or arms for at least 20 seconds, using soap in a handwashing sink that is equipped as specified in parts 4626.1050 and 4626.1440 to 4626.1457.<sub>p1</sub>

B. Food employees shall use the following cleaning procedure in the order stated to clean their hands and exposed portions of their arms, including surrogate prosthetic devices for hands and arms:

- (1) rinse under clean, running warm water;<sub>p1</sub>
- (2) apply an amount of soap recommended by the soap manufacturer;<sub>p1</sub>

(3) rub together vigorously for at least 10 to 15 seconds while:

(a) paying particular attention to removing soil from underneath the fingernails during the cleaning procedure;<sub>P1</sub> and

(b) creating friction on the surfaces of the hands and arms or surrogate prosthetic devices for hands and arms, fingertips, and areas between the fingers;<sub>P1</sub>

(4) thoroughly rinse under clean, running warm water;<sub>P1</sub> and

(5) immediately follow the cleaning procedure with thorough drying using a method as specified in part 4626.1445.<sub>P1</sub>

C. To avoid recontaminating hands or surrogate prosthetic devices, food employees shall use disposable paper towels or similar clean barriers when touching surfaces such as manually operated faucet handles on a handwashing sink or the handle of a restroom door.

D. An automatic handwashing device may be used by a food employee to clean hands or surrogate prosthetic devices if it is approved by the regulatory authority and is capable of removing the types of soils encountered in the food operations involved.

**Statutory Authority:** *MS s 31.101; 31.11; 144.05; 144.07; 144.08; 144.12; 157.011*

**History:** *23 SR 519; 43 SR 295*

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#### **4626.0075 WHEN TO WASH HANDS. 2-301.14**

A food employee shall clean the hands and exposed portions of the arms or surrogate prosthetic devices as specified in part 4626.0070 at the following times:

A. immediately before:

(1) engaging in food preparation including working with exposed food;<sub>P1</sub>

(2) touching clean equipment and utensils;<sub>P1</sub> and

(3) touching unwrapped single-service and single-use articles;<sub>P1</sub>

B. after touching bare human body parts other than clean hands and clean, exposed portions of arms or surrogate prosthetic devices;<sub>P1</sub>

C. after using the toilet;<sub>P1</sub>

D. after caring for or handling service animals or fish in an aquarium or molluscan shellfish or crustacea in display tanks as specified in part 4626.0120, item B;<sub>P1</sub>

E. except as specified in part 4626.0105, item B, after coughing, sneezing, using a handkerchief or disposable tissue, using tobacco, eating, or drinking;<sub>P1</sub>

F. after handling soiled equipment or utensils;<sub>P1</sub>

G. during food preparation, as often as necessary to remove soil and contamination and to prevent cross-contamination when changing tasks;<sub>p1</sub>

H. when switching between working with raw food and working with ready-to-eat food;<sub>p1</sub>

I. before donning gloves for working with food;<sub>p1</sub> and

J. after engaging in other activities that contaminate the hands.<sub>p1</sub>

**Statutory Authority:** *MS s 31.101; 31.11; 144.05; 144.07; 144.08; 144.12; 157.011*

**History:** *23 SR 519; 43 SR 295*

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#### **4626.0080 WHERE TO WASH HANDS. 2-301.15**

Food employees shall clean their hands in a handwashing sink or approved automatic handwashing facility and shall not clean their hands in a sink used for food preparation or warewashing or in a service sink or a curbed cleaning facility used for the disposal of mop water or similar liquid waste.<sub>p2</sub>

**Statutory Authority:** *MS s 31.101; 31.11; 144.05; 144.07; 144.08; 144.12; 157.011*

**History:** *23 SR 519; 43 SR 295*

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#### **4626.0085 HAND ANTISEPTICS. 2-301.16**

A. A hand antiseptic used as a topical application, a hand antiseptic solution used as a hand dip, or a hand antiseptic soap must:

(1) comply with 1 of the following requirements:

(a) be an approved drug that is listed in the FDA publication Approved Drug Products with Therapeutic Equivalence Evaluations as an approved drug based on safety and effectiveness. This publication is incorporated by reference, is subject to frequent change, and can be found at [www.fda.gov/Drugs/InformationOnDrugs/ucm129662.htm](http://www.fda.gov/Drugs/InformationOnDrugs/ucm129662.htm);<sub>p2</sub>or

(b) have active antimicrobial ingredients that are listed in the FDA monograph for OTC Health-Care Antiseptic Drug Products as an antiseptic handwash;<sub>p2</sub>

(2) consist only of components that the intended use of each complies with one of the following:

(a) a threshold of regulation exemption under Code of Federal Regulations, title 21, section 170.39;<sub>p2</sub>

(b) Code of Federal Regulations, title 21, section 178, as regulated for use as a food additive with conditions of safe use;<sub>p2</sub>

(c) a determination of generally recognized as safe (GRAS). Partial listings of substances with food uses that are GRAS may be found in Code of Federal Regulations, title 21, sections 182, 184, and 186, and in the FDA's inventory of GRAS notices;<sup>p2</sup>

(d) a prior sanction listed under Code of Federal Regulations, title 21, section 181;<sup>p2</sup>  
or

(e) a food-contact notification that is effective;<sup>p2</sup> and

(3) be applied only to hands that are cleaned as specified in part 4626.0070.<sup>p2</sup>

B. If a hand antiseptic or a hand antiseptic solution used as a hand dip does not meet the criteria under item A, subitem (2), use must be:

(1) followed by thorough hand rinsing in clean water before hand contact with food or by the use of gloves;<sup>p2</sup> or

(2) limited to situations that involve no direct contact with food by the bare hands.<sup>p2</sup>

C. A hand antiseptic solution used as a hand dip must be maintained clean and at a strength equivalent to at least 100 mg/L of chlorine.<sup>p2</sup>

**Statutory Authority:** *MS s 31.101; 31.11; 144.05; 144.07; 144.08; 144.12; 157.011*

**History:** *23 SR 519; 43 SR 295*

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#### **4626.0090 FINGERNAIL MAINTENANCE. 2-302.11**

A. Food employees shall keep their fingernails trimmed, filed, and maintained so the edges and surfaces are cleanable and not rough.<sup>p2</sup>

B. Unless wearing intact gloves in good repair, food employees shall not wear fingernail polish or artificial fingernails when working with exposed food.

**Statutory Authority:** *MS s 31.101; 31.11; 144.05; 144.07; 144.08; 144.12; 157.011*

**History:** *23 SR 519; 43 SR 295*

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#### **4626.0095 JEWELRY PROHIBITION. 2-303.11**

Food employees shall not wear jewelry, including medical information jewelry, on their arms and hands while preparing food, except for a plain ring such as a flat, smooth band.

**Statutory Authority:** *MS s 31.101; 31.11; 144.05; 144.07; 144.08; 144.12; 157.011*

**History:** *23 SR 519; 43 SR 295*

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**4626.0100 CLOTHING; CLEAN CONDITION. 2-304.11**

A food employee shall wear clean outer clothing to prevent contamination of food, equipment, utensils, linens, and single-service and single-use articles.

**Statutory Authority:** *MS s 31.101; 31.11; 144.05; 144.07; 144.08; 144.12; 157.011*

**History:** *23 SR 519; 43 SR 295*

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**HYGIENIC PRACTICES****4626.0105 EATING, DRINKING, OR USING TOBACCO. 2-401.11**

A. Except as specified in item B, an employee shall eat, drink, or use any form of tobacco only in designated areas where the contamination of exposed food; clean equipment, utensils, and linens; unwrapped single-service and single-use articles; or other items needing protection cannot result.

B. A food employee may drink from a closed beverage container if the container is handled to prevent contamination of:

(1) the employee's hands;

(2) the container; and

(3) exposed food; clean equipment, utensils, and linens; and unwrapped single-service and single-use articles.

**Statutory Authority:** *MS s 31.101; 31.11; 144.05; 144.07; 144.08; 144.12; 157.011*

**History:** *23 SR 519; 43 SR 295*

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**4626.0110 DISCHARGES FROM EYES, NOSE, AND MOUTH. 2-401.12**

A food employee experiencing persistent sneezing, coughing, or a runny nose that causes discharges from the eyes, nose, or mouth shall not work with exposed food; clean equipment, utensils, and linens; or unwrapped single-service or single-use articles.

**Statutory Authority:** *MS s 31.101; 31.11; 144.05; 144.07; 144.08; 144.12; 157.011*

**History:** *23 SR 519; 43 SR 295*

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**4626.0115 HAIR RESTRAINTS. 2-402.11**

A. Except as provided in item B, a food employee shall wear hair restraints, such as a hat, hair covering, or net, a beard restraint, and clothing that covers body hair. Hair restraints must be designed and worn to effectively keep hair from contacting exposed food; clean equipment, utensils, and linens; and unwrapped single-service and single-use articles.

B. This part does not apply to food employees such as counter staff who only serve beverages and wrapped or packaged foods, hostesses, or wait staff, if they present a minimal risk of contaminating exposed food; clean equipment, utensils, and linens; and unwrapped single-service and single-use articles.

**Statutory Authority:** *MS s 31.101; 31.11; 144.05; 144.07; 144.08; 144.12; 157.011*

**History:** *23 SR 519; 43 SR 295*

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#### **4626.0120 ANIMAL HANDLING PROHIBITION. 2-403.11**

A. Except as specified in item B, a food employee shall not care for or handle animals that may be present such as patrol dogs, service animals, or animals that are allowed under part 4626.1585, item B, subitems (2) to (5).<sub>p2</sub>

B. A food employee with a service animal may handle or care for the service animal and a food employee may handle or care for fish in an aquarium or molluscan shellfish or crustacea in display tanks if the food employee's hands are washed as specified in part 4626.0070.<sub>p2</sub>

**Statutory Authority:** *MS s 31.101; 31.11; 144.05; 144.07; 144.08; 144.12; 157.011*

**History:** *23 SR 519; 43 SR 295*

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#### **4626.0123 CLEANUP OF VOMITING AND DIARRHEAL EVENTS. 2-501.11**

A food establishment must have procedures for employees to follow when responding to events that involve the discharge of vomitus or fecal matter onto surfaces in the food establishment. The procedures must address the specific actions employees shall take to minimize the spread of contamination and the exposure of employees, consumers, food, and surfaces to vomitus or fecal matter.<sub>p2</sub>

**Statutory Authority:** *MS s 31.101; 31.11; 144.07; 157.011*

**History:** *43 SR 295*

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### **FOOD CHARACTERISTICS**

#### **4626.0125 SAFE AND NOT ADULTERATED. 3-101.11**

Food must be safe and not adulterated, as specified in Minnesota Statutes, section 34A.02.<sub>p1</sub>

**Statutory Authority:** *MS s 31.101; 31.11; 144.05; 144.07; 144.08; 144.12; 157.011*

**History:** *23 SR 519; 43 SR 295*

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**4626.0130 COMPLIANCE WITH FOOD LAW. 3-201.11**

A. Food must be obtained from sources that comply with Minnesota Statutes, Minnesota Rules, and United States Code and Code of Federal Regulations.<sub>p1</sub>

B. Food prepared or stored in a private home must not be used or offered for human consumption in a food establishment, except as allowed by Minnesota Statutes, sections 28A.15 and 157.22, clauses (6) and (7).<sub>p1</sub>

C. Packaged food must be labeled as specified in Minnesota Statutes and Minnesota Rules, including parts 4626.0200, 4626.0202, and 4626.0435.<sub>p2</sub>

D. Fish, other than molluscan shellfish, that are intended for consumption in raw or undercooked form and allowed as specified in part 4626.0340, item D, may be offered for sale or service if they are obtained from a supplier that freezes the fish as specified in part 4626.0350; or frozen on the premises as specified in part 4626.0350 and records must be retained as specified in part 4626.0355.

E. Whole-muscle, intact beef steaks that are intended for consumption in an undercooked form without a consumer advisory as specified in part 4626.0340, item C, must be:

(1) obtained from a food processing plant that, upon request by the purchaser, packages the steaks and labels them, to indicate that the steaks meet the definition of whole-muscle, intact beef;<sub>p2</sub> or

(2) deemed acceptable by the regulatory authority based on other evidence, such as written buyer specifications or invoices, that indicates that the steaks meet the definition of whole-muscle, intact beef;<sub>p2</sub> and

(3) if individually cut in a food establishment:

(a) cut from whole-muscle, intact beef that is labeled by a food processing plant as specified in subitem (1) or identified as specified in subitem (2);<sub>p2</sub>

(b) prepared so they remain intact;<sub>p2</sub> and

(c) if packaged for undercooking in a food establishment, labeled as specified in subitem (1) or identified as specified in subitem (2).<sub>p2</sub>

F. Meat and poultry that is not a ready-to-eat food and is in a packaged form when it is offered for sale or otherwise offered for consumption must be labeled to include safe handling instructions as specified in law, including Code of Federal Regulations.

G. Eggs that have not been specifically treated to destroy all viable *Salmonellae* must be labeled to include safe handling instructions as specified in law, including Code of Federal Regulations.

**Statutory Authority:** *MS s 31.101; 31.11; 144.05; 144.07; 144.08; 144.12; 157.011*



**History:** 23 SR 519; 43 SR 295

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#### **4626.0135 FOOD IN HERMETICALLY SEALED CONTAINER; SOURCES. 3-201.12**

Food in a hermetically sealed container must be obtained from a food processing plant that is regulated by the food regulatory agency that has jurisdiction over the plant.<sup>p1</sup>

**Statutory Authority:** MS s 31.101; 31.11; 144.05; 144.07; 144.08; 144.12; 157.011

**History:** 23 SR 519; 43 SR 295

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#### **4626.0140 FLUID MILK AND MILK PRODUCTS; SOURCES. 3-201.13**

Fluid milk and fluid milk products must be obtained from sources that comply with Grade A standards specified in Minnesota Statutes, chapter 32D.<sup>p1</sup>

**Statutory Authority:** MS s 31.101; 31.11; 144.05; 144.07; 144.08; 144.12; 157.011

**History:** 23 SR 519; 43 SR 295

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#### **4626.0145 FISH. 3-201.14**

A. Fish that are received for sale or service must be:

(1) commercially and legally caught or harvested as prescribed in chapters 1545 and 6200, Minnesota Statutes, section 31.11 and chapters 97A and 97C, and Code of Federal Regulations, title 21, section 123;<sup>p1</sup> or

(2) approved for sale or service.<sup>p1</sup>

B. Molluscan shellfish that are recreationally caught must not be received for sale or service.<sup>p1</sup>

**Statutory Authority:** MS s 31.101; 31.11; 144.05; 144.07; 144.08; 144.12; 157.011

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#### **4626.0150 MOLLUSCAN SHELLFISH. 3-201.15**

A. Molluscan shellfish must be obtained from sources according to Code of Federal Regulations, title 21, section 123, and the requirements specified in the U.S. Department of Health and Human Services, Public Health Service, Food and Drug Administration, National Shellfish Sanitation Program Guide for the Control of Molluscan Shellfish. The guide is incorporated by reference and is available through the FDA website at [www.fda.gov/downloads/Food/GuidanceRegulation/FederalStateFoodPrograms/UCM350004.pdf](http://www.fda.gov/downloads/Food/GuidanceRegulation/FederalStateFoodPrograms/UCM350004.pdf). The guide is not subject to frequent change.<sup>p1</sup>

B. Molluscan shellfish received in interstate commerce must be from sources listed in the Interstate Certified Shellfish Shippers List. The list is incorporated by reference and is available through the FDA website at [www.fda.gov/downloads/Food/GuidanceRegulation/FederalStateFoodPrograms/UCM2006753.htm](http://www.fda.gov/downloads/Food/GuidanceRegulation/FederalStateFoodPrograms/UCM2006753.htm). The list is subject to frequent change.<sup>p1</sup>

**Statutory Authority:** *MS s 31.101; 31.11; 144.05; 144.07; 144.08; 144.12; 157.011*

**History:** *23 SR 519; 43 SR 295*

**Published Electronically:** *January 2, 2019*

#### **4626.0155 WILD MUSHROOMS. 3-201.16**

A. All wild mushroom species served in a retail food establishment must be obtained from sources where each mushroom is individually inspected and found to be safe by a certified mushroom harvester, except as specified in item E.<sup>p1</sup>

B. All wild mushroom species served in a retail food establishment must have a written buyer specification, except as specified in item E. The buyer shall retain the written buyer specification for 90 days from the date of sale or service. The written buyer specification must include all of the following information:

- (1) identification of each mushroom species by the scientific and common or usual name;<sup>p2</sup>
- (2) date of sale;<sup>p2</sup>
- (3) quantity by weight, fresh or dried, of each species sold;<sup>p2</sup>
- (4) a statement indicating that each mushroom was identified in its fresh state;<sup>p2</sup>
- (5) the name, address, and telephone number of the mushroom harvester;<sup>p2</sup> and
- (6) verification that the seller is listed on the Minnesota Department of Agriculture's registry of wild mushroom harvesters.<sup>p2</sup>

C. The mushroom harvester shall retain for 90 days all records of wild mushrooms sold to any retail food establishments. These records must include all of the following information:

- (1) identification of the mushrooms by the scientific and common name;<sup>p2</sup>
- (2) the country, state, and county location of harvest;<sup>p2</sup>
- (3) the date of harvest;<sup>p2</sup>
- (4) the names of the retail food establishments where wild mushrooms were sold;<sup>p2</sup>
- (5) the dates of sale;<sup>p2</sup> and
- (6) the quantities by weight, fresh or dried, of each species sold.<sup>p2</sup>

D. Except as specified in item E, any retail food establishment serving wild mushrooms must inform consumers of the risk of consuming wild mushrooms by way of a disclosure using brochures, deli case or menu advisories, table tents, placards, or other written means. A disclosure must include the statement: "Wild mushrooms are not an inspected product and are harvested from a noninspected site." <sup>p2</sup>

E. This part does not apply to:

(1) cultivated mushroom species that are grown, harvested, and processed in an operation that is licensed and inspected by a food regulatory agency; and

(2) wild mushrooms that are packaged and are the product of a processing plant that is licensed and inspected by a food regulatory agency.

**Statutory Authority:** *MS s 31.101; 31.11; 144.05; 144.07; 144.08; 144.12; 157.011*

**History:** *23 SR 519; 43 SR 295*

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#### **4626.0156 CERTIFIED WILD MUSHROOM HARVESTER.**

A. A certified wild mushroom harvester shall have successfully completed a wild mushroom identification training program provided by an accredited college or university or state mycological society. The training program must include a component of actual identification of physical specimens of mushroom species.

B. A document must be issued by an accredited college or accredited university or mycological society certifying the mushroom harvester's successful completion of the wild mushroom identification course and specifying the species of wild mushroom the harvester is qualified to identify.

C. The mushroom harvester shall submit the document identified in item B to the Department of Agriculture.

D. A wild mushroom harvester's certification documents will be verified by the Minnesota Department of Agriculture. The Minnesota Department of Agriculture shall maintain these documents on file and maintain a registry of all wild mushroom harvesters.

**Statutory Authority:** *MS s 31.101; 31.11; 144.07; 157.011*

**History:** *43 SR 295*

**Published Electronically:** *January 2, 2019*

#### **4626.0160 GAME ANIMALS. 3-201.17**

A. Game animals commercially raised for food must be raised, slaughtered, and processed under an inspection program that is conducted by the USDA under Code of Federal Regulations, title 9, part 352, or the Minnesota Department of Agriculture under Minnesota Statutes, section 17.452, subdivision 8. <sup>p1</sup>

B. Exotic species of animals, including animals raised for exhibition purposes in a zoo or circus, must:

(1) comply with item A, or receive antemortem and postmortem examination by a veterinarian or a veterinarian's designee, approved by the regulatory authority;<sup>p1</sup> and

(2) be slaughtered and processed according to Minnesota Statutes, chapters 31 and 31A, and rules adopted thereunder governing meat and poultry as determined by the USDA as specified in Code of Federal Regulations, title 9, or under laws and rules of another state that are equivalent to the Minnesota laws and rules specified in this part.<sup>p1</sup>

C. Wild animals lawfully taken and donated according to part 6230.1500 and Minnesota Statutes, section 97A.505, and donated to a charitable organization registered under Minnesota Statutes, chapter 309, are approved if:

(1) only pure wild animals are donated;<sup>p1</sup>

(2) the intact animal is properly cleaned, stored, and processed in an establishment that complies with chapters 1540 and 1545, and Minnesota Statutes, chapters 28A, 31, 31A, and 157, as those rules and laws relate to the licensing, processing, and storage of food;<sup>p1</sup>

(3) evisceration was accomplished within 2 hours after harvest;<sup>p1</sup> and

(4) a written sanitation standard operating procedure that includes the entire process used to eliminate the possibility of cross-contamination from wild animal processing to retail products is implemented and available for inspection.<sup>p1</sup>

**Statutory Authority:** *MS s 31.101; 31.11; 144.05; 144.07; 144.08; 144.12; 157.011*

**History:** *23 SR 519; 43 SR 295*

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#### **4626.0165 FOOD TEMPERATURES; RECEIVING. 3-202.11**

A. Except as specified in items B and C, refrigerated TCS food must be at a temperature of 41 degrees F (5 degrees C) or below when received.<sup>p1</sup>

B. If a temperature other than 41 degrees F (5 degrees C) for a TCS food is specified in law governing its distribution, such as laws governing milk and molluscan shellfish, the food may be received at the specified temperature.

C. Raw eggs must be received in refrigerated equipment that maintains an ambient air temperature of 45 degrees F (7 degrees C) or less.<sup>p1</sup>

D. TCS food that has been cooked to a temperature and for a time specified in parts 4626.0340 and 4626.0347 and received hot must be at a temperature of 135 degrees F (57 degrees C) or above.<sup>p1</sup>

E. A food that is labeled frozen and shipped frozen by a food processing plant must be received frozen.<sup>p2</sup>

F. Upon receipt, TCS food must be free of evidence of previous temperature abuse.<sup>p2</sup>

**Statutory Authority:** *MS s 31.101; 31.11; 144.05; 144.07; 144.08; 144.12; 157.011*

**History:** *23 SR 519; 43 SR 295*

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#### **4626.0170 FOOD ADDITIVES. 3-202.12**

Food must not contain:

A. unapproved food additives or additives that exceed amounts specified in Code of Federal Regulations, title 21, parts 170 to 180;

B. generally recognized as safe or prior sanctioned substances that exceed amounts specified in Code of Federal Regulations, title 21, parts 181 to 186;

C. substances that exceed amounts specified in Code of Federal Regulations, title 9, subpart C, section 424.21 (b); or

D. pesticide residues that exceed provisions specified in Code of Federal Regulations, title 40, part 180.<sup>p1</sup>

**Statutory Authority:** *MS s 31.101; 31.11; 144.05; 144.07; 144.08; 144.12; 157.011*

**History:** *23 SR 519; 43 SR 295*

**Published Electronically:** *January 2, 2019*

#### **4626.0175 EGGS. 3-202.13**

Eggs must be received clean and sound and:

A. must not exceed the restricted egg tolerances for U.S. Consumer Grade B specified in U.S. Standards, Grades, and Weight Classes for Shell Eggs, AMS 56.200 et seq., maintained by the Agricultural Marketing Service (AMS) of the USDA, which is incorporated by reference, is not subject to frequent change, and is available through the AMS, USDA at [www.ams.usda.gov/sites/default/files/media/Shell\\_Egg\\_Standard\[1\].pdf](http://www.ams.usda.gov/sites/default/files/media/Shell_Egg_Standard[1].pdf);<sup>p1</sup>and

B. comply with parts 1520.1200 to 1520.2000 and Minnesota Statutes, chapter 29.<sup>p1</sup>

**Statutory Authority:** *MS s 31.101; 31.11; 144.05; 144.07; 144.08; 144.12; 157.011*

**History:** *23 SR 519; 43 SR 295*

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#### **4626.0177 EGG AND MILK PRODUCTS; PASTEURIZED. 3-202.14**

A. Egg products must be obtained pasteurized.<sup>p1</sup>

B. Fluid and dry milk and milk products must be obtained pasteurized as specified in Minnesota Statutes, chapter 32D, and comply with standards as specified in Minnesota Statutes, chapter 32D.<sup>p1</sup>

C. Frozen milk products, such as ice cream, must be obtained pasteurized as specified in Code of Federal Regulations, title 21, part 135, and must comply with Minnesota Statutes, chapter 32D.<sup>p1</sup>

D. Cheese must be obtained pasteurized unless alternative procedures to pasteurization are specified in Code of Federal Regulations, title 21, part 133, and Minnesota Statutes, section 32D.22.<sup>p1</sup>

**Statutory Authority:** *MS s 31.101; 31.11; 144.07; 157.011*

**History:** *43 SR 295*

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**4626.0180** [Repealed, 43 SR 295]

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**4626.0185** [Repealed, 43 SR 295]

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#### **4626.0190 PACKAGE INTEGRITY. 3-202.15**

Food packages must be in good condition and protect the integrity of the contents so that the food is not exposed to adulteration or potential contaminants.<sup>p2</sup>

**Statutory Authority:** *MS s 31.101; 31.11; 144.05; 144.07; 144.08; 144.12; 157.011*

**History:** *23 SR 519; 43 SR 295*

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#### **4626.0195 ICE. 3-202.16**

Ice for use as a food or a cooling medium must be made from drinking water.<sup>p1</sup>

**Statutory Authority:** *MS s 31.101; 31.11; 144.05; 144.07; 144.08; 144.12; 157.011*

**History:** *23 SR 519; 43 SR 295*

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#### **4626.0200 SHUCKED SHELLFISH; PACKAGING AND IDENTIFICATION. 3-202.17**

A. Raw shucked shellfish must be obtained in nonreturnable packages that bear a legible label that identifies:<sup>p2</sup>

(1) the name, address, and certification number of the shucker-packer or repacker of the molluscan shellfish;<sup>p2</sup> and

(2) the "sell by" or "best if used by" date for packages with a capacity of less than 1/2 gallon (1.89 liter) or the date shucked for packages with a capacity of 1/2 gallon (1.89 liter) or more.p2

B. A package of raw shucked shellfish that does not bear a label or that bears a label that does not contain all the information specified in item A must be subject to a hold order as allowed by Minnesota Statutes, section 34A.11, or seizure and destruction according to Code of Federal Regulations, title 21, subpart D, section 1240.60, paragraph (d).

**Statutory Authority:** *MS s 31.101; 31.11; 144.05; 144.07; 144.08; 144.12; 157.011*

**History:** *23 SR 519; 43 SR 295*

**Published Electronically:** *January 2, 2019*

#### **4626.0202 SHELLSTOCK IDENTIFICATION. 3-202.18**

A. Shellstock must be obtained in containers bearing legible source identification tags or labels that are affixed by the harvester or dealer that deparates, ships, or reships the shellstock, as specified in the National Shellfish Sanitation Program Guide for the Control of Molluscan Shellfish which is incorporated by reference, is subject to frequent change, and can be found at [www.fda.gov/Food/GuidanceRegulation/FederalStateFoodPrograms/ucm2006754.htm](http://www.fda.gov/Food/GuidanceRegulation/FederalStateFoodPrograms/ucm2006754.htm), and that list:p2

(1) except as specified in item C, on the harvester's tag or label, the following information in the following order:p2

(a) the harvester's identification number that is assigned by the shellfish control authority;p2

(b) the date of harvesting;p2

(c) the most precise identification of the harvest location or aquaculture site that is practicable based on the system of harvest area designations that is in use by the shellfish control authority and including the abbreviation of the name of the state or country in which the shellfish are harvested;p2

(d) the type and quantity of shellfish;p2 and

(e) the following statement in bold, capitalized type: "THIS TAG OR LABEL IS REQUIRED TO BE ATTACHED UNTIL CONTAINER IS EMPTY OR RETAGGED OR RELABELED AND THEREAFTER KEPT ON FILE FOR 90 DAYS.";p2and

(2) except as specified in item D, on each dealer's tag or label, the following information in the following order:p2

(a) the dealer's name and address and the certification number assigned by the shellfish control authority;p2

(b) the original shipper's certification number including the abbreviation of the name of the state or country in which the shellfish are harvested;p2

(c) the same information as specified for a harvester's tag under subitem (1), units (b) to (d);<sup>p2</sup> and

(d) the following statement in bold, capitalized type: "THIS TAG OR LABEL IS REQUIRED TO BE ATTACHED UNTIL CONTAINER IS EMPTY AND THEREAFTER KEPT ON FILE FOR 90 DAYS."<sup>p2</sup>

B. A container of shellstock that does not bear a tag or label or that bears a tag or label that does not contain all the information specified in item A must be subject to a hold order as allowed by Minnesota Statutes, section 34A.11, or seizure and destruction according to Code of Federal Regulations, title 21, subpart D, section 1240.60, paragraph (d).

C. If a place is provided on the harvester's tag or label for a dealer's name, address, and certification number, the dealer's information must be listed first.

D. If the harvester's tag or label is designed to accommodate each dealer's identification as specified in item A, subitem (2), units (a) and (b), individual dealer tags or labels need not be provided.

**Statutory Authority:** *MS s 31.101; 31.11; 144.07; 157.011*

**History:** *43 SR 295*

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**4626.0205** [Repealed, 43 SR 295]

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#### **4626.0210 SHELLSTOCK; CONDITION. 3-202.19**

When received by a food establishment, shellstock must be reasonably free of mud, dead shellfish, and shellfish with broken shells. Dead shellfish or shellstock with badly broken shells must be discarded.

**Statutory Authority:** *MS s 31.101; 31.11; 144.05; 144.07; 144.08; 144.12; 157.011*

**History:** *23 SR 519; 43 SR 295*

**Published Electronically:** *January 2, 2019*

#### **4626.0215 MOLLUSCAN SHELLFISH AND SHELLSTOCK; ORIGINAL CONTAINER. 3-203.11**

A. Except as specified in items B to D, molluscan shellfish must not be removed from the container in which they were received other than immediately before sale or preparation for service.

B. For display purposes, shellstock may be removed from the container in which they were received, displayed on drained ice, or held in a display container, and a quantity specified by a consumer may be removed from the display or display container and provided to the consumer if:

(1) the source of the shellstock on display is identified as specified in part 4626.0202 and recorded as specified in part 4626.0220; and



(2) the shellstock are protected from contamination.

C. Shucked shellfish may be removed from the container in which they were received and held in a display container from which individual servings are dispensed upon a consumer's request if:

(1) the labeling information for the shellfish on display specified in part 4626.0200 is retained and correlated to the date when, or dates during which, the shellfish are sold or served; and

(2) the shellfish are protected from contamination.

D. Shucked shellfish may be removed from the container in which they were received and repacked in consumer self-service containers where allowed by law if:

(1) the labeling information for the shellfish is on each consumer self-service container as specified in parts 4626.0200 and 4626.0435, items A and B, subitems (1) to (5);

(2) the labeling information specified in part 4626.0200 is retained and correlated with the date when, or dates during which, the shellfish are sold or served;

(3) the labeling information and dates specified in subitem (2) are maintained for 90 days; and

(4) the shellfish are protected from contamination.

**Statutory Authority:** *MS s 31.101; 31.11; 144.05; 144.07; 144.08; 144.12; 157.011*

**History:** *23 SR 519; 43 SR 295*

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#### **4626.0220 SHELLSTOCK; MAINTAINING IDENTIFICATION. 3-203.12**

A. Except as specified in item C, subitem (3), shellstock tags or labels must remain attached to the container in which the shellstock are received until the container is empty.<sup>p2</sup>

B. The date when the last shellstock from the container is sold or served must be recorded on the tag or label.<sup>p2</sup>

C. The identity of the source of shellstock that are sold or served must be maintained:

(1) by retaining shellstock tags or labels for 90 calendar days from the date that is recorded on the tag or label as specified in item B;<sup>p2</sup>

(2) using a record-keeping system that keeps the tags or labels in chronological order correlated to the date that is recorded on the tag or label as specified in item B;<sup>p2</sup>and

(3) if shellstock are removed from their tagged or labeled container:

(a) preserving source identification by using a record-keeping system specified in subitem (1);<sup>p2</sup> and

(b) ensuring that shellstock from 1 tagged or labeled container are not commingled with shellstock from another container with different certification numbers, different harvest dates, or different growing areas identified on the tag or label before being ordered by the consumer.<sup>p2</sup>

**Statutory Authority:** *MS s 31.101; 31.11; 144.05; 144.07; 144.08; 144.12; 157.011*

**History:** *23 SR 519; 43 SR 295*

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## PROTECTION FROM CONTAMINATION

### 4626.0225 PREVENTING CONTAMINATION FROM HANDS (ALSO SEE PART 4626.0070). 3-301.11

A. Except when washing fruits and vegetables as specified in items C and D or part 4626.0255, food employees shall not contact exposed, ready-to-eat food with their bare hands and shall use suitable utensils such as deli tissue, spatulas, tongs, single-use gloves, or dispensing equipment as specified in part 4626.0255, items C and D.<sup>p1</sup>

B. Food employees shall minimize bare hand and arm contact with exposed food that is not in a ready-to-eat form.<sup>p2</sup>

C. Item A does not apply to a food employee who contacts exposed, ready-to-eat food with bare hands at the time the ready-to-eat food is being added as an ingredient to a food that:

(1) contains a raw animal food and is to be cooked in the food establishment to heat all parts of the food to the minimum temperatures and times specified in part 4626.0340, items A and B, or 4626.0345; or

(2) does not contain a raw animal food but is to be cooked in the food establishment to heat all parts of the food to a temperature of at least 145 degrees F (63 degrees C).

D. Food employees not serving a highly susceptible population may contact exposed, ready-to-eat food with their bare hands if written procedures are maintained in the food establishment and made available to the regulatory authority upon request that include:

(1) for each bare hand food-contact procedure, a listing of the specific ready-to-eat foods that are touched by bare hands;

(2) a written employee health policy that details how the food establishment complies with parts 4626.0040, 4626.0045, and 4626.0050 including:

(a) documentation that food employees and conditional employees acknowledge that they are informed to report information about their health and activities as they relate to gastrointestinal symptoms and diseases that are transmittable through food as specified under part 4626.0040, item A;

(b) documentation that food employees and conditional employees acknowledge their responsibilities to comply with exclusion and restriction as specified under part 4626.0040, item E; and

(c) documentation that the person in charge acknowledges the responsibilities as specified under parts 4626.0040, items B, C, and D; 4626.0045; and 4626.0050;

(3) documentation that food employees acknowledge that they have received training in:

(a) the risks to the consumer that are created when employees contact ready-to-eat foods with bare hands;

(b) proper handwashing as specified under part 4626.0070;

(c) when to wash their hands as specified under part 4626.0075;

(d) where to wash their hands as specified under part 4626.0080;

(e) proper fingernail maintenance as specified under part 4626.0090;

(f) prohibition of jewelry as specified under part 4626.0095; and

(g) good hygienic practices as specified under parts 4626.0105 and 4626.0110;

(4) documentation that food employees contacting ready-to-eat food with bare hands use two or more of the following control measures to provide additional safeguards to hazards associated with bare hand contact:

(a) double handwashing;

(b) nail brushes;

(c) a hand antiseptic after handwashing as specified under part 4626.0085;

(d) incentive programs such as paid sick leave that assist or encourage food employees not to work when they are ill; or

(e) other control measures approved by the regulatory authority; and

(5) documentation that corrective action is taken when requirements in this section are not followed.

**Statutory Authority:** *MS s 31.101; 31.11; 144.05; 144.07; 144.08; 144.12; 157.011*

**History:** *23 SR 519; 43 SR 295*

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#### **4626.0230 PREVENTING CONTAMINATION WHEN TASTING. 3-301.12**

A food employee shall not use a utensil more than once to taste food that is to be sold or served.<sup>p1</sup>

**Statutory Authority:** *MS s 31.101; 31.11; 144.05; 144.07; 144.08; 144.12; 157.011*

**History:** 23 SR 519; 43 SR 295

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**4626.0235 PREVENTING CROSS-CONTAMINATION. 3-302.11**

A. Food must be protected from cross-contamination by:

(1) except as specified in unit (c), separating raw animal foods during storage, preparation, holding, and display from:

(a) raw ready-to-eat food including other raw animal food such as fish for sushi, or molluscan shellfish, or other raw ready-to-eat food such as fruits and vegetables;<sup>p1</sup>

(b) cooked ready-to-eat food;<sup>p1</sup> and

(c) frozen, commercially processed and packaged raw animal food that is stored or displayed with or above frozen, commercially processed and packaged, ready-to-eat food;

(2) except when combined as ingredients, separating types of raw animal foods from each other such as beef, fish, lamb, pork, and poultry during storage, preparation, holding, and display by:

(a) using separate equipment for each type of food;<sup>p1</sup> or

(b) arranging each type of food in equipment so that cross-contamination of one type with another is prevented;<sup>p1</sup> and

(c) preparing each type of food at different times or in separate areas;<sup>p1</sup>

(3) cleaning equipment and utensils as specified in part 4626.0845, item A, and sanitizing as specified in part 4626.0905;

(4) storing the food in packages, covered containers, or wrappings, except as specified in item B;

(5) cleaning hermetically sealed containers of food of visible soil before opening;

(6) protecting food containers that are received packaged together in a case or overwrap from cuts when the case or overwrap is opened;

(7) storing damaged, spoiled, or recalled food being held in the food establishment as specified in part 4626.1505; and

(8) separating fruits and vegetables, before they are washed as specified in part 4626.0255, from ready-to-eat food.

B. Item A, subitem (4), does not apply to:

(1) whole, uncut, raw fruits and vegetables and nuts in the shell that require peeling or hulling before consumption;

(2) primal cuts, quarters, or sides of raw meat or slab bacon that are hung on clean, sanitized hooks or placed on clean, sanitized racks;

(3) whole, uncut, processed meats such as country hams and smoked or cured sausages that are placed on clean, sanitized racks;

(4) food being cooled as specified in part 4626.0390, item B, subitem (2); or

(5) shellstock.

**Statutory Authority:** *MS s 31.101; 31.11; 144.05; 144.07; 144.08; 144.12; 157.011*

**History:** *23 SR 519; 43 SR 295*

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#### **4626.0240 FOOD STORAGE CONTAINERS IDENTIFIED WITH COMMON NAME OF FOOD. 3-302.12**

Working containers holding food or food ingredients that are removed from their original packages for use in the food establishment, such as cooking oils, flour, herbs, potato flakes, salt, spices, and sugar must be identified with the common name of the food except that containers holding food that can be readily and unmistakably recognized, including dry pasta, need not be identified. The identification must be in English and any other language used by the employees of the food establishment who handle food.

**Statutory Authority:** *MS s 31.101; 31.11; 144.05; 144.07; 144.08; 144.12; 157.011*

**History:** *23 SR 519; 43 SR 295*

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#### **4626.0245 PASTEURIZED EGGS; SUBSTITUTE FOR RAW EGGS. 3-302.13**

Pasteurized eggs or egg products must be substituted for raw eggs in the preparation of food such as Caesar salad, hollandaise or Bearnaise sauce, mayonnaise, meringue, eggnog, ice cream, and egg-fortified beverages that are not:

A. cooked as specified in part 4626.0340, item A, subitem (1) or (2);<sub>p1</sub> or

B. included in part 4626.0340, item D, subitem (1).<sub>p1</sub>

**Statutory Authority:** *MS s 31.101; 31.11; 144.05; 144.07; 144.08; 144.12; 157.011*

**History:** *23 SR 519; 43 SR 295*

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#### **4626.0250 PROTECTION FROM UNAPPROVED ADDITIVES. (SEE ALSO 4626.0170) 3-302.14**

A. Food must be protected from contamination that may result from the addition of:

(1) unsafe or unapproved food or color additives;<sub>p1</sub> and

(2) unsafe or unapproved levels of approved food and color additives.<sup>p1</sup>

B. A food employee shall not:

(1) apply sulfiting agents to fresh fruits and vegetables intended for raw consumption or to a food considered to be a good source of B1 vitamin;<sup>p1</sup> or

(2) serve or sell food specified in subitem (1) that is treated with sulfiting agents before receipt by the food establishment, except for grapes.<sup>p1</sup>

**Statutory Authority:** *MS s 31.101; 31.11; 144.05; 144.07; 144.08; 144.12; 157.011*

**History:** *23 SR 519; 43 SR 295*

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#### **4626.0255 WASHING FRUITS AND VEGETABLES. 3-302.15**

A. Raw fruits and vegetables must be thoroughly washed in water or by using chemicals specified in part 4626.1625 to remove soil and other contaminants before being cut, combined with other ingredients, cooked, served, or offered for human consumption in ready-to-eat form except for whole, raw fruits and vegetables that are intended for washing by the consumer before consumption.

B. Devices used for on-site generation of chemicals meeting the requirements in Code of Federal Regulations, title 21, subpart D, section 173.315, for the washing of raw, whole fruits and vegetables must be used according to the manufacturer's instructions.<sup>p2</sup>

**Statutory Authority:** *MS s 31.101; 31.11; 144.05; 144.07; 144.08; 144.12; 157.011*

**History:** *23 SR 519; 43 SR 295*

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#### **4626.0260 ICE USED AS EXTERIOR COOLANT; PROHIBITED AS INGREDIENT. 3-303.11**

Ice must not be used as a food after use as a medium for cooling the exterior surfaces of food such as melons or fish, packaged foods such as canned beverages, or cooling coils and tubes of equipment.<sup>p1</sup>

**Statutory Authority:** *MS s 31.101; 31.11; 144.05; 144.07; 144.08; 144.12; 157.011*

**History:** *23 SR 519; 43 SR 295*

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#### **4626.0265 FOOD IN CONTACT WITH WATER OR ICE. 3-303.12**

A. Packaged food must not be stored in direct contact with ice or water if the food is subject to the entry of water because of the nature of its packaging, wrapping, or container or its positioning in the ice or water.

B. Bottled and canned beverages on retail display must not be stored in contact with water or undrained ice.

C. Whole, raw fruits or vegetables; cut, raw vegetables such as celery, carrot sticks, and cut potatoes; and tofu may be immersed in ice or water.

D. Raw poultry and raw fish that are received immersed in ice in shipping containers may remain in that condition while in storage awaiting preparation, display, service, or sale.

**Statutory Authority:** *MS s 31.101; 31.11; 144.05; 144.07; 144.08; 144.12; 157.011*

**History:** *23 SR 519; 43 SR 295*

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#### **4626.0270 FOOD CONTACT WITH EQUIPMENT AND UTENSILS. 3-304.11**

Food must only contact surfaces of:

A. equipment and utensils that are cleaned as specified in parts 4626.0840 to 4626.0885 and sanitized as specified in parts 4626.0900 and 4626.0905;<sub>p1</sub>

B. single-service and single-use articles;<sub>p1</sub> or

C. linens such as cloth napkins specified in part 4626.0280 that are laundered as required by parts 4626.0910 to 4626.0930.<sub>p1</sub>

**Statutory Authority:** *MS s 31.101; 31.11; 144.05; 144.07; 144.08; 144.12; 157.011*

**History:** *23 SR 519; 43 SR 295*

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#### **4626.0275 IN-USE UTENSILS; BETWEEN-USE STORAGE. 3-304.12**

A. During pauses in food preparation or dispensing, food preparation and dispensing utensils must be stored:

(1) except as specified in item B, in the food with the handles above the top of the food and the container;

(2) in food that is not TCS food, with the handles above the top of the food within containers or equipment that can be closed, such as bins of sugar, flour, or cinnamon;

(3) on a clean portion of the food preparation table or cooking equipment only if the in-use utensil and the food-contact surface of the food preparation table or cooking equipment are cleaned and sanitized at a frequency specified in parts 4626.0845 and 4626.0900;

(4) in running water of sufficient velocity to flush particulates to the drain, if used with moist food such as ice cream, mashed potatoes, or cooked rice;

(5) in a clean, protected location if the utensils, including ice scoops, are used only with a food that is not TCS food; or

(6) in a container of water if the water is maintained at a temperature of at least 135 degrees F (57 degrees C) and the container is cleaned at a frequency specified in part 4626.0845, item D.

B. For consumer self-service of bulk food, a manual dispensing utensil must be stored as specified in Minnesota Statutes, section 31.84, subdivision 2.

**Statutory Authority:** *MS s 31.101; 31.11; 144.05; 144.07; 144.08; 144.12; 157.011*

**History:** *23 SR 519; 43 SR 295*

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#### **4626.0280 LINENS AND NAPKINS; USE LIMITATION. 3-304.13**

Linens such as cloth napkins must not be used in contact with food unless they are used to line a container for the service of foods and the linens and napkins are replaced each time the container is refilled for a new consumer.

**Statutory Authority:** *MS s 31.101; 31.11; 144.05; 144.07; 144.08; 144.12; 157.011*

**History:** *23 SR 519; 43 SR 295*

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#### **4626.0285 WIPING CLOTHS; USE LIMITATION. 3-304.14**

A. Cloths used for wiping food spills from tableware and carry-out containers that occur as food is being served must be maintained dry and used for no other purpose.

B. Cloths used for wiping counters and other equipment surfaces must be:

(1) held between uses in a chemical sanitizer solution at a concentration specified in part 4626.0805; and

(2) laundered daily as specified in part 4626.0915, item D.

C. Cloths used for wiping surfaces in contact with raw animal foods must be kept separate from cloths used for other purposes.

D. Dry wiping cloths and the chemical sanitizing solutions specified in item B, subitem (1), in which wet wiping cloths are held between uses must be free of food debris and visible soil.

E. Containers of chemical sanitizing solutions specified in item B, subitem (1), in which wet wiping cloths are held between uses must be stored and used in a manner that prevents contamination of food, equipment, utensils, linens, or single-service or single-use articles.

F. Single-use disposable sanitizer wipes must be used according to U.S. Environmental Protection Agency-approved manufacturer's label use instructions.

**Statutory Authority:** *MS s 31.101; 31.11; 144.05; 144.07; 144.08; 144.12; 157.011*



**History:** 23 SR 519; 43 SR 295

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#### **4626.0287 GLOVES; USE LIMITATION. 3-304.15**

A. If used, single-use gloves must be used for only 1 task such as working with ready-to-eat food or with raw animal food, used for no other purpose, and discarded when damaged or soiled, or when interruptions occur in the operation.<sup>p1</sup>

B. Except as specified in item C, slash-resistant gloves that are used to protect the hands during operations requiring cutting must be used in direct contact only with food that is subsequently cooked as specified in parts 4626.0340 to 4626.0349, such as frozen food or a primal cut of meat.

C. Slash-resistant gloves may be used with ready-to-eat food that will not be subsequently cooked if the slash-resistant gloves have a smooth, durable, and nonabsorbent outer surface; or if the slash-resistant gloves are covered with a smooth, durable, nonabsorbent glove, or a single-use glove.

D. Cloth gloves must not be used in direct contact with food unless the food is subsequently cooked as required under parts 4626.0340 to 4626.0349, such as frozen food or a primal cut of meat.

**Statutory Authority:** *MS s 31.101; 31.11; 144.05; 144.07; 144.08; 144.12; 157.011*

**History:** 23 SR 519; 43 SR 295

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#### **4626.0290 USING CLEAN TABLEWARE FOR SECOND PORTIONS AND REFILLS. 3-304.16**

A. Except for refilling a consumer's drinking cup or container without contact between the pouring utensil and the lip-contact area of the drinking cup or container, food employees shall not use tableware, including single-service articles soiled by the consumer to provide second portions or refills.

B. Except as specified in item C, self-service consumers shall not be allowed to use soiled tableware, including single-service articles to obtain additional food from the display and serving equipment.

C. Drinking cups and containers may be reused by self-service consumers if refilling is a contamination-free process as specified in part 4626.0575, items A, B, and D.

**Statutory Authority:** *MS s 31.101; 31.11; 144.05; 144.07; 144.08; 144.12; 157.011*

**History:** 23 SR 519; 43 SR 295

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**4626.0295 REFILLING RETURNABLES. 3-304.17**

A. Except as specified in this part, empty containers returned to a food establishment for cleaning and refilling with food must be cleaned and refilled in a regulated food processing plant.<sup>p1</sup>

B. A take-home food container returned to a food establishment may be refilled at a food establishment with food if the food container is:

(1) designed and constructed for reuse and in accordance with the requirements specified under parts 4626.0450, 4626.0505, and 4626.0515;<sup>p1</sup>

(2) one that was initially provided by the food establishment to the consumer, either empty or filled with food by the food establishment, for the purpose of being returned for reuse; and

(3) subject to the following steps before being refilled with food:

(a) cleaned as specified under parts 4626.0840 to 4626.0885;

(b) sanitized as specified under parts 4626.0900 to 4626.0905;<sup>p1</sup> and

(c) visually inspected by a food employee to verify that the container, as returned, meets the requirements under parts 4626.0450 to 4626.0470, 4626.0490, and 4626.0515.<sup>p1</sup>

C. A take-home food container returned to a food establishment may be refilled at a food establishment with a beverage if:

(1) the beverage is not TCS food;

(2) the design of the container and of the rinsing equipment and the nature of the beverage, when considered together, allow effective cleaning at home or in the food establishment;

(3) facilities for rinsing before refilling returned containers with fresh, hot water that is under pressure and not recirculated are provided as part of the dispensing system;

(4) the consumer-owned container returned to the food establishment for refilling is refilled for sale or service only to the same consumer; and

(5) the container is refilled by:

(a) an employee of the food establishment; or

(b) the owner of the container if the beverage system includes a contamination-free transfer process as specified under part 4626.0575, items A, B, and D, that cannot be bypassed by the container owner.

D. Consumer-owned, personal take-out beverage containers, such as thermally insulated bottles, nonspill coffee cups, promotional beverage glasses, and vinegar and oil containers, may be refilled by employees or the consumer if refilling is a contamination-free process as specified under part 4626.0575, items A, B, and D.

E. Consumer-owned containers that are not food-specific may be filled at a water vending machine or system.

**Statutory Authority:** *MS s 31.101; 31.11; 144.05; 144.07; 144.08; 144.12; 157.011*

**History:** *23 SR 519; 43 SR 295*

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#### **4626.0300 FOOD STORAGE. 3-305.11**

A. Except as specified in items B and C, food must be protected from contamination by storing the food:

- (1) in a clean, dry location;
- (2) where it is not exposed to splash, dust, or other contamination; and
- (3) at least 6 inches (15 cm) above the floor.

B. Food in packages and working containers may be stored less than 6 inches (15 cm) above the floor on case lot handling equipment specified in part 4626.0665.

C. Pressurized beverage containers, cased food in waterproof containers, such as bottles or cans, and milk containers in plastic crates may be stored on a floor that is clean and not exposed to floor moisture.

**Statutory Authority:** *MS s 31.101; 31.11; 144.05; 144.07; 144.08; 144.12; 157.011*

**History:** *23 SR 519; 43 SR 295*

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#### **4626.0305 FOOD STORAGE; PROHIBITED AREAS. 3-305.12**

Food must not be stored:

- A. in locker rooms;
- B. in toilet rooms;
- C. in dressing rooms;
- D. in garbage rooms;
- E. in mechanical rooms;
- F. under sewer lines that are not shielded to intercept potential drips;
- G. under leaking water lines, including leaking automatic fire sprinkler heads, or under lines on which water has condensed;
- H. under open stairwells; or
- I. under other sources of contamination.

**Statutory Authority:** *MS s 31.101; 31.11; 144.05; 144.07; 144.08; 144.12; 157.011*

**History:** *23 SR 519; 43 SR 295*

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#### **4626.0310 VENDED TCS FOOD; ORIGINAL CONTAINER. 3-305.13**

TCS food dispensed through a vending machine must be in the package in which it was placed at the food establishment or food processing plant at which it was prepared.

**Statutory Authority:** *MS s 31.101; 31.11; 144.05; 144.07; 144.08; 144.12; 157.011*

**History:** *23 SR 519; 43 SR 295*

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#### **4626.0315 UNPACKAGED FOOD; PROTECTION FROM CONTAMINATION. 3-305.14**

During preparation, unpackaged food must be protected from environmental sources of contamination.

**Statutory Authority:** *MS s 31.101; 31.11; 144.05; 144.07; 144.08; 144.12; 157.011*

**History:** *23 SR 519; 43 SR 295*

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#### **4626.0320 FOOD DISPLAY; PROTECTION FROM CONTAMINATION. 3-306.11**

A. Except for nuts in the shell and whole, raw fruits and vegetables that are intended for hulling, peeling, or washing by the consumer before consumption, food on display must be protected from contamination by the use of packaging; counter, service line, or salad bar food guards; display cases; or other effective means.<sup>p1</sup>

B. Food preparation and cooking areas must be protected by an impervious shield or by a separation distance to ensure customer safety and prevent food contamination by customers.

**Statutory Authority:** *MS s 31.101; 31.11; 144.05; 144.07; 144.08; 144.12; 157.011*

**History:** *23 SR 519; 43 SR 295*

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#### **4626.0325 CONDIMENTS; PROTECTION. 3-306.12**

A. Condiments must be protected from contamination by being kept in dispensers that are designed to provide protection, protected food displays provided with the proper utensils, original containers designed for dispensing, or individual packages or portions.

B. Condiments at a vending machine location must be in individual packages or provided in dispensers that are filled at a location that is approved by the regulatory authority, such as the food establishment that provides food to the vending machine location, a food processing plant that

is regulated by the agency that has jurisdiction over the operation, or a properly equipped facility that is located on the site of the vending machine location.

**Statutory Authority:** *MS s 31.101; 31.11; 144.05; 144.07; 144.08; 144.12; 157.011*

**History:** *23 SR 519; 43 SR 295*

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#### **4626.0330 CONSUMER SELF-SERVICE OPERATIONS. 3-306.13**

A. Raw, unpackaged animal food, such as beef, lamb, pork, poultry, and fish, must not be offered for consumer self-service.<sub>p1</sub> This item does not apply to:

(1) consumer self-service of ready-to-eat foods at buffets or salad bars that serve foods such as sushi or raw shellfish;

(2) ready-to-cook individual portions for immediate cooking and consumption on the premises such as consumer-cooked meats or consumer-selected ingredients for Mongolian barbecue;

(3) raw, frozen, shell-on shrimp, or lobster; or

(4) raw shell eggs.

B. Consumer self-service operations for ready-to-eat foods must be provided with suitable utensils or effective dispensing methods that protect the food from contamination.<sub>p2</sub>

C. Consumer self-service operations such as buffets and salad bars must be monitored by food employees trained in safe operating procedures.<sub>p2</sub>

**Statutory Authority:** *MS s 31.101; 31.11; 144.05; 144.07; 144.08; 144.12; 157.011*

**History:** *23 SR 519; 43 SR 295*

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#### **4626.0335 RETURNED FOOD; RE-SERVICE OF FOOD. 3-306.14**

A. Except as specified in item B, after being served or sold and in the possession of a consumer, food that is unused or returned by the consumer must not be offered as food for human consumption.<sub>p1</sub>

B. Except as specified in part 4626.0447, item G, a container of food that is not TCS food may be re-served from one consumer to another if:

(1) the food is dispensed so that it is protected from contamination and the container is closed between uses, such as a narrow-neck bottle containing ketchup, steak sauce, or wine; or

(2) the food, such as crackers, salt, or pepper, is in an unopened original package and is maintained in sound condition.

**Statutory Authority:** *MS s 31.101; 31.11; 144.05; 144.07; 144.08; 144.12; 157.011*

**History:** 23 SR 519; 43 SR 295

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#### **4626.0337 MISCELLANEOUS SOURCES OF CONTAMINATION. 3-307.11**

Food must be protected from contamination that may result from a factor or source not specified in parts 4626.0225 to 4626.0335.

**Statutory Authority:** *MS s 31.101; 31.11; 144.07; 157.011*

**History:** 43 SR 295

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### **DESTROYING ORGANISMS**

#### **4626.0340 COOKING RAW ANIMAL FOODS. 3-401.11**

A. Except as specified in items B to D, raw animal foods, such as eggs, fish, meat, poultry, and foods containing these raw animal foods, must be cooked to heat all parts of the food to a temperature and for a time that complies with one of the following methods based on the food that is being cooked:

(1) 145 degrees F (63 degrees C) or above for 15 seconds for:<sup>p1</sup>

(a) raw eggs that are broken and prepared in response to a consumer's order and for immediate service;<sup>p1</sup> and

(b) except as specified in subitems (2) and (3) and items B and C, fish and meat including game animals commercially raised for food as specified in part 4626.0160, item A, and game animals under a voluntary inspection program as specified in part 4626.0160, item A;<sup>p1</sup>

(2) 155 degrees F (68 degrees C) or above for 15 seconds or the temperature specified in the following chart that corresponds to the holding time for ratites; mechanically tenderized and injected meats; the following if they are comminuted: fish, meat, game animals commercially raised for food as specified in part 4626.0160, item A, and game animals under a voluntary inspection program as specified in part 4626.0160, item A; and raw eggs that are not prepared as specified in subitem (1), unit (a);<sup>p1</sup>

Minimum Temperature °F (°C)	Time
145 (63)	3 minutes
150 (66)	1 minute
158 (70)	< 1 second (instantaneous); or

(3) 165 degrees F (74 degrees C) or above for 15 seconds for poultry; baluts, wild animals as specified in part 4626.0160, item C; stuffed fish; stuffed meat; stuffed pasta; stuffed poultry; stuffed ratites; or stuffing containing fish, meat, poultry, or ratites.<sup>p1</sup>

B. Whole meat roasts including beef, corned beef, lamb, pork, and cured pork roasts such as ham must be cooked:

(1) in an oven that is preheated to the temperature specified for the roast's weight in the following chart and that is held at that temperature:<sup>p2</sup>

Oven Type	Oven Temperature Based on Roast Weight	
	Less than 10 lbs (4.5 kg)	10 lbs (4.5 kg) or more
Still dry	350°F (177°C) or more	250°F (121°C) or more
Convection	325°F (163°C) or more	250°F (121°C) or more
High humidity <sup>1</sup>	250°F (121°C) or less	250°F (121°C) or less

<sup>1</sup>Relative humidity greater than 90 percent for at least 1 hour as measured in the cooking chamber or exit of the oven; or in a moisture-impermeable bag that provides 100 percent humidity.

; and

(2) as specified in the following chart, to heat all parts of the food to a temperature and for the holding time that corresponds to that temperature:<sup>p1</sup>

Temperature °F (°C)	Time in Minutes*
130 (54.4)	112
131 (55.0)	89
133 (56.1)	56
135 (57.2)	36
136 (57.8)	28
138 (58.9)	18
140 (60.0)	12
142 (61.1)	8
144 (62.2)	5
145 (62.8)	4

Temperature °F (°C)	Time in Seconds*
147 (63.9)	134 seconds
149 (65.0)	85 seconds
151 (66.1)	54 seconds
153 (67.2)	34 seconds
155 (68.3)	22 seconds
157 (69.4)	14 seconds
158 (70.0)	0 seconds

\*Holding time may include postoven heat rise.

C. A raw or undercooked whole-muscle, intact beef steak may be served or offered for sale in a ready-to-eat form if:

- (1) the food establishment serves a population that is not a highly susceptible population;
- (2) the steak is labeled to indicate that it is "whole-muscle, intact beef" as specified in part 4626.0130, item E; and
- (3) the steak is cooked on both the top and bottom to a surface temperature of 145 degrees F (63 degrees C) or above and a cooked color change is achieved on all external surfaces.

D. A raw animal food such as raw egg, raw fish, raw-marinated fish, raw molluscan shellfish, or steak tartare; or a partially cooked food such as lightly cooked fish, soft-cooked eggs, or rare meat other than whole-muscle, intact beef steaks as specified in item C, may be served or offered for sale upon consumer request or selection in a ready-to-eat form if:

- (1) the food establishment serves a population that is not a highly susceptible population;
- (2) the food, if served or offered for service by consumer selection from a children's menu, does not contain comminuted meat;<sup>p2</sup> and
- (3) the consumer is informed as specified in part 4626.0442 that to ensure its safety, the food should be cooked as specified in item A or B; or
- (4) the regulatory authority grants a variance from item A or B as specified in part 4626.1690 based on a HACCP plan that:
  - (a) is submitted by the licensee and approved as specified in part 4626.1700;
  - (b) documents scientific data or other information showing that a lesser time and temperature regimen results in a safe food; and



(c) verifies that equipment and procedures for food preparation and training of food employees at the food establishment meet the conditions of the variance.

**Statutory Authority:** *MS s 31.101; 31.11; 144.05; 144.07; 144.08; 144.12; 157.011*

**History:** *23 SR 519; 43 SR 295*

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#### **4626.0345 MICROWAVE COOKING. 3-401.12**

Raw animal foods cooked in a microwave oven must be:

A. rotated or stirred throughout or midway during cooking to compensate for uneven distribution of heat;

B. covered to retain surface moisture;

C. heated to a temperature of at least 165 degrees F (74 degrees C) in all parts of the food;<sup>p1</sup>  
and

D. allowed to stand covered for 2 minutes after cooking to obtain temperature equilibrium.

**Statutory Authority:** *MS s 31.101; 31.11; 144.05; 144.07; 144.08; 144.12; 157.011*

**History:** *23 SR 519; 43 SR 295*

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#### **4626.0347 PLANT FOOD; COOKING FOR HOT HOLDING. 3-401.13**

Raw fruits and vegetables that are cooked for hot holding must be cooked to a temperature of 135 degrees F (57 degrees C).<sup>p2</sup>

**Statutory Authority:** *MS s 31.101; 31.11; 144.07; 157.011*

**History:** *43 SR 295*

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#### **4626.0349 NONCONTINUOUS COOKING OF RAW ANIMAL FOODS. 3-401.14**

Raw animal foods that are cooked using a noncontinuous cooking process must be:

A. subject to an initial heating process that is no longer than 60 minutes in duration;<sup>p1</sup>

B. immediately after initial heating, cooled according to the time and temperature parameters for cooked TCS food in part 4626.0385, item A;<sup>p1</sup>

C. after cooling, held frozen or cold, as specified for TCS food in part 4626.0395, item A, subitem (2);<sup>p1</sup>

D. prior to sale or service, cooked using a process that heats all parts of the food to a temperature and for a time specified in part 4626.0340, items A to C;<sup>p1</sup>

E. cooled according to the time and temperature parameters for cooked TCS food in part 4626.0385, item A, if not either hot held as specified in part 4626.0395, item A, served immediately, or held using time as a public health control as specified in part 4626.0408 after complete cooking;<sup>p1</sup> and

F. prepared and stored according to written procedures that:

(1) have obtained prior approval from the regulatory authority based on meeting the requirements of this part;<sup>p2</sup>

(2) are maintained in the food establishment and are available to the regulatory authority upon request;<sup>p2</sup>

(3) describe how the requirements in items A to E are to be monitored and documented by the licensee and the corrective actions to be taken if the requirements are not met;<sup>p2</sup>

(4) describe how the foods, after initial heating, but prior to complete cooking, are to be marked or otherwise identified as foods that must be cooked as specified in item D prior to being offered for sale or service;<sup>p2</sup> and

(5) describe how the foods, after initial heating but prior to cooking are to be separated from ready-to-eat foods as specified in part 4626.0235, item A.<sup>p2</sup>

**Statutory Authority:** *MS s 31.101; 31.11; 144.07; 157.011*

**History:** *43 SR 295*

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#### **4626.0350 PARASITE DESTRUCTION. 3-402.11**

A. Except as specified in item B, before service or sale in ready-to-eat form, raw, raw-marinated, partially cooked, or marinated-partially cooked fish must be:

(1) frozen and stored at a temperature of -4 degrees F (-20 degrees C) or below for a minimum of 168 hours (7 days) in a freezer;<sup>p1</sup>

(2) frozen at -31 degrees F (-35 degrees C) or below until solid and stored at -31 degrees F (-35 degrees C) or below for a minimum of 15 hours;<sup>p1</sup> or

(3) frozen at -31 degrees F (-35 degrees C) or below until solid and stored at -4 degrees F (-20 degrees C) or below for a minimum of 24 hours.<sup>p1</sup>

B. Item A does not apply to:

(1) molluscan shellfish;

(2) a scallop product consisting only of the shucked adductor muscle;

(3) tuna of the species *Thunnus alalunga*, *Thunnus albacares* (Yellowfin tuna), *Thunnus atlanticus*, *Thunnus maccoyii* (Bluefin tuna, Southern), *Thunnus obesus* (Bigeye tuna), or *Thunnus thynnus* (Bluefin tuna, Northern);

- (4) aquacultured fish, such as salmon, that:
- (a) if raised in open water, are raised in net-pens; or
  - (b) are raised in land-based operations such as ponds or tanks; and
  - (c) are fed formulated feed, such as pellets, that contains no live parasites infective to the aquacultured fish; or
- (5) fish eggs that have been removed from the skein and rinsed.

**Statutory Authority:** *MS s 31.101; 31.11; 144.05; 144.07; 144.08; 144.12; 157.011*

**History:** *23 SR 519; 43 SR 295*

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#### **4626.0355 PARASITE DESTRUCTION; RECORDS. 3-402.12**

A. Except as specified in item B, and part 4626.0350, item B, if raw, raw-marinated, partially cooked, or marinated-partially cooked fish are served or sold in ready-to-eat form, the person in charge shall record the freezing temperature and time to which the fish are subjected and shall retain the records at the food establishment for 90 calendar days beyond the time of service or sale of the fish.<sup>p2</sup>

B. If the fish are frozen by a supplier, a written agreement or statement from the supplier stipulating that the fish supplied are frozen to a temperature and for a time specified in part 4626.0350 may substitute for the records specified in item A.

C. If raw, raw-marinated, partially cooked, or marinated-partially cooked fish are served or sold in ready-to-eat form, and the fish are raised and fed as specified in part 4626.0350, item B, subitem (4), a written agreement or statement from the supplier or aquaculturist stipulating that the fish were raised and fed as specified in part 4626.0350, item B, subitem (4), must be obtained by the person in charge and retained in the records of the food establishment for 90 calendar days beyond the time of service or sale of the fish.<sup>p2</sup>

**Statutory Authority:** *MS s 31.101; 31.11; 144.05; 144.07; 144.08; 144.12; 157.011*

**History:** *23 SR 519; 43 SR 295*

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#### **4626.0357 FOODS PREPARED FOR IMMEDIATE SERVICE. 3-403.10**

Cooked and refrigerated food that is prepared for immediate service in response to an individual consumer order, such as a roast beef sandwich au jus, may be served at any temperature.

**Statutory Authority:** *MS s 31.101; 31.11; 144.07; 157.011*

**History:** *43 SR 295*

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**4626.0360 REHEATING FOR HOT HOLDING. 3-403.11**

A. Except as specified in items B, C, and E, TCS food that is cooked, cooled, and reheated for hot holding must be reheated so that all parts of the food reach a temperature of at least 165 degrees F (74 degrees C) for 15 seconds.<sub>p1</sub>

B. Except as specified in item C, TCS food reheated in a microwave oven for hot holding must be reheated so that all parts of the food reach a temperature of at least 165 degrees F (74 degrees C) and the food is rotated or stirred, covered, and allowed to stand covered for 2 minutes after reheating.<sub>p1</sub>

C. Ready-to-eat TCS food that has been commercially processed, and packaged in a food processing plant that is inspected by the food regulatory authority that has jurisdiction over the plant, must be heated to a temperature of at least 135 degrees F (57 degrees C) when being reheated for hot holding.<sub>p1</sub>

D. Reheating for hot holding as specified in items A to C must be done rapidly and the time the food is between 41 degrees F (5 degrees C) and the temperatures specified in items A to C must not exceed 2 hours.<sub>p1</sub>

E. Remaining unsliced portions of meat roasts that are cooked as specified in part 4626.0340, item B, may be reheated for hot holding using the oven parameters and minimum time and temperature conditions specified in part 4626.0340, item B.

**Statutory Authority:** *MS s 31.101; 31.11; 144.05; 144.07; 144.08; 144.12; 157.011*

**History:** *23 SR 519; 43 SR 295*

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**4626.0365** [Repealed, 43 SR 295]

**Published Electronically:** *January 2, 2019*

**4626.0367 TREATING JUICE. 3-404.11**

Juice packaged in a food establishment must be:

A. treated under a HACCP plan as specified in parts 4626.1730 to 4626.1735 to attain a 5-log reduction, which is equal to a 99.999 percent reduction, of the most resistant microorganism of public health significance;<sub>p1</sub> or

B. labeled, if not treated to yield a 5-log reduction of the most resistant microorganism of public health significance:

(1) as specified in part 4626.0435;<sub>p2</sub> and

(2) as specified in Code of Federal Regulations, title 21, section 101.17 (g). Juices that have not been specifically processed to prevent, reduce, or eliminate the presence of pathogens must be labeled with the following: "WARNING: This product has not been pasteurized and, therefore, may contain harmful bacteria that can cause serious illness in children, the elderly, and persons with weakened immune systems."<sub>p2</sub>

**Statutory Authority:** *MS s 31.101; 31.11; 144.07; 157.011*

**History:** *43 SR 295*

**Published Electronically:** *January 2, 2019*

**4626.0368 JUICE; TREATED. 3-202.110**

Prepackaged juice must:

A. be obtained from a processor with a HACCP system as specified in Code of Federal Regulations, title 21, part 120;p<sub>2</sub> and

B. be obtained pasteurized or otherwise treated to attain a 5-log reduction of the most resistant microorganism of public health significance as specified in Code of Federal Regulations, title 21, subpart B, section 120.24.p<sub>1</sub>

**Statutory Authority:** *MS s 31.101; 31.11; 144.07; 157.011*

**History:** *43 SR 295*

**Published Electronically:** *January 2, 2019*

**4626.0370 FROZEN FOOD. 3-501.11**

Stored frozen foods must be maintained frozen.

**Statutory Authority:** *MS s 31.101; 31.11; 144.05; 144.07; 144.08; 144.12; 157.011*

**History:** *23 SR 519; 43 SR 295*

**Published Electronically:** *January 2, 2019*

**4626.0375 SLACKING TCS FOOD. 3-501.12**

Frozen TCS food that is slacked to moderate the temperature must be held:

A. under mechanical refrigeration that maintains the food temperature at 41 degrees F (5 degrees C) or less; or

B. at any temperature if the food remains frozen.

**Statutory Authority:** *MS s 31.101; 31.11; 144.05; 144.07; 144.08; 144.12; 157.011*

**History:** *23 SR 519; 43 SR 295*

**Published Electronically:** *January 2, 2019*

**4626.0380 THAWING. 3-501.13**

A. Except as specified in item subitem (4), TCS food must be thawed:

(1) under mechanical refrigeration that maintains the food temperature at 41 degrees F (5 degrees C) or less;

(2) completely submerged under running water:

- (a) at a water temperature of 70 degrees F (21 degrees C) or less;
- (b) with sufficient water velocity to agitate and float off loose particles in an overflow; and
- (c) for a period of time that does not allow thawed portions of ready-to-eat food to rise above 41 degrees F (5 degrees C); or
- (d) for a period of time that does not allow thawed portions of a raw animal food requiring cooking as specified in part 4626.0340, items A and B, to be above 41 degrees F (5 degrees C) for more than 4 hours including:
  - i. the time the food is exposed to the running water and the time needed for preparation for cooking; or
  - ii. the time it takes under mechanical refrigeration to lower the food temperature to 41 degrees F (5 degrees C);
- (3) as part of a cooking process if the food that is frozen is:
  - (a) cooked as specified in part 4626.0340, items A and B, or 4626.0345; or
  - (b) thawed in a microwave oven and immediately transferred to conventional cooking equipment, with no interruption in the process; or
- (4) using any procedure if a portion of frozen ready-to-eat food is thawed and prepared for immediate service in response to an individual consumer's order.

B. Reduced oxygen packaged fish that bears a label indicating that it is to be kept frozen until time of use must be removed from the reduced oxygen environment:

- (1) prior to thawing under refrigeration as specified in item A, subitem (1); or
- (2) prior to, or immediately upon, completion of thawing using procedures specified in item A, subitem (2).

**Statutory Authority:** *MS s 31.101; 31.11; 144.05; 144.07; 144.08; 144.12; 157.011*

**History:** *23 SR 519; 43 SR 295*

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#### **4626.0385 COOLING REQUIREMENTS. 3-501.14**

A. Cooked TCS food must be cooled:

- (1) within 2 hours from 135 degrees F (57 degrees C) to 70 degrees F (21 degrees C);<sub>P1</sub>  
and
- (2) within a total of 6 hours from 135 degrees F (57 degrees C) to 41 degrees F (5 degrees C) or less.<sub>P1</sub>

B. TCS food must be cooled within 4 hours to 41 degrees F (5 degrees C) or less, if prepared from ingredients at ambient temperature, such as reconstituted foods and canned tuna.<sup>p1</sup>

C. Except as specified in item D, TCS food received in compliance with laws allowing a temperature above 41 degrees F (5 degrees C) during shipment from the supplier as specified in part 4626.0165, item B, must be cooled within 4 hours to 41 degrees F (5 degrees C) or less.<sup>p1</sup>

**Statutory Authority:** *MS s 31.101; 31.11; 144.05; 144.07; 144.08; 144.12; 157.011*

**History:** *23 SR 519; 43 SR 295*

**Published Electronically:** *January 2, 2019*

#### **4626.0390 COOLING METHODS. 3-501.15**

A. Cooling must be accomplished according to the time and temperature criteria in part 4626.0385 by using one or more of the following methods based on the type of food being cooled:

- (1) placing the food in shallow pans;<sup>p2</sup>
- (2) separating the food into smaller or thinner portions;<sup>p2</sup>
- (3) using rapid cooling equipment;<sup>p2</sup>
- (4) stirring the food in a container placed in an ice water bath;<sup>p2</sup>
- (5) using containers that facilitate heat transfer;<sup>p2</sup>
- (6) adding ice as an ingredient;<sup>p2</sup> or
- (7) other effective methods.<sup>p2</sup>

B. When placed in cooling or cold holding equipment, food containers in which food is being cooled must be:

- (1) arranged in the equipment to provide maximum heat transfer through the container walls; and
- (2) loosely covered or uncovered if protected from overhead contamination as specified in part 4626.0300, item A, subitem (2), during the cooling period to facilitate heat transfer from the surface of the food.

**Statutory Authority:** *MS s 31.101; 31.11; 144.05; 144.07; 144.08; 144.12; 157.011*

**History:** *23 SR 519; 43 SR 295*

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#### **4626.0395 TCS FOOD; HOT AND COLD HOLDING. 3-501.16**

A. Except during preparation, cooking, or cooling, or when time is used as the public health control as specified in part 4626.0408, and except as specified in items B and C, TCS food must be maintained:

(1) at 135 degrees F (57 degrees C) or above, except that roasts cooked to a temperature and for a time specified in part 4626.0340, item B, or reheated as specified in part 4626.0360, item E, may be held at a temperature of 130 degrees F (54 degrees C) or above;<sup>p1</sup> or

(2) at 41 degrees F (5 degrees C) or below under mechanical refrigeration.<sup>p1</sup>

B. Eggs that have not been treated to destroy all viable *Salmonellae* must be stored in refrigerated equipment that maintains an ambient air temperature of 45 degrees F (7 degrees C) or less.<sup>p1</sup>

C. TCS food in a homogenous liquid form may be maintained outside of the temperature control requirements, as specified in item A, while contained within specially designed equipment that complies with the design and construction requirements in part 4626.0575, item E.

D. For a special event food stand, delivery vehicle, retail food vehicle, portable structure, or cart, dry ice or cold packs may be substituted for mechanical refrigeration required in this part and part 4626.0375 if the temperatures in parts 4626.0370 to 4626.0420 are maintained. Mechanical refrigeration must be provided for TCS foods held for 4 hours or longer.

**Statutory Authority:** *MS s 31.101; 31.11; 144.05; 144.07; 144.08; 144.12; 157.011*

**History:** *23 SR 519; 43 SR 295*

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#### **4626.0400 DATE MARKING; READY-TO-EAT TCS FOOD. 3-501.17**

A. (1) This part does not apply to items E and F or to food packaged using a reduced oxygen packaging method as specified in part 4626.0420.

(2) Refrigerated, ready-to-eat TCS food prepared and held in a food establishment for more than 24 hours must be clearly marked using an effective method to indicate the day or date by which the food must be consumed on the premises, sold, or discarded, which is 7 calendar days or less from the date of preparation. The date of the preparation must be counted as day 1.<sup>p2</sup>

B. Refrigerated, ready-to-eat TCS food prepared and packaged by a processing plant and opened and held for more than 24 hours must be clearly marked using an effective method to indicate the day or date by which the food must be consumed on the premises, sold, or discarded, which is 7 calendar days or less from the date the original container is opened;<sup>p2</sup> and

(1) the date the original container is opened in the food establishment must be counted as day 1;<sup>p2</sup> and

(2) the day or date marked by the food establishment must not exceed the manufacturer's use-by date.<sup>p2</sup>

C. A refrigerated, ready-to-eat TCS food ingredient or a portion of a refrigerated, ready-to-eat TCS food that is subsequently combined with additional ingredients or portions of food must retain the date marking of the earliest-prepared or first-prepared ingredient.<sup>p2</sup>

D. A date marking system that meets the criteria in items A and B may include:



(1) using a method approved by the regulatory authority based on meeting the requirements of this part for refrigerated, ready-to-eat TCS food that is frequently rewrapped, such as lunchmeat or a roast, or for which date marking is impractical, such as soft-serve mix or milk in a dispensing machine;

(2) marking the date or day of preparation, with a procedure to discard the food on or before the last date or day by which the food must be consumed on the premises, sold, or discarded as specified in item A;

(3) marking the date or day the original container is opened in a food establishment, with a procedure to discard the food on or before the last date or day by which the food must be consumed on the premises, sold, or discarded as specified in item B; or

(4) using calendar dates, days of the week, color-coded marks, or other effective marking methods, provided that the marking system is disclosed to the regulatory authority upon request.

E. Items A and B do not apply to individual meal portions served or repackaged for sale from a bulk container upon a consumer's request.

F. Items A and B do not apply to shellstock.

G. Item B does not apply to the following foods prepared and packaged by a food processing plant inspected by a regulatory authority:

(1) deli salads, such as ham salad, seafood salad, chicken salad, egg salad, pasta salad, potato salad, and macaroni salad, manufactured according to Code of Federal Regulations, title 21, part 110;

(2) hard cheeses containing not more than 39 percent moisture such as cheddar, gruyere, parmesan reggiano, and romano, as defined in Code of Federal Regulations, title 21, part 133;

(3) semi-soft cheese containing more than 39 percent moisture, such as blue, edam, gorgonzola, gouda, and monterey jack, but not more than 50 percent moisture, as defined in Code of Federal Regulations, title 21, part 133;

(4) cultured dairy products such as yogurt, sour cream, and buttermilk, as defined in Code of Federal Regulations, title 21, part 131;

(5) preserved fish products, such as pickled herring and dried or salted cod, and other acidified fish products defined in Code of Federal Regulations, title 21, part 114;

(6) shelf-stable, dry fermented sausages, such as pepperoni and Genoa salami; and

(7) shelf-stable salt-cured products such as prosciutto and Parma (ham).

**Statutory Authority:** *MS s 31.101; 31.11; 144.05; 144.07; 144.08; 144.12; 157.011*

**History:** *23 SR 519; 43 SR 295*

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**4626.0405 READY-TO-EAT, TCS FOOD; DISPOSITION. 3-501.18**

A. A food specified in part 4626.0400, item A or B, must be discarded if:

(1) the time exceeds 7 days as specified in part 4626.0400, item A, except time that the product is frozen;<sup>p1</sup> or

(2) it is in a container or package that does not bear a date or day.<sup>p1</sup>

B. Refrigerated, ready-to-eat TCS food prepared in a food establishment and dispensed through a refrigerated vending machine with an automatic shutoff control must be discarded if the time exceeds 7 days as specified in part 4626.0400, item A.<sup>p1</sup>

**Statutory Authority:** *MS s 31.101; 31.11; 144.05; 144.07; 144.08; 144.12; 157.011*

**History:** *23 SR 519; 43 SR 295*

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**4626.0408 TIME AS PUBLIC HEALTH CONTROL. 3-501.19**

A. Except as specified in item D, if time only, rather than in conjunction with temperature control, is used as the public health control for a working supply of TCS food before cooking, or for ready-to-eat TCS food that is displayed or held for sale or service, written procedures must be prepared in advance, maintained in the food establishment, and made available to the regulatory authority upon request that specify:<sup>p2</sup>

(1) methods of compliance with item B, subitems (1) to (3), or C;<sup>p2</sup> and

(2) methods of compliance with part 4626.0385 for food that is prepared, cooked, and refrigerated before time is used as a public health control.<sup>p2</sup>

B. If time only, rather than in conjunction with temperature control, is used as the public health control up to a maximum of 4 hours:

(1) the food must have an initial temperature of less than 41 degrees F (5 degrees C) or greater than 135 degrees F (57 degrees C) when it is removed from temperature control;<sup>p1</sup>

(2) the food must be marked or otherwise identified to indicate the time that is 4 hours past the point in time when the food is removed from temperature control;<sup>p2</sup>

(3) the food must be cooked and served, served at any temperature if ready-to-eat, or discarded within 4 hours from the point in time when the food is removed from temperature control;<sup>p1</sup> and

(4) the food in unmarked containers or packages, or food marked to exceed a 4-hour limit, must be discarded.<sup>p1</sup>

C. If time only, rather than in conjunction with temperature control, is used as the public health control up to a maximum of 6 hours:

(1) the food must have an initial temperature of 41 degrees F (5 degrees C) or less when removed from temperature control and the food temperature must not exceed 70 degrees F (21 degrees C) within a maximum time period of 6 hours;<sub>p1</sub>

(2) the food must be monitored to ensure the warmest portion of the food does not exceed 70 degrees F (21 degrees C) during the 6-hour period;<sub>p2</sub>

(3) the food must be marked or otherwise identified to indicate:<sub>p2</sub>

(a) the time when the food is removed from 41 degrees F (5 degrees C) or less cold holding temperature control;<sub>p2</sub> and

(b) the time that is 6 hours past the time when the food is removed from cold holding temperature control;<sub>p2</sub>

(4) the food must be:

(a) discarded if the temperature of the food exceeds 70 degrees F (21 degrees C);<sub>p1</sub>  
or

(b) cooked and served, served at any temperature if ready-to-eat, or discarded within a maximum of 6 hours from the time the food is removed from 41 degrees F (5 degrees C) or less cold holding temperature control;<sub>p1</sub> and

(5) the food in unmarked containers or packages, or marked with a time that exceeds the 6-hour limit, must be discarded.<sub>p1</sub>

D. A food establishment that serves a highly susceptible population may not use time as specified in item A, B, or C as the public health control for raw eggs.

**Statutory Authority:** *MS s 31.101; 31.11; 144.07; 157.011*

**History:** *43 SR 295*

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**4626.0410** [Repealed, 43 SR 295]

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#### **4626.0415 SPECIALIZED PROCESSING VARIANCE REQUIREMENTS. 3-502.11**

A food establishment must obtain a variance from the regulatory authority as specified in parts 4626.1690 to 4626.1700 before:

A. smoking food as a method of food preservation rather than as a method of flavor enhancement;<sub>p2</sub>

B. curing food;<sub>p2</sub>

C. using food additives or adding components, such as vinegar:

(1) as a method of food preservation rather than as a method of flavor enhancement;<sub>p2</sub>  
or

(2) to render a food so that it is not TCS;<sub>p2</sub>

D. packaging TCS food using a reduced oxygen packaging method except where the growth of and toxin formation by *Clostridium botulinum* and the growth of *Listeria monocytogenes* are controlled as specified in part 4626.0420;<sub>p2</sub>

E. operating a molluscan shellfish life-support system display tank used to store and display shellfish that are offered for human consumption;<sub>p2</sub>

F. custom processing game animals that are for personal use as food and not for sale or service in a food establishment and not under USDA or "state equal to" inspections;<sub>p2</sub>

G. sprouting seeds or beans;<sub>p2</sub> or

H. preparing food by any method that is not in compliance with this Code.<sub>p2</sub>

**Statutory Authority:** *MS s 31.101; 31.11; 144.05; 144.07; 144.08; 144.12; 157.011*

**History:** *23 SR 519; 43 SR 295*

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**4626.0420 REDUCED OXYGEN PACKAGING WITHOUT A VARIANCE; CRITERIA.  
3-502.12**

A. Except for a food establishment that obtains a variance as specified in part 4626.0415, a food establishment that packages TCS food using a reduced oxygen packaging method must control the growth and toxin formation of *Clostridium botulinum* and the growth of *Listeria monocytogenes*.<sub>p1</sub>

B. Except as specified in item F, a food establishment that packages TCS food using a reduced oxygen packaging method must have a HACCP plan that contains the information in part 4626.1735 and that:<sub>p2</sub>

(1) identifies the food to be packaged;<sub>p2</sub>

(2) except as specified in items C to E, requires that the packaged food must be maintained at 41 degrees F (5 degrees C) or less and meet at least 1 of the following criteria:<sub>p2</sub>

(a) has an  $a_w$  of 0.91 or less;<sub>p2</sub>

(b) has a pH of 4.6 or less;<sub>p2</sub>

(c) is a meat or poultry product cured at a food processing plant regulated by the USDA using substances specified in Code of Federal Regulations, title 9, subpart C, section 424.21, and is received in an intact package;<sub>p2</sub> or

(d) is a food with a high level of competing organisms such as raw meat, raw poultry, or raw vegetables;<sub>p2</sub>

(3) describes how the package must be prominently and conspicuously labeled on the principal display panel in bold type on a contrasting background, with instructions to:<sup>p2</sup>

(a) maintain the food at 41 degrees F (5 degrees C) or below;<sup>p2</sup> and

(b) discard the food if within 30 calendar days of its packaging it is not served for on-premises consumption, or consumed if served or sold for off-premises consumption;<sup>p2</sup>

(4) limits the refrigerated shelf life to no more than 30 calendar days from packaging to consumption, except the time the product is maintained frozen, or the original manufacturer's "sell by" or "use by" date, whichever occurs first;<sup>p1</sup>

(5) includes operational procedures that:

(a) prohibit contacting ready-to-eat food with bare hands as specified in part 4626.0225, item A;<sup>p2</sup>

(b) identify a designated work area and the method by which:<sup>p2</sup>

i. physical barriers or methods of separation of raw foods and ready-to-eat foods minimize cross-contamination;<sup>p2</sup> and

ii. access to the processing equipment is limited to responsible trained personnel familiar with the potential hazards of the operation;<sup>p2</sup>

(c) delineate cleaning and sanitization procedures for food-contact surfaces;<sup>p2</sup>

(6) describes the training program that ensures that the individual responsible for the reduced oxygen packaging operation understands the:<sup>p2</sup>

(a) concepts required for a safe operation;<sup>p2</sup>

(b) equipment and facilities;<sup>p2</sup> and

(c) procedures in subitem (5) and part 4626.1735, items C and D;<sup>p2</sup> and

(7) is provided to the regulatory authority prior to implementation as required by part 4626.1730, item B.

C. Except for fish that is frozen before, during, and after packaging, a food establishment must not package fish using a reduced oxygen packaging method. Reduced oxygen packaged fish must be held frozen until used or removed from reduced oxygen packaging prior to the thawing process.<sup>p1</sup>

D. Except as specified in items C and F, a food establishment that packages TCS food using a cook-chill or sous-vide process must:

(1) provide to the regulatory authority prior to implementation a HACCP plan that contains the information in part 4626.1735, items C and D;<sup>p2</sup>

(2) ensure the food is:

(a) prepared and consumed on the premises, or prepared and consumed off the premises but within the same business entity with no distribution or sale of the packaged product to another business entity or the consumer;<sub>p2</sub>

(b) cooked to heat all parts of the food to a temperature and for a time as specified in part 4626.0340, items A to C;<sub>p1</sub>

(c) protected from contamination before and after cooking as specified in parts 4626.0225 to 4626.0337 and 4626.0340 to 4626.0367;<sub>p1</sub>

(d) placed in a package with an oxygen barrier and sealed before cooking, or placed in a package and sealed immediately after cooking and before reaching a temperature below 135 degrees F (57 degrees C);<sub>p1</sub>

(e) cooled to 41 degrees F (5 degrees C) in the sealed package or bag as specified in part 4626.0385 and subsequently;<sub>p1</sub>

i. cooled to 34 degrees F (1 degree C) within 48 hours of reaching 41 degrees F (5 degrees C) and held at that temperature until consumed or discarded within 30 days after the date of packaging;<sub>p1</sub>

ii. held at 41 degrees F (5 degrees C) or less for no more than 7 days, at which time the food must be consumed or discarded;<sub>p1</sub> or

iii. held frozen with no shelf life restriction while frozen until consumed or used;<sub>p1</sub>

(f) held in a refrigeration unit that is equipped with an electronic system that continuously monitors time and temperature and is visually examined for proper operation twice daily;<sub>p2</sub>

(g) if transported off-site to a satellite location of the same business entity, equipped with verifiable electronic monitoring devices to ensure that times and temperatures are monitored during transportation;<sub>p2</sub> and

(h) labeled with the product name and the date packaged;<sub>p2</sub>

(3) maintain the records required to confirm that cooling and cold holding refrigeration time/temperature parameters are required as part of the HACCP plan and:

(a) make records available to the regulatory authority upon request; <sub>p2</sub>and

(b) hold records for at least 6 months;<sub>p2</sub> and

(4) implement written operational procedures as specified in item B, subitem (5), and a training program as specified in item B, subitem (6).<sub>p2</sub>

E. Except as specified in item F, a food establishment that packages cheese using a reduced oxygen packaging method must:

(1) limit the cheeses packaged to those that are commercially manufactured in a food processing plant with no ingredients added in the food establishment and that meet the standards of identity as specified in Code of Federal Regulations, title 21, section 133.150; 133.169; or 133.187;<sub>p1</sub>

(2) have a HACCP plan that contains the information in part 4626.1735, items C and D;<sub>p2</sub>

(3) label the package on the principal display panel with a "use by" date that does not exceed 30 days from its packaging or the original manufacturer's "sell by" or "use by" date, whichever occurs first;<sub>p2</sub> and

(4) discard the reduced oxygen packaged cheese if it is not sold for off-premises consumption or consumed within 30 calendar days of its packaging.<sub>p2</sub>

F. A HACCP plan is not required when a food establishment uses a reduced oxygen packaging method to package TCS food that is always:

(1) labeled with the production time and date;

(2) held at 41 degrees F (5 degrees C) or less during refrigerated storage; and

(3) removed from its package in the food establishment within 48 hours after packaging.

**Statutory Authority:** *MS s 31.101; 31.11; 144.05; 144.07; 144.08; 144.12; 157.011*

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## FOOD IDENTITY

### 4626.0425 PACKAGED FOOD; STANDARDS OF IDENTITY. 3-601.11

Packaged food must comply with parts 1545.0360 to 1545.0410 and chapter 1550; the standard of identity requirements in Code of Federal Regulations, title 21, parts 131 to 169, and Code of Federal Regulations, title 9, part 319; and the general requirements in Code of Federal Regulations, title 21, part 130.

**Statutory Authority:** *MS s 31.101; 31.11; 144.05; 144.07; 144.08; 144.12; 157.011*

**History:** *23 SR 519; 43 SR 295*

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### 4626.0430 FOOD HONESTLY PRESENTED. 3-601.12

A. Food must be offered for human consumption in a way that does not mislead or misinform the consumer.

B. Food or color additives, colored overwraps, or lights must not be used to misrepresent the true appearance, color, or quality of food.

**Statutory Authority:** *MS s 31.101; 31.11; 144.05; 144.07; 144.08; 144.12; 157.011*

**History:** *23 SR 519; 43 SR 295*

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#### **4626.0435 FOOD LABELS. 3-602.11**

A. Food packaged in a food establishment must be labeled as specified in law, including Code of Federal Regulations, title 21, part 101, and Code of Federal Regulations, title 9, part 317.

B. Label information must include:

(1) the common name of the food, or absent a common name, an adequately descriptive identity statement;

(2) if made from two or more ingredients, a list of ingredients and subingredients in descending order of predominance by weight, including a declaration of artificial color or flavor and chemical preservatives, if contained in the food;

(3) an accurate declaration of the quantity of contents;

(4) the name and place of business of the manufacturer, packer, or distributor;

(5) the name of the food source for each major food allergen contained in the food unless the food source is already part of the common or usual name of the respective ingredient;<sup>p2</sup>

(6) except as exempted under United States Code, title 21, section 343(q)(3) to (5), nutrition labeling that includes information specified in Code of Federal Regulations, title 21, part 101, and Code of Federal Regulations, title 9, part 317, subpart B; and

(7) for any salmonid fish containing canthaxanthin or astaxanthin as a color additive, the labeling of the bulk fish container, including a list of ingredients, displayed on the retail container or by other written means, such as a counter card, and must disclose the use of canthaxanthin or astaxanthin.

C. Bulk food that is available for consumer self-dispensing must be prominently labeled with the following information in plain view of the consumer:

(1) the manufacturer's or processor's label that was provided with the food; or

(2) a card, sign, or other method of notification that includes the information in item B, subitems (1), (2), and (6).

D. Bulk, unpackaged foods such as bakery products and unpackaged foods that are portioned to consumer specification need not be labeled if:

(1) a health, nutrient content, or other claim is not made;

(2) labeling is not required under parts 1520.1600 and 1545.0810 to 1545.0880, chapter 1550, and Minnesota Statutes, section 31.82; and



(3) the food is manufactured or prepared on the premises of the food establishment or at another food establishment or a food processing plant that is owned by the same person and is regulated by the food regulatory agency that has jurisdiction.

**Statutory Authority:** *MS s 31.101; 31.11; 144.05; 144.07; 144.08; 144.12; 157.011*

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#### **4626.0440 OTHER FORMS OF INFORMATION. 3-602.12**

A. If required by law, consumer warnings must be provided.

B. A food establishment's or manufacturer's dating information on foods must not be concealed or altered.

**Statutory Authority:** *MS s 31.101; 31.11; 144.05; 144.07; 144.08; 144.12; 157.011*

**History:** *23 SR 519; 43 SR 295*

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#### **4626.0442 CONSUMER ADVISORY; DISCLOSURE. 3-603.11**

A. Except as specified in parts 4626.0340, items C and D, subitem (4), and 4626.0447, item C, if an animal food such as beef, eggs, fish, lamb, milk, pork, poultry, or shellfish is served or sold raw, undercooked, or without otherwise being processed to eliminate pathogens, either in ready-to-eat form or as an ingredient in another ready-to-eat food, the license holder shall inform consumers of the significantly increased risk of consuming such foods by way of a disclosure and reminder, as specified in items B and C, using brochures, deli case or menu advisories, label statements, table tents, placards, or other effective written means.<sup>p2</sup>

B. The disclosure must include:

(1) a description of the animal-derived foods, such as "oysters on the half shell (raw oysters)," "raw-egg Caesar salad," and "hamburgers (can be cooked to order)";<sup>p2</sup> or

(2) identification of the animal-derived foods by asterisking them to a footnote that states the items are served raw or undercooked, or contain, or may contain, raw or undercooked ingredients.<sup>p2</sup>

C. The reminder must include asterisking the animal-derived foods requiring disclosure to a footnote that states:

(1) regarding the safety of these items, written information is available upon request;<sup>p2</sup>

(2) consuming raw or undercooked meats, poultry, seafood, shellfish, or eggs may increase your risk of foodborne illness;<sup>p2</sup> or

(3) consuming raw or undercooked meats, poultry, seafood, shellfish, or eggs may increase your risk of foodborne illness, especially if you have certain medical conditions.<sup>p2</sup>

**Statutory Authority:** *MS s 31.101; 31.11; 144.07; 157.011*

**History:** *43 SR 295*

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### **CONTAMINATED FOOD**

#### **4626.0445 UNSAFE, ADULTERATED, OR CONTAMINATED FOOD. 3-701.11**

A. A food that is unsafe or adulterated as specified in part 4626.0125 or not honestly presented as specified in part 4626.0430 must be discarded or reconditioned according to Minnesota Statutes, section 31.495.<sup>p1</sup>

B. Food that is not from an approved source specified in parts 4626.0130 to 4626.0160 must be discarded.<sup>p1</sup>

C. Ready-to-eat food that may have been contaminated by an employee who has been restricted or excluded as specified in part 4626.0045 must be discarded.<sup>p1</sup>

D. Food that is contaminated by food employees, consumers, or other persons through contact with hands, bodily discharges, including nasal or oral discharges, or other means must be discarded.<sup>p1</sup>

**Statutory Authority:** *MS s 31.101; 31.11; 144.05; 144.07; 144.08; 144.12; 157.011*

**History:** *23 SR 519; 43 SR 295*

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#### **4626.0447 FOOD SERVED TO A HIGHLY SUSCEPTIBLE POPULATION. 3-801.11**

In a food establishment that serves a highly susceptible population, the criteria in this part must be followed.

A. The following criteria apply to juice:

(1) for the purposes of this item only, children who are age 9 or less and receive food in a school, day care setting, or similar facility that provides custodial care are included as highly susceptible populations;

(2) prepackaged juice or a prepackaged beverage containing juice that bears a warning label as specified in Code of Federal Regulations, title 21, part 101, subpart A, section 101.17 (g), or a packaged juice or beverage containing juice that bears a warning label as specified in part 4626.0367, item B, must not be served or offered for sale;<sup>p1</sup> and

(3) unpackaged juice that is prepared on the premises for service or sale in a ready-to-eat form must be processed under a HACCP plan that contains the information in part 4626.1735, items C to E, and Code of Federal Regulations, title 21, part 120, subpart B, section 120.24.<sup>p1</sup>

B. Pasteurized eggs or egg products must be substituted for raw eggs in the preparation of:

(1) foods such as Caesar salad, hollandaise or Bearnaise sauce, mayonnaise, meringue, eggnog, ice cream, and egg-fortified beverages;<sup>p1</sup> and

(2) except as specified in item F, recipes in which more than 1 egg is broken and the eggs are combined.<sup>p1</sup>

C. The following foods may not be served or offered for sale in a ready-to-eat form:

(1) raw animal foods such as raw fish, raw marinated fish, raw molluscan shellfish, and steak tartare;<sup>p1</sup>

(2) a partially cooked animal food such as lightly cooked fish, rare meat, soft-cooked eggs that are made from raw eggs, and meringue;<sup>p1</sup> and

(3) raw seed sprouts.<sup>p1</sup>

D. Food employees may not contact ready-to-eat food as specified in part 4626.0225, item A.<sup>p1</sup>

E. Time only, as the public health control as specified in part 4626.0408, item D, may not be used for raw eggs.<sup>p1</sup>

F. Item B, subitem (2), does not apply if:

(1) the raw eggs are combined immediately before cooking for one consumer's serving at a single meal, cooked as specified in part 4626.0340, item A, subitem (1), and served immediately, such as an omelet, souffle, or scrambled eggs;

(2) the raw eggs are combined as an ingredient immediately before baking and the eggs are thoroughly cooked to a ready-to-eat form, such as a cake, muffin, or bread; or

(3) the preparation of the food is conducted under a HACCP plan that:

(a) identifies the food to be prepared;

(b) prohibits contacting ready-to-eat food with bare hands;

(c) includes specifications and practices that ensure:

i. *Salmonella* Enteritidis growth is controlled before and after cooking; and

ii. *Salmonella* Enteritidis is destroyed by cooking the eggs according to the temperature and time specified in part 4626.0340, item A, subitem (2);

(d) contains the information in part 4626.1735, item D, including procedures that:

i. control cross-contamination of ready-to-eat food with raw eggs; and

ii. delineate cleaning and sanitization procedures for food-contact surfaces; and

(e) describes the training program that ensures that the food employee responsible for the preparation of the food understands the procedures to be used.

G. Except as specified in item H, food may be re-served as specified in part 4626.0335, item B, subitems (1) and (2).

H. Food may not be re-served under the following conditions:

(1) any food served to patients or clients who are under contact precautions in medical isolation, quarantine, or protective environment isolation may not be re-served to others outside; or

(2) packages of food from any patients, clients, or other consumers must not be re-served to persons in protective environment isolation.

**Statutory Authority:** *MS s 31.101; 31.11; 144.07; 157.011*

**History:** *43 SR 295*

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### EQUIPMENT CONSTRUCTION MATERIALS

#### 4626.0450 FOOD-CONTACT SURFACES; CHARACTERISTICS AND MATERIALS. 4-101.11

Materials that are used in the construction of utensils and food-contact surfaces of equipment must not allow the migration of deleterious substances or impart colors, odors, or tastes to food and under normal use conditions must be:

- A. safe;
- B. durable, corrosion-resistant, and nonabsorbent;
- C. sufficient in weight and thickness to withstand repeated warewashing;
- D. finished to have a smooth, easily cleanable surface; and
- E. resistant to pitting, chipping, crazing, scratching, scoring, distortion, and decomposition.

**Statutory Authority:** *MS s 31.101; 31.11; 144.05; 144.07; 144.08; 144.12; 157.011*

**History:** *23 SR 519; 43 SR 295*

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#### 4626.0455 CAST IRON; USE LIMITATION. 4-101.12

A. Except as specified in items B and C, cast iron must not be used for utensils or food-contact surfaces of equipment.

B. Cast iron may be used as a surface for cooking.

C. Cast iron may be used in utensils for serving food if the utensils are used only as part of an uninterrupted process from cooking through service.

**Statutory Authority:** *MS s 31.101; 31.11; 144.05; 144.07; 144.08; 144.12; 157.011*

**History:** 23 SR 519; 43 SR 295

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#### 4626.0460 LEAD USE LIMITATION. 4-101.13

A. Ceramic, china, crystal utensils, and decorative utensils, such as hand-painted ceramic or china, that are used in contact with food must be lead-free or contain levels of lead not exceeding the limits of the following utensil categories:<sup>p1</sup>

Utensil Category	Ceramic Article Description	Maximum Lead mg/L
Beverage mugs, cups, pitchers	Coffee mugs	0.5
Large hollowware (excluding pitchers)	Bowls $\geq$ 1.16 quart (1.1 liter)	1.0
Small hollowware (excluding cups and mugs)	Bowls $<$ 1.16 quart (1.1 liter)	2.0
Flat tableware	Plates, saucers	3.0

B. Pewter alloys containing lead in excess of 0.05 percent must not be used as a food-contact surface.<sup>p1</sup>

C. Solder and flux containing lead in excess of 0.2 percent must not be used as a food-contact surface.

**Statutory Authority:** MS s 31.101; 31.11; 144.05; 144.07; 144.08; 144.12; 157.011

**History:** 23 SR 519; 43 SR 295

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#### 4626.0465 COPPER; USE LIMITATION. 4-101.14

A. Except as specified in item B, copper and copper alloys, such as brass, must not be used in contact with a food that has a pH below 6, such as vinegar, fruit juice, or wine, or for a fitting or tubing installed between a backflow prevention device and a carbonator.<sup>p1</sup>

B. Copper and copper alloys may be used in contact with beer brewing ingredients that have a pH below 6 in the prefermentation and fermentation steps of a beer brewing operation such as a brewpub or microbrewery.

**Statutory Authority:** MS s 31.101; 31.11; 144.05; 144.07; 144.08; 144.12; 157.011

**History:** 23 SR 519; 43 SR 295

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**4626.0470 GALVANIZED METAL; USE LIMITATION. 4-101.15**

Galvanized metal must not be used for utensils or food-contact surfaces of equipment that are used in contact with acidic food.<sup>p1</sup>

**Statutory Authority:** *MS s 31.101; 31.11; 144.05; 144.07; 144.08; 144.12; 157.011*

**History:** *23 SR 519; 43 SR 295*

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**4626.0475 SPONGES; USE LIMITATION. 4-101.16**

Sponges must not be used in contact with cleaned and sanitized or in-use food-contact surfaces.

**Statutory Authority:** *MS s 31.101; 31.11; 144.05; 144.07; 144.08; 144.12; 157.011*

**History:** *23 SR 519; 43 SR 295*

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**4626.0480** [Repealed, 43 SR 295]

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**4626.0485** [Repealed, 43 SR 295]

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**4626.0490 WOOD; USE LIMITATION. 4-101.17**

A. Except as specified in items B to D, wood and wood wicker must not be used as a food-contact surface.

B. Hard maple or an equivalently hard, close-grained wood may be used for:

(1) cutting boards, cutting blocks, bakers' tables, and utensils such as rolling pins, doughnut dowels, salad bowls, and chopsticks; and

(2) wooden paddles used in confectionery operations for pressure scraping kettles when manually preparing confections at a temperature of 230 degrees F (110 degrees C) or above.

C. Whole, uncut, raw fruits and vegetables and nuts in the shell may be kept in the wood shipping containers in which they were received, until the fruits, vegetables, or nuts are used.

D. If the nature of the food requires removal of rinds, peels, husks, or shells before consumption, the whole, uncut, raw food may be kept in:

(1) untreated wood containers; or

(2) treated wood containers if the containers are treated with a preservative that meets the requirements in Code of Federal Regulations, title 21, section 178.3800.

**Statutory Authority:** *MS s 31.101; 31.11; 144.05; 144.07; 144.08; 144.12; 157.011*

**History:** 23 SR 519; 43 SR 295

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#### **4626.0493 NONSTICK COATINGS; USE LIMITATIONS. 4-101.18**

Multiuse kitchenware such as frying pans, griddles, sauce pans, cookie sheets, and waffle bakers that have a nonstick coating must be used with nonscouring or nonscratching utensils and cleaning aids.

**Statutory Authority:** *MS s 31.101; 31.11; 144.05; 144.07; 144.08; 144.12; 157.011*

**History:** 23 SR 519; 43 SR 295

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#### **4626.0495 NON-FOOD-CONTACT SURFACES; CHARACTERISTICS. 4-101.19**

Non-food-contact surfaces of equipment that are exposed to splash, spillage, or other food soiling or that require frequent cleaning must be constructed of a corrosion-resistant, nonabsorbent, and smooth material.

**Statutory Authority:** *MS s 31.101; 31.11; 144.05; 144.07; 144.08; 144.12; 157.011*

**History:** 23 SR 519; 43 SR 295

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#### **4626.0500 SINGLE-SERVICE AND SINGLE-USE ARTICLES; CHARACTERISTICS. 4-102.11**

Materials that are used to make single-service and single-use articles:

A. must not:

- (1) allow the migration of deleterious substances;<sup>p1</sup> or
- (2) impart colors, odors, or tastes to food; and

B. must be:

- (1) safe;<sup>p1</sup> and
- (2) clean.

**Statutory Authority:** *MS s 31.101; 31.11; 144.05; 144.07; 144.08; 144.12; 157.011*

**History:** 23 SR 519; 43 SR 295

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**EQUIPMENT DESIGN AND CONSTRUCTION****4626.0505 EQUIPMENT AND UTENSILS. 4-201.11**

Equipment and utensils must be designed and constructed to be durable and to retain their characteristic qualities under normal use conditions.

**Statutory Authority:** *MS s 31.101; 31.11; 144.05; 144.07; 144.08; 144.12; 157.011*

**History:** *23 SR 519; 43 SR 295*

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**4626.0506 EQUIPMENT.**

A. The following equipment, including types of equipment listed in this part that are custom fabricated, must be certified or classified for sanitation by an American National Standards Institute (ANSI) accredited certification program for food service equipment:

- (1) manual warewashing sinks;
- (2) mechanical warewashing equipment;
- (3) mechanical refrigeration units except for units or equipment designed and used to maintain food in a frozen state;
- (4) walk-in freezers;
- (5) food hot-holding equipment;
- (6) cooking equipment, except for microwave ovens and toasters;
- (7) ice machines;
- (8) mechanical slicers;
- (9) mechanical tenderizers and grinders; and
- (10) food preparation surfaces including sinks used for food preparation.

B. Exhaust hoods must meet the requirements in the Minnesota Mechanical Code, Minnesota Rules, chapter 1346.

C. Vending machines and machines used to dispense water or food must be certified or classified for sanitation by an American National Standards Institute (ANSI) accredited certification program or be accredited to meet the standards of the National Automatic Merchandising Association (NAMA) specified in NAMA Standard for the Sanitary Design and Construction of Food and Beverage Vending Machines. This publication is incorporated by reference, is subject to infrequent change, and can be found at [www.namanow.org/vending/certified-companies](http://www.namanow.org/vending/certified-companies).

D. Vending machines that vend water must meet the standards in parts 1550.3200 to 1550.3320.



E. If a standard developed by an ANSI-accredited standards developer is not available for a piece of equipment specified in item A, the equipment must:

- (1) be designed for commercial use;
- (2) be durable, smooth, and easily cleanable;
- (3) be readily accessible for cleaning; and
- (4) have food-contact surfaces that are not toxic.

F. A neighborhood kitchen may use equipment other than ANSI-certified equipment required in item A to heat and serve food previously cooked in a primary approved commercial kitchen. A neighborhood kitchen may also prepare and serve food other than raw animal foods, provided that grease or moisture does not accumulate on adjacent surfaces.

G. A food establishment that is an adult care center, child care center, or boarding establishment does not need to comply with item A if approved by the regulatory authority and the food establishment:

- (1) serves only non-TCS food; or
- (2) prepares TCS foods only for same-day service.

H. A bed and breakfast serving only 1 meal a day does not need to comply with item A.

I. A special event food stand, retail food vehicle, portable structure, or cart does not need to comply with item A.

**Statutory Authority:** *MS s 31.101; 31.11; 144.07; 157.011*

**History:** *43 SR 295*

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#### **4626.0510 FOOD TEMPERATURE MEASURING DEVICES. 4-201.12**

Food temperature measuring devices must not have sensors or stems constructed of glass, except that thermometers with glass sensors or stems that are encased in a shatterproof coating such as candy thermometers may be used.<sub>p1</sub>

**Statutory Authority:** *MS s 31.101; 31.11; 144.05; 144.07; 144.08; 144.12; 157.011*

**History:** *23 SR 519; 43 SR 295*

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#### **4626.0515 MULTIUSE FOOD-CONTACT SURFACES; CHARACTERISTICS. 4-202.11**

A. Multiuse food-contact surfaces must be:

- (1) smooth;<sub>p2</sub>
- (2) free of breaks, open seams, cracks, chips, inclusions, pits, and similar imperfections;<sub>p2</sub>

- (3) free of sharp internal angles, corners, and crevices;<sup>p2</sup>
- (4) finished to have smooth welds and joints;<sup>p2</sup> and
- (5) except as specified in item B, accessible for cleaning and inspection by one of the following methods:
  - (a) without being disassembled;<sup>p2</sup>
  - (b) by disassembling without the use of tools;<sup>p2</sup> or
  - (c) by easy disassembling with the use of hand-held tools commonly available to maintenance and cleaning personnel, such as screwdrivers, pliers, open-end wrenches, and Allen wrenches.<sup>p2</sup>

B. Item A, subitem (5), does not apply to cooking oil storage tanks, distribution lines for cooking oils, or beverage syrup lines or tubes.

**Statutory Authority:** *MS s 31.101; 31.11; 144.05; 144.07; 144.08; 144.12; 157.011*

**History:** *23 SR 519; 43 SR 295*

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#### **4626.0520 CIP EQUIPMENT. 4-202.12**

A. CIP equipment must meet the characteristics in part 4626.0515 and must be designed and constructed so that:

- (1) cleaning and sanitizing solutions circulate throughout a fixed system and contact all interior food-contact surfaces;<sup>p2</sup> and
- (2) the system is self-draining or capable of being completely drained of cleaning and sanitizing solutions.

B. CIP equipment that is not designed to be disassembled for cleaning must be designed with inspection access points to ensure that all interior food-contact surfaces throughout the fixed system are effectively cleaned.

**Statutory Authority:** *MS s 31.101; 31.11; 144.05; 144.07; 144.08; 144.12; 157.011*

**History:** *23 SR 519; 43 SR 295*

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#### **4626.0525 "V"-TYPE THREADS; USE LIMITATION. 4-202.13**

Except for hot oil cooking or filtering equipment, "V"-type threads must not be used on food-contact surfaces.

**Statutory Authority:** *MS s 31.101; 31.11; 144.05; 144.07; 144.08; 144.12; 157.011*

**History:** *23 SR 519; 43 SR 295*

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**4626.0530 HOT OIL FILTERING EQUIPMENT. 4-202.14**

Hot oil filtering equipment must meet the characteristics specified in part 4626.0515 or 4626.0520 and must be readily accessible for filter replacement and cleaning.

**Statutory Authority:** *MS s 31.101; 31.11; 144.05; 144.07; 144.08; 144.12; 157.011*

**History:** *23 SR 519; 43 SR 295*

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**4626.0535 CAN OPENERS. 4-202.15**

Cutting or piercing parts of can openers must be readily removable for cleaning and replacement.

**Statutory Authority:** *MS s 31.101; 31.11; 144.05; 144.07; 144.08; 144.12; 157.011*

**History:** *23 SR 519; 43 SR 295*

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**4626.0540 NON-FOOD-CONTACT SURFACES. 4-202.16**

Non-food-contact surfaces must be free of unnecessary ledges, projections, and crevices, and designed and constructed to allow easy cleaning and to facilitate maintenance.

**Statutory Authority:** *MS s 31.101; 31.11; 144.05; 144.07; 144.08; 144.12; 157.011*

**History:** *23 SR 519; 43 SR 295*

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**4626.0545 KICK PLATES, REMOVABLE; ENCLOSED HOLLOW BASES. 4-202.17**

A. Kick plates must be designed so that the areas behind them are accessible for inspection and cleaning by being:

(1) removable by one of the methods in part 4626.0515, item A, subitem (5), or capable of being rotated open; and

(2) removable or capable of being rotated open without unlocking equipment doors.

B. In new or extensively remodeled establishments, enclosed hollow bases are prohibited.

**Statutory Authority:** *MS s 31.101; 31.11; 144.05; 144.07; 144.08; 144.12; 157.011*

**History:** *23 SR 519; 43 SR 295*

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**4626.0550 VENTILATION HOOD SYSTEMS; FILTERS. 4-202.18**

Filters or other grease extracting equipment must be designed to be readily removable for cleaning and replacing if not designed to be cleaned in place.

**Statutory Authority:** *MS s 31.101; 31.11; 144.05; 144.07; 144.08; 144.12; 157.011*

**History:** 23 SR 519; 43 SR 295

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**4626.0555 TEMPERATURE MEASURING DEVICES; FOOD. 4-203.11**

A. Food temperature measuring devices that are scaled only in Celsius or dually scaled in Celsius and Fahrenheit must be accurate to plus or minus 1 degree C in the intended range of use.<sup>p2</sup>

B. Food temperature measuring devices that are scaled only in Fahrenheit must be accurate to plus or minus 2 degrees F in the intended range of use.<sup>p2</sup>

**Statutory Authority:** *MS s 31.101; 31.11; 144.05; 144.07; 144.08; 144.12; 157.011*

**History:** 23 SR 519; 43 SR 295

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**4626.0560 TEMPERATURE MEASURING DEVICES; AMBIENT AIR AND WATER. 4-203.12**

A. Ambient air and water temperature measuring devices that are scaled in Celsius or dually scaled in Celsius and Fahrenheit must be designed to be easily readable and accurate to plus or minus 1.5 degrees C in the intended range of use.<sup>p2</sup>

B. Ambient air and water temperature measuring devices that are scaled only in Fahrenheit must be accurate to plus or minus 3 degrees F in the intended range of use.<sup>p2</sup>

**Statutory Authority:** *MS s 31.101; 31.11; 144.05; 144.07; 144.08; 144.12; 157.011*

**History:** 23 SR 519; 43 SR 295

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**4626.0563 PRESSURE MEASURING DEVICES; MECHANICAL WAREWASHING EQUIPMENT. 4-203.13**

Pressure measuring devices that display the pressures in the water supply line for the fresh hot water sanitizing rinse must have increments of 1 pound per square inch (7 kilopascals) or smaller and must be accurate to plus or minus 2 pounds per square inch (plus or minus 14 kilopascals) in the range indicated on the manufacturer's data plate.

**Statutory Authority:** *MS s 31.101; 31.11; 144.05; 144.07; 144.08; 144.12; 157.011*

**History:** 23 SR 519; 43 SR 295

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**4626.0565 VENTILATION HOOD SYSTEMS, DRIP PREVENTION. 4-204.11**

Exhaust ventilation hood systems in food preparation and warewashing areas, including hoods, fans, guards, ducting, and other components, must be designed to prevent grease or condensation from draining or dripping onto food, equipment, utensils, linens, and single-service and single-use articles.

**Statutory Authority:** *MS s 31.101; 31.11; 144.05; 144.07; 144.08; 144.12; 157.011*

**History:** *23 SR 519; 43 SR 295*

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**4626.0570 EQUIPMENT OPENINGS, CLOSURES, AND DEFLECTORS. 4-204.12**

- A. A cover or lid for equipment must overlap the opening and be sloped to drain.
- B. An opening located within the top of a unit of equipment that is designed for use with a cover or lid must be flanged upward at least 2/10 inch (5 millimeters).
- C. Except as specified in item D, fixed piping, temperature measuring devices, rotary shafts, and other parts extending into equipment must be provided with a watertight joint at the point where the item enters the equipment.
- D. If a watertight joint is not provided:
  - (1) the piping, temperature measuring devices, rotary shafts, and other parts extending through the openings must be equipped with an apron designed to deflect condensation, drips, and dust from openings into the food; and
  - (2) the opening must be flanged as specified in item B.

**Statutory Authority:** *MS s 31.101; 31.11; 144.05; 144.07; 144.08; 144.12; 157.011*

**History:** *23 SR 519; 43 SR 295*

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**4626.0575 DISPENSING EQUIPMENT; PROTECTION OF EQUIPMENT AND FOOD. 4-204.13**

In equipment that dispenses or vends liquid food or ice in unpackaged form:

- A. the delivery tube, chute, orifice, and splash surfaces directly above the container receiving the food must be designed in a manner, such as with barriers, baffles, or drip aprons, so that drips from condensation and splash are diverted from the opening of the container receiving the food;
- B. the delivery tube, chute, and orifice must be protected from manual contact such as by being recessed;
- C. the delivery tube or chute and orifice of equipment used to vend liquid food or ice in unpackaged form to self-service consumers must be designed so that the delivery tube or chute and orifice are protected from dust, insects, rodents, and other contamination by a self-closing door if the equipment is:
  - (1) located in an outside area that does not otherwise afford the protection of an enclosure against rain, windblown debris, insects, rodents, and other contaminants that are present in the environment; or

(2) available for self-service during hours when it is not under the full-time supervision of a food employee;

D. the dispensing equipment actuating lever or mechanism and filling device of consumer self-service beverage dispensing equipment must be designed to prevent contact with the lip-contact surface of glasses or cups that are refilled; and

E. the dispensing equipment in which TCS food in a homogenous liquid form is maintained outside of the temperature control requirements in part 4626.0395, item A, must:

(1) be specifically designed and equipped to maintain the commercial sterility of aseptically packaged food in a homogenous liquid form for a specified duration from the time of opening the packaging within the equipment;<sup>p1</sup> and

(2) conform to the requirements for this equipment as specified in NSF 18-2016 (Manual Food and Beverage Dispensing Equipment). This publication is incorporated by reference, is subject to frequent change, and can be found at [www.nsfpdf.com](http://www.nsfpdf.com).<sup>p1</sup>

**Statutory Authority:** *MS s 31.101; 31.11; 144.05; 144.07; 144.08; 144.12; 157.011*

**History:** *23 SR 519; 43 SR 295*

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#### **4626.0580 VENDING MACHINE; VENDING STAGE CLOSURE. 4-204.14**

The dispensing compartment of a vending machine, including a machine that is designed to vend prepackaged snack food that is not TCS, such as chips, party mixes, and pretzels, must be equipped with a self-closing door or cover if the machine is:

A. located in an outside area that does not otherwise afford the protection of an enclosure against rain, windblown debris, insects, rodents, and other contaminants that are present in the environment; or

B. available for self-service during hours when it is not under the full-time supervision of a food employee.

**Statutory Authority:** *MS s 31.101; 31.11; 144.05; 144.07; 144.08; 144.12; 157.011*

**History:** *23 SR 519; 43 SR 295*

**Published Electronically:** *January 2, 2019*

#### **4626.0585 BEARINGS AND GEAR BOXES; LEAKPROOF. 4-204.15**

Equipment containing bearings and gears that require lubricants must be designed and constructed so that the lubricant cannot leak, drip, or be forced into food or onto food-contact surfaces.

**Statutory Authority:** *MS s 31.101; 31.11; 144.05; 144.07; 144.08; 144.12; 157.011*

**History:** *23 SR 519; 43 SR 295*

**Published Electronically:** *January 2, 2019*

**4626.0590 BEVERAGE TUBING; SEPARATION. 4-204.16**

Except for cold plates that are constructed integrally with an ice storage bin, beverage tubing and cold-plate beverage cooling devices must not be installed in contact with stored ice.

**Statutory Authority:** *MS s 31.101; 31.11; 144.05; 144.07; 144.08; 144.12; 157.011*

**History:** *23 SR 519; 43 SR 295*

**Published Electronically:** *January 2, 2019*

**4626.0595 ICE UNITS; SEPARATION OF DRAINS. 4-204.17**

Liquid waste drain lines must not pass through an ice machine or ice storage bin.

**Statutory Authority:** *MS s 31.101; 31.11; 144.05; 144.07; 144.08; 144.12; 157.011*

**History:** *23 SR 519; 43 SR 295*

**Published Electronically:** *January 2, 2019*

**4626.0600 CONDENSER UNIT; SEPARATION. 4-204.18**

If a condenser unit is an integral component of equipment, the condenser unit must be separated from the food and food storage space by a dustproof barrier.

**Statutory Authority:** *MS s 31.101; 31.11; 144.05; 144.07; 144.08; 144.12; 157.011*

**History:** *23 SR 519; 43 SR 295*

**Published Electronically:** *January 2, 2019*

**4626.0605 CAN OPENERS ON VENDING MACHINES. 4-204.19**

Cutting or piercing parts of can openers on vending machines must be protected from manual contact, dust, insects, rodents, and other contamination.

**Statutory Authority:** *MS s 31.101; 31.11; 144.05; 144.07; 144.08; 144.12; 157.011*

**History:** *23 SR 519; 43 SR 295*

**Published Electronically:** *January 2, 2019*

**4626.0610 MOLLUSCAN SHELLFISH TANKS. 4-204.110**

A. Except as specified in item B, molluscan shellfish life support system display tanks must be used only to display shellfish that are not offered for human consumption and must be conspicuously marked so that it is obvious to the consumer that the shellfish are for display only.<sup>p1</sup>

B. Molluscan shellfish life support system display tanks used to store or display shellfish that are offered for human consumption must be operated and maintained according to a variance granted by the regulatory authority as specified in parts 4626.1690 to 4626.1715, and a HACCP plan that:<sup>p2</sup>

(1) is submitted by the licensee and approved by the regulatory authority as specified in parts 4626.1690 to 4626.1715; <sub>p2</sub> and

(2) ensures that:

(a) water used with fish other than molluscan shellfish does not flow into the molluscan tank; <sub>p2</sub>

(b) the safety and quality of the shellfish as they were received are not compromised by use of the tank; <sub>p2</sub> and

(c) the identity of the source of the shellstock is retained as specified in part 4626.0220. <sub>p2</sub>

**Statutory Authority:** *MS s 31.101; 31.11; 144.05; 144.07; 144.08; 144.12; 157.011*

**History:** *23 SR 519; 43 SR 295*

**Published Electronically:** *January 2, 2019*

#### **4626.0615 VENDING MACHINES; AUTOMATIC SHUTOFF. 4-204.111**

A. A machine vending TCS food must have an automatic control that prevents the machine from vending food:

(1) if there is a power failure, mechanical failure, or other condition that results in an internal machine temperature that cannot maintain food temperatures as specified in parts 4626.0370 and 4626.0395; <sub>p1</sub> and

(2) if a condition specified in this part occurs, until the machine is serviced and restocked with food that has been maintained at temperatures specified in parts 4626.0370 and 4626.0395. <sub>p1</sub>

B. When the automatic shutoff within a machine vending TCS food is activated:

(1) in a refrigerated vending machine, the ambient air temperature must not exceed 41 degrees F (5 degrees C) for more than 30 minutes immediately after the machine is filled, serviced, or restocked; <sub>p1</sub> or

(2) in a hot holding vending machine, the ambient air temperature must not be less than 135 degrees F (57 degrees C) for more than 120 minutes immediately after the machine is filled, serviced, or restocked. <sub>p1</sub>

**Statutory Authority:** *MS s 31.101; 31.11; 144.05; 144.07; 144.08; 144.12; 157.011*

**History:** *23 SR 519; 43 SR 295*

**Published Electronically:** *January 2, 2019*

#### **4626.0620 AMBIENT AIR TEMPERATURE MEASURING DEVICES. 4-204.112**

A. In a mechanically refrigerated or hot food storage unit, the sensor of a temperature measuring device must be located to measure the air temperature or a simulated product temperature



in the warmest part of a mechanically refrigerated unit and in the coolest part of a hot food storage unit.

B. Except as specified in item C, cold or hot holding equipment used for TCS food must be designed to include and must be equipped with at least 1 integral or permanently affixed temperature measuring device that is located to allow easy viewing of the device's temperature display.

C. Item B does not apply to equipment for which the placement of a temperature measuring device is not a practical means for measuring the ambient air surrounding the food because of the design, type, and use of the equipment, such as calrod units, heat lamps, cold plates, bainmaries, steam tables, insulated food transport containers, and salad bars.

D. Temperature measuring devices must be designed to be easily readable.

E. Food temperature measuring devices and water temperature measuring devices on warewashing machines must have a numerical scale, printed record, or digital readout in increments no greater than 2 degrees F or 1 degree C in the intended range of use.<sup>p2</sup>

**Statutory Authority:** *MS s 31.101; 31.11; 144.05; 144.07; 144.08; 144.12; 157.011*

**History:** *23 SR 519; 43 SR 295*

**Published Electronically:** *January 2, 2019*

#### **4626.0625 WAREWASHING MACHINES; DATA PLATE OPERATING SPECIFICATIONS. 4-204.113**

A warewashing machine must be provided with an easily accessible and readable data plate affixed to the machine by the manufacturer that indicates the machine's design and operating specifications, including the:

- A. temperatures required for washing, rinsing, and sanitizing;
- B. pressure required for the fresh water sanitizing rinse unless the machine is designed to use only a pumped sanitizing rinse; and
- C. conveyor speed for conveyor machines or cycle time for stationary rack machines.

**Statutory Authority:** *MS s 31.101; 31.11; 144.05; 144.07; 144.08; 144.12; 157.011*

**History:** *23 SR 519; 43 SR 295*

**Published Electronically:** *January 2, 2019*

#### **4626.0630 WAREWASHING MACHINES; INTERNAL BAFFLES. 4-204.114**

Warewashing machine wash and rinse tanks must be equipped with baffles, curtains, or other means to minimize internal cross-contamination of the solutions in wash and rinse tanks.

**Statutory Authority:** *MS s 31.101; 31.11; 144.05; 144.07; 144.08; 144.12; 157.011*

**History:** 23 SR 519; 43 SR 295

**Published Electronically:** January 2, 2019

**4626.0635 WAREWASHING MACHINES; TEMPERATURE MEASURING DEVICES.  
4-204.115**

A warewashing machine must be equipped with a temperature measuring device that indicates the temperature of the water:

A. in each wash and rinse tank;<sup>p2</sup> and

B. as the water enters the hot water sanitizing final rinse manifold or in the chemical sanitizing solution tank.<sup>p2</sup>

**Statutory Authority:** MS s 31.101; 31.11; 144.05; 144.07; 144.08; 144.12; 157.011

**History:** 23 SR 519; 43 SR 295

**Published Electronically:** January 2, 2019

**4626.0640 MANUAL WAREWASHING EQUIPMENT; HEATERS AND BASKETS.  
4-204.116**

If hot water is used for sanitization in manual warewashing operations, the sanitizing compartment of the sink must be:

A. designed with an integral heating device that is capable of maintaining water at a temperature not less than 171 degrees F (77 degrees C);<sup>p2</sup> and

B. provided with a rack or basket to allow complete immersion of equipment and utensils into the hot water.<sup>p2</sup>

**Statutory Authority:** MS s 31.101; 31.11; 144.05; 144.07; 144.08; 144.12; 157.011

**History:** 23 SR 519; 43 SR 295

**Published Electronically:** January 2, 2019

**4626.0643 WAREWASHING MACHINES; AUTOMATIC DISPENSING OF DETERGENTS  
AND SANITIZERS. 4-204.117**

A warewashing machine that is installed after September 8, 1998, must be equipped to:

A. automatically dispense detergents and sanitizers;<sup>p2</sup> and

B. incorporate a visual means to verify that detergents and sanitizers are delivered or a visual or audible alarm to signal if the detergents and sanitizers are not delivered to the respective washing and sanitizing cycles.<sup>p2</sup>

**Statutory Authority:** MS s 31.101; 31.11; 144.05; 144.07; 144.08; 144.12; 157.011

**History:** 23 SR 519; 43 SR 295

**Published Electronically:** January 2, 2019

**4626.0645 WAREWASHING MACHINES; FLOW PRESSURE DEVICE. 4-204.118**

A. Warewashing machines that provide a fresh hot water sanitizing rinse must be equipped with a pressure gauge, or similar device such as a transducer, that measures and displays the water pressure in the supply line immediately before entering the warewashing machine.

B. If the flow pressure measuring device is upstream of the fresh hot water sanitizing rinse control valve, the device must be mounted in a 1/4-inch (6.4 millimeter) iron pipe size (IPS) valve.

C. Items A and B do not apply to a machine that uses only a pumped or recirculated sanitizing rinse.

**Statutory Authority:** *MS s 31.101; 31.11; 144.05; 144.07; 144.08; 144.12; 157.011*

**History:** *23 SR 519; 43 SR 295*

**Published Electronically:** *January 2, 2019*

**4626.0650 WAREWASHING SINKS AND DRAINBOARDS; SELF-DRAINING. 4-204.119**

Sinks and drainboards of warewashing sinks and machines must be self-draining.

**Statutory Authority:** *MS s 31.101; 31.11; 144.05; 144.07; 144.08; 144.12; 157.011*

**History:** *23 SR 519; 43 SR 295*

**Published Electronically:** *January 2, 2019*

**4626.0655 EQUIPMENT; DRAINAGE. 4-204.120**

Compartments that are subject to accumulation of moisture due to conditions such as condensation, food or beverage drip, or water from melting ice, must be sloped to an outlet that allows complete draining.

**Statutory Authority:** *MS s 31.101; 31.11; 144.05; 144.07; 144.08; 144.12; 157.011*

**History:** *23 SR 519; 43 SR 295*

**Published Electronically:** *January 2, 2019*

**4626.0660 VENDING MACHINES; LIQUID WASTE PRODUCTS. 4-204.121**

A. Vending machines designed to store beverages that are packaged in containers made from paper products must be equipped with diversion devices and retention pans or drains for container leakage.

B. Vending machines that dispense liquid food in bulk must be:

(1) provided with an internally mounted waste receptacle for the collection of drips, spillage, overflow, or other internal wastes; and

(2) equipped with an automatic shutoff device that will place the machine out of operation before the waste receptacle overflows.

C. The shutoff device in item B, subitem (2), must prevent water or liquid food from continuously running if there is a failure of a flow control device in the water or liquid food system or waste accumulation that could lead to overflow of the waste receptacle.

**Statutory Authority:** *MS s 31.101; 31.11; 144.05; 144.07; 144.08; 144.12; 157.011*

**History:** *23 SR 519; 43 SR 295*

**Published Electronically:** *January 2, 2019*

#### **4626.0665 CASE LOT HANDLING APPARATUSES; MOVEABILITY. 4-204.122**

Apparatuses, such as dollies, pallets, racks, and skids, used to store and transport large quantities of packaged foods received from a supplier in a cased or overwrapped lot must be designed to be moved by hand or by conveniently available apparatuses such as hand trucks and forklifts.

**Statutory Authority:** *MS s 31.101; 31.11; 144.05; 144.07; 144.08; 144.12; 157.011*

**History:** *23 SR 519; 43 SR 295*

**Published Electronically:** *January 2, 2019*

#### **4626.0670 VENDING MACHINE DOORS AND OPENINGS. 4-204.123**

A. Vending machine doors and access opening covers to food and container storage spaces must be tight-fitting so that the space along the entire interface between the doors or covers and the cabinet of the machine, if the doors or covers are in a closed position, is no greater than 1/16 inch (1.5 millimeters) by:

(1) being covered with louvers, screens, or materials that provide an equivalent opening of not greater than 1/16 inch (1.5 millimeters). Screening of 12 or more mesh to 12 mesh to 1 inch (2.5 centimeters) meets this requirement;

(2) being effectively gasketed;

(3) having interface surfaces that are at least 1/2-inch (13 millimeters) wide; or

(4) having jambs or surfaces to form an L-shaped entry path to the interface.

B. Vending machine service connection openings through an exterior wall of a machine must be closed by sealants, clamps, or grommets so that the openings are no larger than 1/16 inch (1.5 millimeters).

**Statutory Authority:** *MS s 31.101; 31.11; 144.05; 144.07; 144.08; 144.12; 157.011*

**History:** *23 SR 519; 43 SR 295*

**Published Electronically:** *January 2, 2019*

**EQUIPMENT NUMBERS AND CAPACITIES****4626.0675 COOLING, HEATING, AND HOLDING CAPACITIES. 4-301.11**

Equipment for cooling and heating food, and holding cold and hot food, must be sufficient in number and capacity to provide the food temperatures specified in parts 4626.0360, 4626.0370, 4626.0385, and 4626.0395.<sup>p2</sup>

**Statutory Authority:** *MS s 31.101; 31.11; 144.05; 144.07; 144.08; 144.12; 157.011*

**History:** *23 SR 519; 43 SR 295*

**Published Electronically:** *January 2, 2019*

**4626.0680 MANUAL WAREWASHING; SINK COMPARTMENT REQUIREMENTS.  
4-301.12**

A. Except as specified in items C to H, a sink with at least 3 compartments and with integrally attached drainboards at each end must be provided for manually washing, rinsing, and sanitizing equipment and utensils.<sup>p2</sup>

B. Sink compartments must be large enough to accommodate immersion of the largest equipment and utensils. If equipment or utensils are too large for the warewashing sink, a warewashing machine or alternative equipment specified in item C must be used.<sup>p2</sup>

C. Alternative manual warewashing equipment that meets the requirements in parts 4626.0875 and 4626.0880 may be used when there are special cleaning needs or constraints and its use is approved by the regulatory authority. Alternative manual warewashing equipment may include:

- (1) high-pressure detergent sprayers;
- (2) low- or line-pressure spray detergent foamers;
- (3) other task-specific cleaning equipment;
- (4) brushes or other implements; or
- (5) receptacles that substitute for the compartments of a multicompartment sink.

D. The regulatory authority may allow mechanical warewashing equipment in lieu of the required 3-compartment sink as long as the mechanical warewashing equipment is capable of accommodating the largest piece of equipment to be washed, rinsed, and sanitized and meets the requirements of parts 4626.0506 and 4626.0905.

E. A food cart that does not have an approved 3-compartment sink installed on the cart must have a separate licensed facility, or an agreement with a licensed facility. The facility must have an approved 3-compartment sink or mechanical warewashing machine where all the utensils and multiuse equipment for the food cart are washed, rinsed, and sanitized before and after use at an event.<sup>p2</sup>

F. A mobile food unit must be equipped with warewashing facilities consisting of at least a 3-compartment sink, either freestanding or installed in a counter.<sup>p2</sup>

G. A seasonal temporary food stand that is disassembled after each use may use 3 containers of sufficient size to immerse utensils in lieu of the requirement in item A.

H. A special event food stand may be equipped with a warewashing facility consisting of at least 3 containers of sufficient size to fully immerse all multiuse equipment and utensils.

I. A food cart, special event food stand, temporary food establishment, retail food vehicle, portable structure, or cart is exempt from the manual warewashing sink and equipment requirements of this part if no multiuse utensils or equipment are used in the operation of the food establishment.

**Statutory Authority:** *MS s 31.101; 31.11; 144.05; 144.07; 144.08; 144.12; 157.011*

**History:** *23 SR 519; 43 SR 295*

**Published Electronically:** *January 2, 2019*

#### **4626.0685 DRAINBOARDS. 4-301.13**

A. Integral drainboards, utensil racks, or tables large enough to accommodate all soiled and cleaned items that may accumulate during hours of operation must be provided for necessary utensil holding before cleaning and after sanitizing.

B. Hot water sanitizing machines must have space for and a minimum of 3 racks for drying utensils.

C. Chemical sanitizing machines must have space for and a minimum of 5 racks for drying utensils.

**Statutory Authority:** *MS s 31.101; 31.11; 144.05; 144.07; 144.08; 144.12; 157.011*

**History:** *23 SR 519; 43 SR 295*

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#### **4626.0690 VENTILATION HOOD SYSTEMS; ADEQUACY. 4-301.14**

Ventilation hood systems and devices must be sufficient in number and capacity to prevent grease or condensation from collecting on walls and ceilings.

**Statutory Authority:** *MS s 31.101; 31.11; 144.05; 144.07; 144.08; 144.12; 157.011*

**History:** *23 SR 519; 43 SR 295*

**Published Electronically:** *January 2, 2019*

#### **4626.0695 CLOTHES WASHERS AND DRYERS. 4-301.15**

A. Except as specified in item B, if work clothes or linens are laundered on the premises, a mechanical clothes washer and dryer must be provided and used.

B. If on-premises laundering is limited to wiping cloths intended to be used moist, or wiping cloths are air-dried as specified in part 4626.0940, a mechanical clothes washer and dryer need not be provided.

**Statutory Authority:** *MS s 31.101; 31.11; 144.05; 144.07; 144.08; 144.12; 157.011*

**History:** *23 SR 519; 43 SR 295*

**Published Electronically:** *January 2, 2019*

#### **4626.0700 UTENSILS; CONSUMER SELF-SERVICE. 4-302.11**

A food dispensing utensil must be available for each container displayed at consumer self-service units such as a buffet or salad bar.<sup>p2</sup>

**Statutory Authority:** *MS s 31.101; 31.11; 144.05; 144.07; 144.08; 144.12; 157.011*

**History:** *23 SR 519; 43 SR 295*

**Published Electronically:** *January 2, 2019*

#### **4626.0705 FOOD TEMPERATURE MEASURING DEVICES REQUIRED. 4-302.12**

A. Food temperature measuring devices must be provided and readily accessible for use in ensuring attainment and maintenance of the food temperatures specified in parts 4626.0165 and 4626.0340 to 4626.0420.<sup>p2</sup>

B. A temperature measuring device with a suitable small diameter probe that is designed to measure the temperature of thin masses must be provided and readily accessible to accurately measure the temperature in thin foods such as meat patties and fish fillets.<sup>p2</sup>

**Statutory Authority:** *MS s 31.101; 31.11; 144.05; 144.07; 144.08; 144.12; 157.011*

**History:** *23 SR 519; 43 SR 295*

**Published Electronically:** *January 2, 2019*

#### **4626.0710 TEMPERATURE MEASURING DEVICES; WAREWASHING. 4-302.13**

A. In manual warewashing operations, a temperature measuring device must be provided and readily accessible for frequently measuring the washing and sanitizing temperatures.<sup>p2</sup>

B. In hot water mechanical warewashing operations, an irreversible registering temperature indicator must be provided and readily accessible for measuring the utensil surface temperature.<sup>p2</sup>

**Statutory Authority:** *MS s 31.101; 31.11; 144.05; 144.07; 144.08; 144.12; 157.011*

**History:** *23 SR 519; 43 SR 295*

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#### **4626.0715 SANITIZING SOLUTIONS; TESTING DEVICES. 4-302.14**

A test kit or other device that accurately measures the concentration in mg/L of sanitizing solutions must be provided.<sup>p2</sup>

**Statutory Authority:** *MS s 31.101; 31.11; 144.05; 144.07; 144.08; 144.12; 157.011*

**History:** *23 SR 519; 43 SR 295*

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### **EQUIPMENT LOCATION AND INSTALLATION**

**4626.0720** [Repealed, 43 SR 295]

**Published Electronically:** *January 2, 2019*

### **4626.0721 CLEANING AGENTS AND SANITIZERS; AVAILABILITY. 4-303.11**

A. Cleaning agents that are used to clean equipment and utensils specified under parts 4626.0840 to 4626.0885 must be provided and available for use during all hours of operation.

B. Except for those that are generated onsite at the time of use, chemical sanitizers that are used to sanitize equipment and utensils specified in parts 4626.0900 and 4626.0905 must be provided and available for use during all hours of operation.

**Statutory Authority:** *MS s 31.101; 31.11; 144.07; 157.011*

**History:** *43 SR 295*

**Published Electronically:** *January 2, 2019*

### **4626.0725 FIXED EQUIPMENT; SPACING OR SEALING. 4-402.11**

A. Equipment that is fixed because it is not easily movable must be installed so that it is:

(1) spaced to allow access for cleaning along the sides of, behind, and above the equipment;

(2) spaced from adjoining equipment, walls, and ceilings a distance of not more than 1/32 inch (1 millimeter); or

(3) sealed to adjoining equipment or walls, if the equipment is exposed to spillage or seepage.

B. Counter-mounted equipment that is not easily movable must be installed to allow cleaning of the equipment and areas underneath and around the equipment by being:

(1) sealed; or

(2) elevated on legs specified in part 4626.0730, item D.

**Statutory Authority:** *MS s 31.101; 31.11; 144.05; 144.07; 144.08; 144.12; 157.011*

**History:** *23 SR 519; 43 SR 295*

**Published Electronically:** *January 2, 2019*



**4626.0730 FIXED EQUIPMENT; ELEVATION OR SEALING. 4-402.12**

A. Except as specified in items B and C, floor-mounted equipment that is not easily movable must be sealed to the floor or elevated on legs that provide at least a 6-inch (15 centimeter) clearance between the floor and the equipment.

B. If no part of the floor under the floor-mounted equipment is more than 6 inches (15 centimeters) from the point of cleaning access, the clearance space may be 4 inches (10 centimeters).

C. This part does not apply to display shelving units, display refrigeration units, and display freezer units located in the consumer shopping areas if the floor under the units is maintained clean.

D. Except as specified in item E, counter-mounted equipment that is not easily movable must be elevated on legs that provide at least a 4-inch (10 centimeter) clearance between the table and the equipment.

E. The clearance space between the table and counter-mounted equipment must be:

(1) 3 inches (7.5 centimeters) if the horizontal distance of the table top under the equipment is no more than 20 inches (50 centimeters) from the point of access for cleaning; or

(2) 2 inches (5 centimeters) if the horizontal distance of the table top under the equipment is no more than 3 inches (7.5 centimeters) from the point of access for cleaning.

**Statutory Authority:** *MS s 31.101; 31.11; 144.05; 144.07; 144.08; 144.12; 157.011*

**History:** *23 SR 519; 43 SR 295*

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**EQUIPMENT MAINTENANCE AND OPERATION****4626.0735 EQUIPMENT; GOOD REPAIR AND PROPER ADJUSTMENT. 4-501.11**

A. Equipment must be maintained in a state of repair and condition that meets the requirements in parts 4626.0450 to 4626.0670.

B. Equipment components such as doors, seals, hinges, fasteners, and kick plates must be kept intact, tight, and adjusted according to manufacturer's specifications.

C. Cutting or piercing parts of can openers must be kept sharp to minimize the creation of metal fragments that can contaminate food when the container is opened.

**Statutory Authority:** *MS s 31.101; 31.11; 144.05; 144.07; 144.08; 144.12; 157.011*

**History:** *23 SR 519; 43 SR 295*

**Published Electronically:** *January 2, 2019*

**4626.0740 CUTTING SURFACES. 4-501.12**

Surfaces such as cutting blocks and boards that are subject to scratching and scoring must be resurfaced if they can no longer be effectively cleaned and sanitized, or discarded if they are not capable of being resurfaced.

**Statutory Authority:** *MS s 31.101; 31.11; 144.05; 144.07; 144.08; 144.12; 157.011*

**History:** *23 SR 519; 43 SR 295*

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**4626.0745 MICROWAVE OVENS. 4-501.13**

Microwave ovens must meet the safety standards in Code of Federal Regulations, title 21, section 1030.10.

**Statutory Authority:** *MS s 31.101; 31.11; 144.05; 144.07; 144.08; 144.12; 157.011*

**History:** *23 SR 519; 43 SR 295*

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**4626.0750 WAREWASHING EQUIPMENT AND FOOD PREPARATION SINKS;  
CLEANING FREQUENCY. 4-501.14**

A warewashing machine; the compartments of sinks, basins, or other receptacles used for washing and rinsing equipment, utensils, or raw foods, or laundering wiping cloths; and drainboards or other equipment used to substitute for drainboards as specified in part 4626.0685 must be cleaned:

- A. before use;
- B. throughout the day at a frequency necessary to prevent recontamination of equipment and utensils and to ensure that the equipment performs its intended function; and
- C. if used, at least every 24 hours.

**Statutory Authority:** *MS s 31.101; 31.11; 144.05; 144.07; 144.08; 144.12; 157.011*

**History:** *23 SR 519; 43 SR 295*

**Published Electronically:** *January 2, 2019*

**4626.0755 WAREWASHING MACHINE; MANUFACTURER'S OPERATING  
INSTRUCTIONS. 4-501.15**

A. A warewashing machine and its auxiliary components must be operated according to the machine's data plate and other manufacturer's instructions.

B. A warewashing machine's conveyor speed or automatic cycle times must be maintained accurately timed according to manufacturer's specifications.

**Statutory Authority:** *MS s 31.101; 31.11; 144.05; 144.07; 144.08; 144.12; 157.011*

**History:** 23 SR 519; 43 SR 295

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**4626.0760 WAREWASHING SINKS; USE LIMITATION. 4-501.16**

A. A warewashing sink must not be used for handwashing or dumping mop water.

B. For food establishments licensed before September 8, 1998:

(1) a warewashing sink may be used to wash wiping cloths, wash produce, or thaw food if the sink is cleaned as specified in part 4626.0750 before and after each time it is used to wash wiping cloths, wash produce, or thaw food; and

(2) sinks used to wash or thaw food must be sanitized as specified in parts 4626.0900 and 4626.0905 before and after using the sink to wash or thaw food.

**Statutory Authority:** *MS s 31.101; 31.11; 144.05; 144.07; 144.08; 144.12; 157.011*

**History:** 23 SR 519; 43 SR 295

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**4626.0765 WAREWASHING EQUIPMENT; CLEANING AGENTS. 4-501.17**

When used for warewashing, the wash compartment of a sink, mechanical warewasher, or wash receptacle of alternative manual warewashing equipment specified in part 4626.0680, item C, must contain a wash solution of soap, detergent, acid cleaner, alkaline cleaner, degreaser, abrasive cleaner, or other cleaning agent according to the cleaning agent manufacturer's label instructions.p2

**Statutory Authority:** *MS s 31.101; 31.11; 144.05; 144.07; 144.08; 144.12; 157.011*

**History:** 23 SR 519; 43 SR 295

**Published Electronically:** January 2, 2019

**4626.0770 WAREWASHING EQUIPMENT; CLEAN SOLUTIONS. 4-501.18**

The wash, rinse, and sanitize solutions must be maintained clean.

**Statutory Authority:** *MS s 31.101; 31.11; 144.05; 144.07; 144.08; 144.12; 157.011*

**History:** 23 SR 519; 43 SR 295

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**4626.0775 MANUAL WAREWASHING EQUIPMENT; WASH SOLUTION TEMPERATURE. 4-501.19**

The temperature of the wash solution in manual warewashing equipment must be maintained at not less than 110 degrees F (43 degrees C) or the temperature specified on the cleaning agent manufacturer's label instructions.p2

**Statutory Authority:** *MS s 31.101; 31.11; 144.05; 144.07; 144.08; 144.12; 157.011*

**History:** 23 SR 519; 43 SR 295

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#### **4626.0780 FOOD PREPARATION SINKS.**

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 adds a food product to the menu that requires washing or thawing in a sink, a separate food preparation sink must be provided.

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

**Statutory Authority:** *MS s 31.101; 31.11; 144.05; 144.07; 144.08; 144.12; 157.011*

**History:** 23 SR 519; 43 SR 295

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#### **4626.0785 MECHANICAL WAREWASHING EQUIPMENT; WASH SOLUTION TEMPERATURE. 4-501.110**

A. The temperature of the wash solution in spray-type warewashers that use hot water to sanitize must not be less than:

- (1) for a stationary rack, single temperature machine, 165 degrees F (74 degrees C);<sub>p2</sub>
- (2) for a stationary rack, dual temperature machine, 150 degrees F (66 degrees C);<sub>p2</sub>
- (3) for a single tank, conveyor, dual temperature machine, 160 degrees F (71 degrees C);<sub>p2</sub> or
- (4) for a multitank, conveyor, multitemperature machine, 150 degrees F (66 degrees C).<sub>p2</sub>

B. The temperature of the wash solution in spray-type warewashers that use chemicals to sanitize must not be less than 120 degrees F (49 degrees C).<sub>p2</sub>

**Statutory Authority:** *MS s 31.101; 31.11; 144.05; 144.07; 144.08; 144.12; 157.011*

**History:** 23 SR 519; 43 SR 295

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#### **4626.0790 MANUAL WAREWASHING EQUIPMENT; HOT WATER SANITIZATION TEMPERATURES. 4-501.111**

If immersion in hot water is used for sanitizing in a manual operation, the temperature of the water must be maintained at 171 degrees F (77 degrees C) or above.<sub>p1</sub>

**Statutory Authority:** *MS s 31.101; 31.11; 144.05; 144.07; 144.08; 144.12; 157.011*

**History:** 23 SR 519; 43 SR 295

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**4626.0795 MECHANICAL WAREWASHING EQUIPMENT; HOT WATER  
SANITIZATION TEMPERATURES. 4-501.112**

A. Except as specified in item B, in a mechanical operation, the temperature of the fresh hot water sanitizing rinse as it enters the manifold must not be more than 194 degrees F (90 degrees C) or less than:

(1) for a stationary rack, single temperature machine, 165 degrees F (74 degrees C);  
or

(2) for all other machines, 180 degrees F (82 degrees C).

B. The maximum temperature specified in item A does not apply to high pressure and temperature systems with wand-type, hand-held spraying devices used for in-place cleaning and sanitizing of equipment, such as meat saws.

**Statutory Authority:** MS s 31.101; 31.11; 144.05; 144.07; 144.08; 144.12; 157.011

**History:** 23 SR 519; 43 SR 295

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**4626.0800 MECHANICAL WAREWASHING EQUIPMENT; SANITIZATION RINSE  
PRESSURE. 4-501.113**

The flow pressure of the fresh hot water sanitizing rinse in a warewashing machine, as measured in the water line immediately downstream or upstream from the fresh hot water sanitizing rinse control valve, must be within the range specified on the machine manufacturer's data plate and must not be less than 5 pounds per square inch (35 kilopascals) or more than 30 pounds per square inch (200 kilopascals).

**Statutory Authority:** MS s 31.101; 31.11; 144.05; 144.07; 144.08; 144.12; 157.011

**History:** 23 SR 519; 43 SR 295

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**4626.0805 MANUAL AND MECHANICAL WAREWASHING EQUIPMENT; CHEMICAL  
SANITIZATION, TEMPERATURE, PH, CONCENTRATION, AND HARDNESS.  
4-501.114**

A. A chemical sanitizer used in a sanitizing solution for a manual or mechanical operation at the exposure times specified in part 4626.0905, item C, must meet the requirements of part 4626.1620. The sanitizer must be used according to this part and the manufacturer's label approved by the U.S. Environmental Protection Agency.

B. The sanitizer must not exceed the amount specified on the manufacturer's label approved by the U.S. Environmental Protection Agency.

C. If a sanitizer is used in an amount less than the maximum amount specified on the label in item B, the sanitizer must be used as specified in this item.<sup>p1</sup>

(1) Unless the product label specifies otherwise, a chlorine solution must have a minimum concentration of 50 ppm,<sup>p1</sup> and:

(a) a minimum temperature of 75 degrees F (24 degrees C) for water with a pH of 8 or less;<sup>p1</sup> or

(b) a minimum temperature of 100 degrees F (38 degrees C) for water with a pH of 8.1 to 10.<sup>p1</sup>

(2) An iodine solution must have:

(a) a minimum temperature of 68 degrees F (20 degrees C);<sup>p1</sup>

(b) a pH of 5.0 or less, unless the manufacturer's use directions included in the labeling specify a higher pH limit of effectiveness;<sup>p1</sup> and

(c) a concentration between 12.5 mg/L and 25 mg/L.<sup>p1</sup>

(3) A quaternary ammonium compound solution must:

(a) have a minimum temperature of 75 degrees F (24 degrees C);<sup>p1</sup>

(b) have a concentration specified in Code of Federal Regulations, title 21, part 178, subpart B, section 178.1010, and as indicated by the manufacturer's use directions included in the labeling;<sup>p1</sup> and

(c) be used only in water with 500 mg/L hardness or less or in water having a hardness no greater than specified by the manufacturer's label.<sup>p1</sup>

D. If another solution of a chemical specified under items A to C is used, the licensee shall demonstrate that the solution achieves sanitization as defined in part 4626.0020, subpart 75, and the use of the solution must be approved by the regulatory authority.<sup>p1</sup>

E. If a chemical sanitizer other than chlorine, iodine, or a quaternary ammonium compound is used, the chemical sanitizer must be applied according to U.S. Environmental Protection Agency-registered label use instructions.<sup>p1</sup>

F. If a chemical sanitizer is generated by a device located on site at the food establishment, it must be used as specified in items A to D and must be produced by a device that:

(1) complies with regulation as specified in United States Code, title 7, sections 136 to 136q;<sup>p1</sup>

(2) complies with Code of Federal Regulations, title 40, sections 152.500 and 156.10;<sup>p1</sup>

(3) displays the U.S. Environmental Protection Agency device manufacturing facility registration number on the device;<sup>p2</sup> and

(4) is operated and maintained according to the manufacturer's instructions.p2

**Statutory Authority:** *MS s 31.101; 31.11; 144.05; 144.07; 144.08; 144.12; 157.011*

**History:** *23 SR 519; 43 SR 295*

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#### **4626.0810 MANUAL WAREWASHING EQUIPMENT; CHEMICAL SANITIZATION USING DETERGENT-SANITIZERS. 4-501.115**

If a detergent-sanitizer is used to sanitize in a cleaning and sanitizing procedure where there is no distinct water rinse between the washing and sanitizing steps, the agent applied in the sanitizing step must be the same detergent-sanitizer that is used in the washing step.

**Statutory Authority:** *MS s 31.101; 31.11; 144.05; 144.07; 144.08; 144.12; 157.011*

**History:** *23 SR 519; 43 SR 295*

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#### **4626.0815 WAREWASHING EQUIPMENT TEST KIT. 4-501.116**

Concentration of the sanitizing solution must be accurately determined by using a test kit or other device.p2

**Statutory Authority:** *MS s 31.101; 31.11; 144.05; 144.07; 144.08; 144.12; 157.011*

**History:** *23 SR 519; 43 SR 295*

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#### **4626.0820 UTENSILS AND TEMPERATURE MEASURING DEVICES; GOOD REPAIR AND PROPER CALIBRATION. 4-502.11**

A. Utensils must be maintained in a state of repair or condition that complies with parts 4626.0450 to 4626.0670 or must be discarded.

B. Food temperature measuring devices must be calibrated according to manufacturer's specifications as necessary to ensure their accuracy.p2

C. Ambient air temperature, water pressure, and water temperature measuring devices must be maintained in good repair and be accurate within the intended range of use.

**Statutory Authority:** *MS s 31.101; 31.11; 144.05; 144.07; 144.08; 144.12; 157.011*

**History:** *23 SR 519; 43 SR 295*

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#### **4626.0825 SINGLE-SERVICE AND SINGLE-USE ARTICLES; REQUIRED USE. 4-502.12**

A food establishment without facilities specified in parts 4626.0840 to 4626.0905 for cleaning and sanitizing kitchenware and tableware must provide only single-use kitchenware, single-service

articles, and single-use articles for use by food employees and single-service articles for use by the consumer.p1

**Statutory Authority:** *MS s 31.101; 31.11; 144.05; 144.07; 144.08; 144.12; 157.011*

**History:** *23 SR 519; 43 SR 295*

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**4626.0830 SINGLE-SERVICE AND SINGLE-USE ARTICLES; RE-USE LIMITATION. 4-502.13**

Single-service and single-use articles must not be re-used.

**Statutory Authority:** *MS s 31.101; 31.11; 144.05; 144.07; 144.08; 144.12; 157.011*

**History:** *23 SR 519; 43 SR 295*

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**4626.0833 BULK MILK CONTAINERS.**

The bulk milk container dispensing tube must be cut on the diagonal leaving no more than 1 inch protruding from the chilled dispensing head.

**Statutory Authority:** *MS s 31.101; 31.11; 144.05; 144.07; 144.08; 144.12; 157.011*

**History:** *23 SR 519; 43 SR 295*

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**4626.0835 SHELLS; USE LIMITATION. 4-502.14**

Mollusk and crustacea shells must not be used more than once as serving containers.

**Statutory Authority:** *MS s 31.101; 31.11; 144.05; 144.07; 144.08; 144.12; 157.011*

**History:** *23 SR 519; 43 SR 295*

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**CLEANING EQUIPMENT AND UTENSILS**

**4626.0840 EQUIPMENT, FOOD-CONTACT SURFACES, NON-FOOD-CONTACT SURFACES, AND UTENSILS. 4-601.11**

- A. Equipment food-contact surfaces and utensils must be clean to sight and touch.p2
- B. The food-contact surfaces of cooking equipment and pans must be kept free of encrusted grease deposits and other soil accumulations.
- C. Non-food-contact surfaces of equipment must be kept free of an accumulation of dust, dirt, food residue, and other debris.



D. Water filters used as part of a vending machine must be cleaned or replaced according to the manufacturer's instructions.

**Statutory Authority:** *MS s 31.101; 31.11; 144.05; 144.07; 144.08; 144.12; 157.011*

**History:** *23 SR 519; 43 SR 295*

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**4626.0845 EQUIPMENT; FOOD-CONTACT SURFACES, AND UTENSILS. 4-602.11**

A. Equipment food-contact surfaces and utensils must be cleaned:

(1) except as specified in item B, before each use with a different type of raw animal food, such as beef, fish, lamb, pork, or poultry;<sub>P1</sub>

(2) each time there is a change from working with raw foods to working with ready-to-eat foods;<sub>P1</sub>

(3) between uses with raw fruits or vegetables and with TCS food;<sub>P1</sub>

(4) before using or storing a food temperature measuring device;<sub>P1</sub> and

(5) at any time during the operation when contamination may have occurred.<sub>P1</sub>

B. Item A, subitem (1), does not apply if the food-contact surface or utensil is in contact with a succession of different raw animal foods each requiring a higher cooking temperature than the previous type as specified in part 4626.0340.

C. Except as specified in item D, if used with TCS food, equipment food-contact surfaces and utensils must be cleaned throughout the day at least once every 4 hours.<sub>P1</sub>

D. Surfaces of utensils and equipment contacting TCS food may be cleaned less frequently than every 4 hours if:

(1) in storage, containers of TCS food and their contents are maintained at temperatures specified in part 4626.0395 and the containers are cleaned when they are empty;

(2) utensils and equipment are used to prepare food in a refrigerated room or area that is maintained at one of the temperatures in the chart in unit (a):

(a) the utensils and equipment are cleaned at the frequency in the following chart that corresponds to the temperature; and

Temperature	Cleaning Frequency
41 degrees F (5 degrees C) or less	24 hours
greater than 41 degrees F to 45 degrees F (greater than 5 degrees C to 7.2 degrees C)	20 hours

greater than 45 degrees F to 50 degrees F (greater than 7.2 degrees C to 10 degrees C)	16 hours
greater than 50 degrees F to 55 degrees F (greater than 10 degrees C to 12.8 degrees C)	10 hours

(b) the cleaning frequency based on the ambient temperature of the refrigerated room or area is documented in the food establishment;

(3) containers in serving areas such as salad bars, delis, and cafeteria lines that hold ready-to-eat TCS food that is maintained at the temperatures specified in part 4626.0395 are intermittently combined with additional supplies of the same food that is at the required temperature and the containers are cleaned at least every 24 hours;

(4) temperature measuring devices are maintained in contact with food in a container of deli food or a roast, and held at the temperatures specified in part 4626.0395;

(5) equipment such as a reach-in refrigerator that is used for storage of packaged or unpackaged food, if the equipment is cleaned at a frequency necessary to preclude accumulation of soil residues;

(6) the cleaning schedule is approved based on consideration of:

(a) characteristics of the equipment and its use;

(b) the type of food involved;

(c) the amount of food residue accumulation; and

(d) the temperature at which the food is maintained during the operation and the potential for the rapid and progressive multiplication of pathogenic or toxigenic microorganisms that are capable of causing foodborne disease; or

(7) in-use utensils are intermittently stored in a container of water in which the water is maintained at 135 degrees F (57 degrees C) or more and the utensils and container are cleaned at least every 24 hours or at a frequency necessary to preclude accumulation of soil residues.

E. Except when dry cleaning methods are used as specified in part 4626.0860, surfaces of utensils and equipment contacting food that is not TCS food must be cleaned:

(1) at any time when contamination may have occurred;

(2) at least every 24 hours for iced tea dispensers and consumer self-service utensils such as tongs, scoops, or ladles;

(3) before restocking consumer self-service equipment and utensils such as condiment dispensers and display containers; and

(4) in equipment such as ice bins and beverage dispensing nozzles, and the enclosed components of equipment such as ice makers, cooking oil storage tanks and distribution lines, beverage and syrup dispensing lines or tubes, coffee bean grinders, and water vending equipment:

(a) at a frequency specified by the manufacturer; or

(b) absent manufacturer specifications, at a frequency necessary to preclude accumulation of soil or mold.

**Statutory Authority:** *MS s 31.101; 31.11; 144.05; 144.07; 144.08; 144.12; 157.011*

**History:** *23 SR 519; 43 SR 295*

**Published Electronically:** *January 2, 2019*

#### **4626.0850 COOKING AND BAKING EQUIPMENT. 4-602.12**

A. The food-contact surfaces of cooking and baking equipment must be cleaned at least every 24 hours. This part does not apply to hot oil cooking and filtering equipment if it is cleaned as specified in part 4626.0845, item D, subitem (6).

B. The cavities and door seals of microwave ovens must be cleaned at least every 24 hours by using the manufacturer's recommended cleaning procedure.

**Statutory Authority:** *MS s 31.101; 31.11; 144.05; 144.07; 144.08; 144.12; 157.011*

**History:** *23 SR 519; 43 SR 295*

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#### **4626.0855 NON-FOOD-CONTACT SURFACES; CLEANING FREQUENCY. 4-602.13**

Non-food-contact surfaces of equipment must be cleaned at a frequency necessary to preclude accumulation of soil residues.

**Statutory Authority:** *MS s 31.101; 31.11; 144.05; 144.07; 144.08; 144.12; 157.011*

**History:** *23 SR 519; 43 SR 295*

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#### **4626.0860 DRY CLEANING. 4-603.11**

A. If used, dry cleaning methods such as brushing, scraping, and vacuuming must contact only surfaces that are soiled with dry food residues that are not TCS food.

B. Cleaning equipment used in dry cleaning food-contact surfaces must not be used for any other purpose.

**Statutory Authority:** *MS s 31.101; 31.11; 144.05; 144.07; 144.08; 144.12; 157.011*

**History:** *23 SR 519; 43 SR 295*

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**4626.0865 PRECLEANING. 4-603.12**

A. Food debris on equipment and utensils must be scraped over a waste disposal unit or garbage receptacle or must be removed in a warewashing machine with a prewash cycle.

B. If necessary for effective cleaning, utensils and equipment must be preflushed, presoaked, or scrubbed with abrasives.

**Statutory Authority:** *MS s 31.101; 31.11; 144.05; 144.07; 144.08; 144.12; 157.011*

**History:** *23 SR 519; 43 SR 295*

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**4626.0870 LOADING OF SOILED ITEMS; WAREWASHING MACHINES. 4-603.13**

Soiled items to be cleaned in a warewashing machine must be loaded into racks, trays, or baskets or onto conveyors in a position that:

A. exposes the items to the unobstructed spray from all cycles; and

B. allows the items to drain.

**Statutory Authority:** *MS s 31.101; 31.11; 144.05; 144.07; 144.08; 144.12; 157.011*

**History:** *23 SR 519; 43 SR 295*

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**4626.0875 WET CLEANING. 4-603.14**

A. Equipment food-contact surfaces and utensils must be effectively washed to remove or completely loosen soils by using the manual or mechanical means necessary, such as the application of detergents containing wetting agents and emulsifiers; acid, alkaline, or abrasive cleaners; hot water; brushes; scouring pads; high-pressure sprays; or ultrasonic devices.

B. The washing procedures selected must be based on the type and purpose of the equipment or utensil and on the type of soil to be removed.

**Statutory Authority:** *MS s 31.101; 31.11; 144.05; 144.07; 144.08; 144.12; 157.011*

**History:** *23 SR 519; 43 SR 295*

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**4626.0880 WASHING; PROCEDURES FOR ALTERNATIVE MANUAL WAREWASHING EQUIPMENT. 4-603.15**

If washing in sink compartments or a warewashing machine is impractical, such as when the equipment is fixed or the utensils are too large, washing must be done by using alternative manual warewashing equipment specified in part 4626.0680, item C, according to the following procedures:

A. equipment must be disassembled as necessary to allow access of the detergent solution to all parts;

B. equipment components and utensils must be scraped or roughly cleaned to remove food particle accumulation; and

C. equipment and utensils must be washed as specified in part 4626.0875, item A.

**Statutory Authority:** *MS s 31.101; 31.11; 144.05; 144.07; 144.08; 144.12; 157.011*

**History:** *23 SR 519; 43 SR 295*

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#### **4626.0885 UTENSILS AND EQUIPMENT; RINSING PROCEDURES. 4-603.16**

Washed utensils and equipment must be rinsed so that abrasives are removed and cleaning chemicals are removed or diluted through the use of water or a detergent-sanitizer solution using one of the following procedures:

A. use of a distinct, separate water rinse after washing and before sanitizing if using:

- (1) a 3-compartment sink;
- (2) alternative manual warewashing equipment equivalent to a 3-compartment sink specified in part 4626.0680, item C; or
- (3) a 3-step washing, rinsing, and sanitizing procedure in a warewashing system for CIP equipment;

B. use of a detergent-sanitizer specified in part 4626.0810 if using:

- (1) alternative warewashing equipment specified in part 4626.0680, item C, that is approved for use with a detergent-sanitizer; or
- (2) a warewashing system for CIP equipment;

C. if using a warewashing machine that does not recycle the sanitizing solution as specified in item D, or alternative manual warewashing equipment, such as sprayers, use of a nondistinct water rinse that is:

- (1) integrated in the application of the sanitizing solution; and
- (2) wasted immediately after each application; or

D. if using a warewashing machine that recycles the sanitizing solution for use in the next wash cycle, use of a nondistinct water rinse that is integrated in the application of the sanitizing solution.

**Statutory Authority:** *MS s 31.101; 31.11; 144.05; 144.07; 144.08; 144.12; 157.011*

**History:** *23 SR 519; 43 SR 295*

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#### **4626.0890 [Repealed, 43 SR 295]**

**Published Electronically:** *January 2, 2019*

**SANITIZING EQUIPMENT AND UTENSILS****4626.0895** [Repealed, 43 SR 295]**Published Electronically:** *January 2, 2019***4626.0900 BEFORE USE AFTER CLEANING. 4-702.11**Utensils and food-contact surfaces of equipment must be sanitized before use after cleaning.<sup>p1</sup>**Statutory Authority:** *MS s 31.101; 31.11; 144.05; 144.07; 144.08; 144.12; 157.011***History:** *23 SR 519; 43 SR 295***Published Electronically:** *January 2, 2019***4626.0905 HOT WATER AND CHEMICAL SANITIZATION. 4-703.11**

After being cleaned, equipment, food-contact surfaces, and utensils must be sanitized in:

A. hot water manual operations by immersion for at least 30 seconds as specified in part 4626.0790;<sup>p1</sup>B. hot water mechanical operations by being cycled through equipment that is set up as specified in parts 4626.0755, 4626.0795, and 4626.0800 and achieving a utensil surface temperature of 160 degrees F (71 degrees C) as measured by an irreversible registering temperature indicator;<sup>p1</sup> or

C. chemical manual or mechanical operations, including the application of sanitizing chemicals by immersion, manual swabbing, brushing, or pressure spraying methods, using a solution specified in part 4626.0805. Contact times must be consistent with U.S. Environmental Protection Agency-registered label use instructions by providing:

(1) except as specified under subitem (2), a contact time of at least 10 seconds for a chlorine solution specified in part 4626.0805, item C, subitem (1);<sup>p1</sup>(2) a contact time of at least 7 seconds for a chlorine solution of 50 mg/L that has a pH of 10 or less and a temperature of at least 100 degrees F (38 degrees C) or a pH of 8 or less and a temperature of at least 75 degrees F (24 degrees C);<sup>p1</sup>(3) a contact time of at least 30 seconds for other chemical sanitizing solutions;<sup>p1</sup> or(4) a contact time used in relationship with a combination of temperature, concentration, and pH that, when evaluated for efficacy, yields sanitization as defined in part 4626.0020, subpart 75.<sup>p1</sup>**Statutory Authority:** *MS s 31.101; 31.11; 144.05; 144.07; 144.08; 144.12; 157.011***History:** *23 SR 519; 43 SR 295***Published Electronically:** *January 2, 2019*

**LAUNDERING****4626.0910 CLEAN LINENS. 4-801.11**

Clean linens must be free from food residues and other soiling matter.

**Statutory Authority:** *MS s 31.101; 31.11; 144.05; 144.07; 144.08; 144.12; 157.011*

**History:** *23 SR 519; 43 SR 295*

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**4626.0915 LINENS, CLOTH GLOVES, AND WIPING CLOTHS; FREQUENCY OF LAUNDERING. 4-802.11**

A. Linens that do not come in direct contact with food must be laundered between operations if they become wet, sticky, or visibly soiled.

B. Cloth gloves used as specified in part 4626.0287, item D, must be laundered before being used with a different type of raw animal food, such as beef, lamb, pork, fish, or poultry.

C. Linens used as specified in part 4626.0280 and cloth napkins must be laundered between each use.

D. Wet wiping cloths must be laundered daily.

E. Dry wiping cloths must be laundered as necessary to prevent contamination of food and clean serving utensils.

**Statutory Authority:** *MS s 31.101; 31.11; 144.05; 144.07; 144.08; 144.12; 157.011*

**History:** *23 SR 519; 43 SR 295*

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**4626.0920 STORAGE OF SOILED LINENS. 4-803.11**

Soiled linens must be kept in clean, nonabsorbent receptacles or clean, washable laundry bags and stored and transported to prevent contamination of food, clean equipment, clean utensils, and single-service and single-use articles.

**Statutory Authority:** *MS s 31.101; 31.11; 144.05; 144.07; 144.08; 144.12; 157.011*

**History:** *23 SR 519; 43 SR 295*

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**4626.0925 LINENS; MECHANICAL WASHING. 4-803.12**

A. Except as specified in item B, linens must be mechanically washed.

B. In food establishments in which only wiping cloths are laundered as specified in part 4626.0695, item B, the wiping cloths may be laundered in a mechanical washer, a sink designated

only for laundering wiping cloths, or a warewashing sink that is cleaned as specified in part 4626.0750.

**Statutory Authority:** *MS s 31.101; 31.11; 144.05; 144.07; 144.08; 144.12; 157.011*

**History:** *23 SR 519; 43 SR 295*

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#### **4626.0930 LAUNDRY FACILITIES; USE LIMITATIONS. 4-803.13**

A. Except as specified in item B, laundry facilities on the premises of a food establishment must be used only for the washing and drying of items used in the operation of the establishment.

B. Separate laundry facilities located on the premises for general laundering for institutions providing boarding and lodging may also be used for laundering food establishment items.

**Statutory Authority:** *MS s 31.101; 31.11; 144.05; 144.07; 144.08; 144.12; 157.011*

**History:** *23 SR 519; 43 SR 295*

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### **PROTECTING CLEAN ITEMS**

#### **4626.0935 EQUIPMENT AND UTENSILS; AIR-DRYING REQUIRED. 4-901.11**

A. Except as specified in item B, after cleaning and sanitizing, equipment and utensils must be air-dried.

B. Utensils that have been air-dried may be polished with cloths that are maintained clean and dry.

C. After cleaning and sanitizing, equipment and utensils must be adequately drained before contacting food if chemical sanitizer formulations and limits in Code of Federal Regulations, title 40, section 180.940, are used.

**Statutory Authority:** *MS s 31.101; 31.11; 144.05; 144.07; 144.08; 144.12; 157.011*

**History:** *23 SR 519; 43 SR 295*

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#### **4626.0940 WIPING CLOTHS; AIR-DRYING LOCATIONS. 4-901.12**

Wiping cloths laundered in a food establishment that does not have a mechanical clothes dryer specified in part 4626.0695, item B, must be air-dried in a location and in a manner that prevents contamination of food, equipment, utensils, linens, single-service and single-use articles, and the wiping cloths. This part does not apply if wiping cloths are stored after laundering in a sanitizing solution as specified in part 4626.0805.

**Statutory Authority:** *MS s 31.101; 31.11; 144.05; 144.07; 144.08; 144.12; 157.011*



**History:** 23 SR 519; 43 SR 295

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**4626.0945 LUBRICANTS; FOOD-CONTACT SURFACES. 4-902.11**

Lubricants as specified in part 4626.1640 must be applied to food-contact surfaces that require lubrication in a manner that does not contaminate the food-contact surfaces.

**Statutory Authority:** MS s 31.101; 31.11; 144.05; 144.07; 144.08; 144.12; 157.011

**History:** 23 SR 519; 43 SR 295

**Published Electronically:** January 2, 2019

**4626.0950 EQUIPMENT REASSEMBLY. 4-902.12**

Equipment must be reassembled so that food-contact surfaces are not contaminated.

**Statutory Authority:** MS s 31.101; 31.11; 144.05; 144.07; 144.08; 144.12; 157.011

**History:** 23 SR 519; 43 SR 295

**Published Electronically:** January 2, 2019

**4626.0955 EQUIPMENT, UTENSILS, LINENS, AND SINGLE-SERVICE AND SINGLE-USE ARTICLES; STORAGE. 4-903.11**

A. Except as specified in item D, clean equipment and utensils, laundered linens, and single-service and single-use articles must be stored:

- (1) in a clean, dry location;
- (2) where they are not exposed to splash, dust, or other contamination; and
- (3) at least 6 inches (15 centimeters) above the floor.

B. Clean equipment and utensils must be stored as specified in item A and must be stored:

- (1) in a self-draining position that allows air drying; and
- (2) covered or inverted.

C. Single-service and single-use articles must be stored as specified in item A and must be kept in the original protective package or stored by using other means that afford protection from contamination until used.

D. Items that are kept in closed packages may be stored less than 6 inches (15 centimeters) above the floor on dollies, pallets, racks, and skids that are designed as specified in part 4626.0665.

**Statutory Authority:** MS s 31.101; 31.11; 144.05; 144.07; 144.08; 144.12; 157.011

**History:** 23 SR 519; 43 SR 295

**Published Electronically:** January 2, 2019

**4626.0960 STORAGE PROHIBITIONS. 4-903.12**

A. Except as specified in item B, food, cleaned and sanitized equipment, utensils, laundered linens, or single-service and single-use articles must not be stored:

- (1) in locker rooms;
- (2) in toilet rooms;
- (3) in garbage rooms;
- (4) in mechanical rooms;
- (5) under sewer lines that are not shielded to intercept potential drips;
- (6) under leaking water lines including leaking automatic fire sprinkler heads or under lines on which water has condensed;
- (7) under open stairwells; or
- (8) under other sources of contamination.

B. Laundered linens and single-service and single-use articles that are packaged or in a facility such as a cabinet may be stored in a locker room.

C. If a mechanical clothes washer and dryer is provided, it must be located so that the washer and dryer is protected from contamination and is located only in an area where there is no exposed food, clean equipment, utensils, or linens, or unwrapped single-service or single-use articles.

**Statutory Authority:** *MS s 31.101; 31.11; 144.05; 144.07; 144.08; 144.12; 157.011*

**History:** *23 SR 519; 43 SR 295*

**Published Electronically:** *January 2, 2019*

**4626.0965 KITCHENWARE AND TABLEWARE. 4-904.11**

A. Single-service and single-use articles and cleaned and sanitized utensils must be handled, displayed, and dispensed so that contamination of a food-contact or lip-contact surface is prevented.

B. Knives, forks, and spoons that are not prewrapped must be presented so that only the handles are touched by employees and by consumers if consumer self-service is provided.

C. Except as specified in item B, single-service articles that are intended for food contact or lip contact must be furnished for consumer self-service with the original individual wrapper intact or from an approved dispenser.

**Statutory Authority:** *MS s 31.101; 31.11; 144.05; 144.07; 144.08; 144.12; 157.011*

**History:** *23 SR 519; 43 SR 295*

**Published Electronically:** *January 2, 2019*

**4626.0970 SOILED TABLEWARE. 4-904.12**

Soiled tableware must be removed from consumer eating and drinking areas and handled so that clean tableware is not contaminated.

**Statutory Authority:** *MS s 31.101; 31.11; 144.05; 144.07; 144.08; 144.12; 157.011*

**History:** *23 SR 519; 43 SR 295*

**Published Electronically:** *January 2, 2019*

**4626.0975 PRESET TABLEWARE. 4-904.13**

A. Except as specified in item B, tableware that is preset must be protected from contamination by being wrapped, covered, or inverted.

B. Preset tableware may be exposed if:

- (1) unused settings are removed when a consumer is seated; or
- (2) settings not removed when a consumer is seated are cleaned and sanitized before further use.

**Statutory Authority:** *MS s 31.101; 31.11; 144.05; 144.07; 144.08; 144.12; 157.011*

**History:** *23 SR 519; 43 SR 295*

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**4626.0977 RINSING EQUIPMENT AND UTENSILS AFTER CLEANING AND SANITIZING. 4-904.14**

After being cleaned and sanitized, equipment and utensils must not be rinsed before air drying or use unless:

A. the rinse is applied directly from a drinking water supply by a warewashing machine that is maintained and operated as specified in parts 4626.0625 to 4626.0645 and 4626.0735 to 4626.0815; and

B. the rinse is applied only after the equipment and utensils have been sanitized by the application of hot water, or by the application of a chemical sanitizer solution where the U.S. Environmental Protection Agency-registered label use instruction calls for rinsing off the sanitizer after it is applied in a commercial warewashing machine.

**Statutory Authority:** *MS s 31.101; 31.11; 144.07; 157.011*

**History:** *43 SR 295*

**Published Electronically:** *January 2, 2019*

**WATER****4626.0980 DRINKING WATER APPROVED SOURCE. 5-101.11**

Drinking water must be obtained from an approved source that meets the requirements in chapters 4720 and 4725 and Minnesota Statutes, section 31.175.<sup>p1</sup>

**Statutory Authority:** *MS s 31.101; 31.11; 144.05; 144.07; 144.08; 144.12; 157.011*

**History:** *23 SR 519; 43 SR 295*

**Published Electronically:** *January 2, 2019*

**4626.0985 DRINKING WATER SYSTEM FLUSHING AND DISINFECTION. 5-101.12**

A drinking water system must be flushed and disinfected according to chapters 4714, 4720, and 4725 before being placed in service after construction, repair, or modification and after an emergency situation, such as a flood, that may introduce contamination to the system.<sup>p1</sup>

**Statutory Authority:** *MS s 31.101; 31.11; 144.05; 144.07; 144.08; 144.12; 157.011*

**History:** *23 SR 519; 40 SR 71; 43 SR 295*

**Published Electronically:** *January 2, 2019*

**4626.0990 BOTTLED DRINKING WATER. 5-101.13**

Bottled drinking water used or sold in a food establishment must be obtained from approved sources according to Code of Federal Regulations, title 21, part 129, and must comply with parts 1550.3200 to 1550.3320 and applicable federal and state laws.<sup>p1</sup>

**Statutory Authority:** *MS s 31.101; 31.11; 144.05; 144.07; 144.08; 144.12; 157.011*

**History:** *23 SR 519; 43 SR 295*

**Published Electronically:** *January 2, 2019*

**4626.0995 DRINKING WATER STANDARDS. 5-102.11**

Except as specified in part 4626.1000:

A. water from a public water system must meet the requirements of chapters 4714, 4720, and 4725;<sup>p1</sup> and

B. water from a nonpublic water system must meet the drinking water quality standards of noncommunity transient water systems.<sup>p1</sup>

**Statutory Authority:** *MS s 31.101; 31.11; 144.05; 144.07; 144.08; 144.12; 157.011*

**History:** *23 SR 519; 40 SR 71; 43 SR 295*

**Published Electronically:** *January 2, 2019*

**4626.1000 NONDRINKING WATER. 5-102.12**

Nondrinking water may be used only for nonculinary purposes such as air conditioning, nonfood equipment cooling, and fire protection.<sup>p1</sup>

**Statutory Authority:** *MS s 31.101; 31.11; 144.05; 144.07; 144.08; 144.12; 157.011*

**History:** *23 SR 519; 43 SR 295*

**Published Electronically:** *January 2, 2019*

**4626.1005 WATER SAMPLING. 5-102.13**

A. Drinking water from a public water system must be sampled and tested as required in chapter 4720.<sup>p2</sup>

B. Drinking water from a nonpublic water system must be sampled at the same frequency and tested for the same parameters as a public noncommunity transient water system. Sample collection protocols must follow the requirements in chapter 4720.<sup>p2</sup>

**Statutory Authority:** *MS s 31.101; 31.11; 144.05; 144.07; 144.08; 144.12; 157.011*

**History:** *23 SR 519; 43 SR 295*

**Published Electronically:** *January 2, 2019*

**4626.1010 WATER SAMPLE REPORT; NOTIFICATION AND RETENTION. 5-102.14**

A. The most recent report of water quality shall be retained on file in the food establishment and the report shall be maintained as specified in chapter 4720.

B. The licensee of a food establishment with a nonpublic water system shall notify the regulatory authority of the failure to comply with national primary drinking water regulations as follows:

- (1) within 48 hours for nitrate;<sup>p2</sup>
- (2) within 24 hours for total coliform;<sup>p2</sup> and
- (3) immediately when the result is known for *E. coli*.<sup>p2</sup>

**Statutory Authority:** *MS s 31.101; 31.11; 144.05; 144.07; 144.08; 144.12; 157.011*

**History:** *23 SR 519; 43 SR 295*

**Published Electronically:** *January 2, 2019*

**4626.1015 WATER SYSTEM CAPACITY. 5-103.11**

A. The water source and system must be of sufficient capacity to meet the peak water demands of the food establishment.<sup>p2</sup>

B. Hot water generation and distribution systems must be sufficient to meet the peak hot water demands throughout the food establishment.<sup>p2</sup>

**Statutory Authority:** *MS s 31.101; 31.11; 144.05; 144.07; 144.08; 144.12; 157.011*

**History:** *23 SR 519; 43 SR 295*

**Published Electronically:** *January 2, 2019*

#### **4626.1020 WATER PRESSURE. 5-103.12**

Water under pressure must be provided to all fixtures, equipment, and nonfood equipment that are required to use water except that a seasonal temporary food stand that is disassembled after every use, a special event food stand, or a response to a temporary interruption of a water supply need not be under pressure.p<sub>2</sub>

**Statutory Authority:** *MS s 31.101; 31.11; 144.05; 144.07; 144.08; 144.12; 157.011*

**History:** *23 SR 519; 43 SR 295*

**Published Electronically:** *January 2, 2019*

#### **4626.1025 [Repealed, 43 SR 295]**

**Published Electronically:** *January 2, 2019*

#### **4626.1030 WATER SYSTEM. 5-104.11**

Water must be received from the source through the use of:

A. an approved public water main regulated under chapter 4720;p<sub>2</sub> or

B. one or more of the following means that must be constructed, maintained, and operated according to applicable state laws and rules:

(1) a nonpublic water main, water pumps, pipes, hoses, connections, and other appurtenances that comply with chapters 4714 and 4720;p<sub>2</sub>

(2) water haulers that comply with parts 4720.4000 to 4720.4400;p<sub>2</sub> or

(3) water tanks that comply with parts 4626.1135 to 4626.1175 and 4720.4300 to 4720.4400.p<sub>2</sub>

**Statutory Authority:** *MS s 31.101; 31.11; 144.05; 144.07; 144.08; 144.12; 157.011*

**History:** *23 SR 519; 40 SR 71; 43 SR 295*

**Published Electronically:** *January 2, 2019*

#### **4626.1035 ALTERNATIVE WATER SUPPLY. 5-104.12**

Water meeting the requirements of parts 4626.0980 to 4626.1020 must be made available for a food cart, mobile food unit, seasonal temporary food stand, or special event food stand without a permanent water supply, and for a food establishment with a temporary interruption of its water supply through:

A. containers of commercially bottled drinking water that comply with Code of Federal Regulations, title 21, part 129, and parts 1550.3200 to 1550.3320;p<sub>2</sub>

- B. one or more closed portable water containers that comply with parts 4720.4300 to 4720.4400 and applicable state laws;<sub>p2</sub>
- C. an enclosed vehicular water tank that complies with parts 4720.4300 to 4720.4400;<sub>p2</sub>
- D. piping, tubing, or hoses connected to an adjacent source that complies with parts 4626.1140 and 4626.1160 and chapters 4720 and 4725;<sub>p2</sub> or
- E. a water vending machine as defined in part 1550.3200, subpart 32.<sub>p2</sub>

**Statutory Authority:** *MS s 31.101; 31.11; 144.05; 144.07; 144.08; 144.12; 157.011*

**History:** *23 SR 519; 43 SR 295*

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### PLUMBING SYSTEM

#### **4626.1040 PLUMBING SYSTEM; APPROVED MATERIALS, INSTALLATION, AND MAINTENANCE. 5-201.11**

- A. A plumbing system must be designed, constructed, installed, and repaired with approved materials, equipment, and devices according to chapter 4714 and Minnesota Statutes, sections 326B.43 to 326B.49.<sub>p1</sub>
- B. A plumbing system must be maintained in good repair.
- C. A water filter must be made of safe materials.<sub>p1</sub>

**Statutory Authority:** *MS s 31.101; 31.11; 144.05; 144.07; 144.08; 144.12; 157.011*

**History:** *23 SR 519; L 2007 c 140 art 6 s 15; art 13 s 4; 40 SR 71; 43 SR 295*

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**4626.1045** [Repealed, 43 SR 295]

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#### **4626.1050 HANDWASHING SINK; INSTALLATION. 5-202.12**

- A. A handwashing sink must be equipped to provide water at a temperature to allow handwashing for at least 15 seconds through a mixing valve or combination faucet.<sub>p2</sub>
- B. A steam mixing valve must not be used at a handwashing sink.
- C. A self-closing, slow-closing, or metering faucet must provide a flow of water for at least 15 seconds without the need to reactivate the faucet.
- D. An automatic handwashing facility must be installed according to the manufacturer's instructions and specifications.

**Statutory Authority:** *MS s 31.101; 31.11; 144.05; 144.07; 144.08; 144.12; 157.011*

**History:** 23 SR 519; 43 SR 295

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**4626.1055** [Repealed, 43 SR 295]

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**4626.1060** [Repealed, 43 SR 295]

**Published Electronically:** January 2, 2019

**4626.1065 WATER CONDITIONING DEVICE; DESIGN. 5-202.15**

A water filter, screen, or other water conditioning device installed on water lines must be designed and located to facilitate disassembly for periodic servicing and cleaning. A water filter element must be a replaceable type.

**Statutory Authority:** MS s 31.101; 31.11; 144.05; 144.07; 144.08; 144.12; 157.011

**History:** 23 SR 519; 43 SR 295

**Published Electronically:** January 2, 2019

**4626.1070 HANDWASHING SINKS; NUMBERS AND CAPACITY. 5-203.11**

A. Except as specified in items B and C, each food establishment must install at least 1 handwashing sink, or the number of handwashing sinks necessary for the convenient use by employees in the areas specified in part 4626.1095.p2

B. When food exposure is limited and handwashing sinks are not conveniently available at vending machine locations, employees may use chemically treated towelettes for handwashing.

C. A special event food stand or seasonal temporary food stand that is disassembled after each use may use a handwashing device with water delivered under pressure or by gravity with a faucet or spigot that provides hands-free flow of water.

**Statutory Authority:** MS s 31.101; 31.11; 144.05; 144.07; 144.08; 144.12; 157.011

**History:** 23 SR 519; 40 SR 71; 43 SR 295

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**4626.1075 TOILETS AND URINALS. 5-203.12**

A. At least 1 toilet and not fewer than the number of toilets required by federal and state laws and rules must be provided. Urinals may be substituted for toilets if more than the minimum number of toilets required under state or federal laws and rules are provided.

B. A plumbing fixture such as a handwashing sink, toilet, or urinal must be easily cleanable.

C. A food cart, special event food stand, temporary food establishment, retail food vehicle, portable structure, or cart is exempt from item A.

**Statutory Authority:** MS s 31.101; 31.11; 144.05; 144.07; 144.08; 144.12; 157.011



**History:** 23 SR 519; 40 SR 71; 43 SR 295

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#### **4626.1080 SERVICE SINK. 5-203.13**

A. At least 1 service sink or 1 curbed cleaning facility equipped with a floor drain must be provided and conveniently located for the cleaning of mops or similar wet floor cleaning tools and for the disposal of mop water and similar liquid waste. The service sink must not be used for any other purpose.

B. Toilets and urinals must not be used as a service sink for the disposal of mop water and similar liquid waste.

C. A food cart, special event food stand, temporary food establishment, retail food vehicle, portable structure, or cart is exempt from item A.

**Statutory Authority:** MS s 31.101; 31.11; 144.05; 144.07; 144.08; 144.12; 157.011

**History:** 23 SR 519; 43 SR 295

**Published Electronically:** January 2, 2019

#### **4626.1085 BACKFLOW PREVENTION DEVICE; WHEN REQUIRED. 5-203.14**

A. A plumbing system must be installed to preclude backflow of a solid, liquid, or gas contaminant into the water supply system at each point of use at the food establishment according to chapter 4714.p<sub>1</sub>

B. A backflow prevention device must be located so that it may be serviced and maintained.

**Statutory Authority:** MS s 31.101; 31.11; 144.05; 144.07; 144.08; 144.12; 157.011

**History:** 23 SR 519; 43 SR 295

**Published Electronically:** January 2, 2019

#### **4626.1090 [Repealed, 43 SR 295]**

**Published Electronically:** January 2, 2019

#### **4626.1095 HANDWASHING SINKS. 5-204.11**

A handwashing sink must be located:

A. to allow convenient use by employees in food preparation, food dispensing, and warewashing areas;p<sub>2</sub> and

B. in, or immediately adjacent to, toilet rooms.p<sub>2</sub>

**Statutory Authority:** MS s 31.101; 31.11; 144.05; 144.07; 144.08; 144.12; 157.011

**History:** 23 SR 519; 43 SR 295

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**4626.1100** [Repealed, 43 SR 295]

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**4626.1105** [Repealed, 43 SR 295]

**Published Electronically:** *January 2, 2019*

**4626.1110 USING HANDWASHING SINKS. 5-205.11**

A. A handwashing sink must be maintained so that it is accessible at all times for employee use.<sup>p2</sup>

B. A handwashing sink must not be used for purposes other than handwashing.<sup>p2</sup>

C. An automatic handwashing facility must be used according to the manufacturer's instructions.<sup>p2</sup>

**Statutory Authority:** *MS s 31.101; 31.11; 144.05; 144.07; 144.08; 144.12; 157.011*

**History:** *23 SR 519; 43 SR 295*

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**4626.1115 CROSS-CONNECTIONS PROHIBITED. 5-205.12**

A. A person shall not create a cross-connection by connecting a pipe or conduit between the drinking water system and a nondrinking water system or a water system of unknown quality.<sup>p1</sup>

B. The piping of a nondrinking water system must be durably identified so that it is readily distinguishable from piping that carries drinking water.<sup>p2</sup>

**Statutory Authority:** *MS s 31.101; 31.11; 144.05; 144.07; 144.08; 144.12; 157.011*

**History:** *23 SR 519; 43 SR 295*

**Published Electronically:** *January 2, 2019*

**4626.1120 SCHEDULING INSPECTION AND SERVICE FOR A WATER SYSTEM DEVICE. 5-205.13**

A device such as a water treatment device or backflow preventer must be scheduled for inspection and service according to the manufacturer's instructions and as necessary to prevent device failure based on local water conditions. Records demonstrating inspection and service must be maintained by the person in charge.<sup>p2</sup>

**Statutory Authority:** *MS s 31.101; 31.11; 144.05; 144.07; 144.08; 144.12; 157.011*

**History:** *23 SR 519; 40 SR 71; 43 SR 295*

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**4626.1125 WATER RESERVOIR OF FOGGING DEVICES; CLEANING. 5-205.14**

A. A reservoir that is used to supply water to a produce fogger or similar device must be:

- (1) maintained according to the manufacturer's specifications;<sup>p1</sup> and
- (2) cleaned according to the manufacturer's specifications or according to the procedures in item B, whichever is more stringent.<sup>p1</sup>

B. Cleaning procedures must include at least the following steps and must be conducted at least once a week:

- (1) draining and complete disassembly of the water and aerosol contact parts;<sup>p1</sup>
- (2) brush-cleaning the reservoir, aerosol tubing, and discharge nozzles with a suitable detergent solution;<sup>p1</sup>
- (3) flushing the complete system with water to remove the detergent solution and particulate accumulation;<sup>p1</sup> and
- (4) rinsing by immersing, spraying, or swabbing the reservoir, aerosol tubing, and discharge nozzles with an effective sanitizing chemical per the manufacturer's recommendations.<sup>p1</sup>

**Statutory Authority:** *MS s 31.101; 31.11; 144.05; 144.07; 144.08; 144.12; 157.011*

**History:** *23 SR 519; 43 SR 295*

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**4626.1130** [Repealed, 43 SR 295]

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## WATER TANKS

### **4626.1135 WATER TANKS; APPROVED. 5-301.11**

A water tank used to supply a food establishment, a food cart, a temporary food establishment, or any appurtenances must meet:

- A. the requirements specified in parts 4626.1135 to 4626.1175;
- B. the requirements specified in part 4626.0450; and
- C. the standards for water haulers specified in parts 4720.4300 to 4720.4400.

**Statutory Authority:** *MS s 31.101; 31.11; 144.05; 144.07; 144.08; 144.12; 157.011*

**History:** *23 SR 519; 43 SR 295*

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### **4626.1140 DRINKING WATER HOSE; CONSTRUCTION AND IDENTIFICATION. 5-302.16**

A hose used for conveying drinking water from a water tank must be:

- A. of a food grade material;<sup>p1</sup>

- B. durable, corrosion-resistant, and nonabsorbent;
- C. resistant to pitting, chipping, crazing, scratching, scoring, distortion, and decomposition;
- D. finished with a smooth interior surface; and
- E. clearly and durably identified as to its use if not permanently attached to the water source.

**Statutory Authority:** *MS s 31.101; 31.11; 144.05; 144.07; 144.08; 144.12; 157.011*

**History:** *23 SR 519; 43 SR 295*

**Published Electronically:** *January 2, 2019*

#### **4626.1145 FILTER; COMPRESSED AIR. 5-303.11**

A filter that does not pass oil or oil vapors must be installed in the air supply line between the compressor and drinking water system when compressed air is used to pressurize the water tank system.<sup>p1</sup>

**Statutory Authority:** *MS s 31.101; 31.11; 144.05; 144.07; 144.08; 144.12; 157.011*

**History:** *23 SR 519; 43 SR 295*

**Published Electronically:** *January 2, 2019*

#### **4626.1150 WATER INLET, OUTLET, AND HOSES; PROTECTIVE COVER OR DEVICE. 5-303.12**

A cap and keeper chain, closed cabinet, closed storage tube, or other approved protective cover or device must be provided for a water inlet, outlet, and hose when the device is not in use.

**Statutory Authority:** *MS s 31.101; 31.11; 144.05; 144.07; 144.08; 144.12; 157.011*

**History:** *23 SR 519; 43 SR 295*

**Published Electronically:** *January 2, 2019*

#### **4626.1155 MOBILE FOOD ESTABLISHMENT WATER TANK INLET. 5-303.13**

A mobile food establishment's water tank inlet must be:

- A. 3/4 inch (19.1 millimeters) in inner diameter or less; and
- B. provided with a hose connection of a size or type that will prevent its use for any other service.

**Statutory Authority:** *MS s 31.101; 31.11; 144.05; 144.07; 144.08; 144.12; 157.011*

**History:** *23 SR 519; 43 SR 295*

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**4626.1160 WATER SYSTEM FLUSHING AND SANITIZATION. 5-304.11**

A water tank, pump, and hose must be flushed and sanitized before being placed in service after construction, repair, modification, and periods of nonuse.<sup>p1</sup>

**Statutory Authority:** *MS s 31.101; 31.11; 144.05; 144.07; 144.08; 144.12; 157.011*

**History:** *23 SR 519; 43 SR 295*

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**4626.1165 WATER TANK, PUMP, AND HOSE; BACKFLOW PREVENTION. 5-304.12**

A person shall operate a water tank, pump, and hose so that backflow and other contamination of the water supply are prevented.

**Statutory Authority:** *MS s 31.101; 31.11; 144.05; 144.07; 144.08; 144.12; 157.011*

**History:** *23 SR 519; 43 SR 295*

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**4626.1170 [Repealed, 43 SR 295]**

**Published Electronically:** *January 2, 2019*

**4626.1175 WATER TANK, PUMP, AND HOSE; DEDICATION. 5-304.14**

A. Except as specified in item B, water tanks, pumps, and hoses used for conveying drinking water must be used for no other purpose.<sup>p1</sup>

B. Water tanks, pumps, and hoses approved for liquid foods may be used for conveying drinking water if they are cleaned and sanitized before they are used to convey water.

**Statutory Authority:** *MS s 31.101; 31.11; 144.05; 144.07; 144.08; 144.12; 157.011*

**History:** *23 SR 519; 43 SR 295*

**Published Electronically:** *January 2, 2019*

**SEWAGE****4626.1180 SEWAGE HOLDING TANK CAPACITY AND DRAINAGE. 5-401.11**

A. A sewage holding tank in a mobile food unit or seasonal temporary food establishment must be:

- (1) sized 15 percent larger in capacity than the water supply tank; and
- (2) sloped to a drain that is 1 inch (25 millimeters) in inner diameter or greater, and equipped with a shut-off valve.

B. The sewage must not be discharged on the ground.

C. The regulatory authority may approve an alternate method for conveying and disposing of sewage from a mobile food unit or seasonal temporary food establishment in lieu of a waste-holding tank. The alternative method of conveying and disposing of sewage must meet the requirements of part 4626.1200.

**Statutory Authority:** *MS s 31.101; 31.11; 144.05; 144.07; 144.08; 144.12; 157.011*

**History:** *23 SR 519; 43 SR 295*

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**4626.1185** [Repealed, 43 SR 295]

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#### **4626.1190 BACKFLOW PREVENTION. 5-402.11**

A. Except as specified in items B, C, and D, a direct connection must not exist between the sewage system and a drain originating from equipment in which food, portable equipment, or utensils are placed.<sup>p1</sup>

B. Item A does not apply to floor drains that originate in refrigerated spaces that are constructed as an integral part of the building.

C. If allowed by chapter 4714, a warewashing machine may have a direct connection between its waste outlet and a floor drain when the machine is located within 5 feet (1.5 meters) of a trapped floor drain and the machine outlet is connected to the inlet side of a properly vented floor drain trap.

D. If allowed by chapter 4714, a warewashing or culinary sink may have a direct connection.

**Statutory Authority:** *MS s 31.101; 31.11; 144.05; 144.07; 144.08; 144.12; 157.011*

**History:** *23 SR 519; 40 SR 71; 43 SR 295*

**Published Electronically:** *January 2, 2019*

#### **4626.1195 GREASE TRAP. 5-402.12**

If used, a grease trap must be located to be easily accessible for cleaning.

**Statutory Authority:** *MS s 31.101; 31.11; 144.05; 144.07; 144.08; 144.12; 157.011*

**History:** *23 SR 519; 43 SR 295*

**Published Electronically:** *January 2, 2019*

#### **4626.1200 CONVEYING SEWAGE. 5-402.13**

Sewage must be conveyed to the point of disposal through an approved sanitary sewage system or other system, including use of sewage transport vehicles, waste retention tanks, pumps, pipes, hoses, and connections that are constructed, maintained, and operated according to chapters 7080 and 7081, and Minnesota Statutes, section 115.55.<sup>p1</sup>

**Statutory Authority:** *MS s 31.101; 31.11; 144.05; 144.07; 144.08; 144.12; 157.011*

**History:** 23 SR 519; 43 SR 295

**Published Electronically:** January 2, 2019

#### **4626.1205 REMOVING TEMPORARY FOOD ESTABLISHMENT WASTES. 5-402.14**

Sewage and other liquid wastes must be removed from a food cart, special event food stand, temporary food establishment, retail food vehicle, portable structure, or cart at an approved waste servicing area or by a sewage transport vehicle in such a way that a public health hazard or nuisance is not created.<sup>p2</sup>

**Statutory Authority:** MS s 31.101; 31.11; 144.05; 144.07; 144.08; 144.12; 157.011

**History:** 23 SR 519; 43 SR 295

**Published Electronically:** January 2, 2019

#### **4626.1210 FLUSHING WASTE RETENTION TANK. 5-402.15**

A tank for liquid waste retention must be thoroughly flushed and drained in a sanitary manner during the servicing operation.

**Statutory Authority:** MS s 31.101; 31.11; 144.05; 144.07; 144.08; 144.12; 157.011

**History:** 23 SR 519; 43 SR 295

**Published Electronically:** January 2, 2019

#### **4626.1215 APPROVED SEWAGE DISPOSAL SYSTEM. 5-403.11**

Sewage must be disposed through an approved facility that is:

A. a public sewage treatment plant;<sup>p1</sup> or

B. an individual sewage disposal system that is sized, constructed, maintained, and operated according to chapters 7080 and 7081.<sup>p1</sup>

**Statutory Authority:** MS s 31.101; 31.11; 144.05; 144.07; 144.08; 144.12; 157.011

**History:** 23 SR 519; 43 SR 295

**Published Electronically:** January 2, 2019

#### **4626.1220 OTHER LIQUID WASTES AND RAINWATER. 5-403.12**

Condensate drainage and other nonsewage liquids and rainwater must be drained from point of discharge to disposal according to chapters 7080, 7081, and 7083.

**Statutory Authority:** MS s 31.101; 31.11; 144.05; 144.07; 144.08; 144.12; 157.011

**History:** 23 SR 519; 43 SR 295

**Published Electronically:** January 2, 2019

**REFUSE AND RECYCLABLES****4626.1225 REFUSE; INDOOR STORAGE AREA. 5-501.10**

If located within the food establishment, a storage area for refuse, recyclables, and returnables must meet the requirements in parts 4626.1325, 4626.1335 to 4626.1370, 4626.1395, and 4626.1400.

**Statutory Authority:** *MS s 31.101; 31.11; 144.05; 144.07; 144.08; 144.12; 157.011*

**History:** *23 SR 519; 43 SR 295*

**Published Electronically:** *January 2, 2019*

**4626.1230 REFUSE; OUTDOOR STORAGE SURFACE. 5-501.11**

An outdoor storage surface for refuse, recyclables, and returnables must be constructed of nonabsorbent material such as concrete or asphalt and must be smooth, durable, and sloped to drain.

**Statutory Authority:** *MS s 31.101; 31.11; 144.05; 144.07; 144.08; 144.12; 157.011*

**History:** *23 SR 519; 43 SR 295*

**Published Electronically:** *January 2, 2019*

**4626.1235 REFUSE; OUTDOOR ENCLOSURE. 5-501.12**

If used, an outdoor enclosure for refuse, recyclables, and returnables must be constructed of durable and cleanable materials.

**Statutory Authority:** *MS s 31.101; 31.11; 144.05; 144.07; 144.08; 144.12; 157.011*

**History:** *23 SR 519; 43 SR 295*

**Published Electronically:** *January 2, 2019*

**4626.1240 REFUSE; RECEPTACLES. 5-501.13**

A. Except as specified in item B, receptacles and waste handling units for refuse, recyclables, and returnables and for use with materials containing food residue must be durable, cleanable, insect- and rodent-resistant, leakproof, and nonabsorbent.

B. Plastic bags and wet strength paper bags may be used to line receptacles for storage inside the food establishment or within closed outside receptacles.

**Statutory Authority:** *MS s 31.101; 31.11; 144.05; 144.07; 144.08; 144.12; 157.011*

**History:** *23 SR 519; 43 SR 295*

**Published Electronically:** *January 2, 2019*

**4626.1245 REFUSE; RECEPTACLES IN VENDING MACHINES. 5-501.14**

A refuse receptacle must not be located within a vending machine, except that a receptacle for beverage bottle crown closures may be located within a vending machine.



**Statutory Authority:** *MS s 31.101; 31.11; 144.05; 144.07; 144.08; 144.12; 157.011*

**History:** *23 SR 519; 43 SR 295*

**Published Electronically:** *January 2, 2019*

#### **4626.1250 REFUSE; OUTSIDE RECEPTACLES. 5-501.15**

A. Receptacles and waste handling units for refuse, recyclables, and returnables used with materials containing food residue and used outside the food establishment must be designed and constructed to have tight-fitting lids, doors, or covers.

B. Receptacles and waste handling units for refuse and recyclables, such as an on-site compactor, must be installed so that accumulation of debris and insect and rodent attraction and harborage are minimized and effective cleaning is facilitated around and, if the equipment is not installed flush with the base pad, under the unit.

**Statutory Authority:** *MS s 31.101; 31.11; 144.05; 144.07; 144.08; 144.12; 157.011*

**History:** *23 SR 519; 43 SR 295*

**Published Electronically:** *January 2, 2019*

#### **4626.1255 REFUSE; STORAGE AREAS, ROOMS, AND RECEPTACLES; CAPACITY AND AVAILABILITY. 5-501.16**

A. An inside storage room and area, an outside storage area and enclosure, and receptacles must be of sufficient capacity to hold refuse, recyclables, and returnables that accumulate.

B. A receptacle must be provided in each area of the food establishment or premises where refuse is generated or commonly discarded or where recyclables or returnables are placed.

C. If disposable towels are used at handwashing sinks, a waste receptacle must be located at each sink or group of adjacent sinks.

**Statutory Authority:** *MS s 31.101; 31.11; 144.05; 144.07; 144.08; 144.12; 157.011*

**History:** *23 SR 519; 43 SR 295*

**Published Electronically:** *January 2, 2019*

#### **4626.1260 REFUSE; TOILET ROOM RECEPTACLE; COVERED. 5-501.17**

A toilet room must be provided with a covered receptacle for sanitary napkins or diapers.

**Statutory Authority:** *MS s 31.101; 31.11; 144.05; 144.07; 144.08; 144.12; 157.011*

**History:** *23 SR 519; 43 SR 295*

**Published Electronically:** *January 2, 2019*

**4626.1265 REFUSE; CLEANING IMPLEMENTS AND SUPPLIES. 5-501.18**

A. Except as specified in item B, suitable cleaning implements and supplies such as high pressure pumps, hot water, steam, and detergent, must be provided as necessary to effectively clean receptacles and waste handling units for refuse, recyclables, and returnables.

B. Off-premises-based cleaning services with implements and supplies as specified in item A may be used if on-premises cleaning implements and supplies are not provided.

**Statutory Authority:** *MS s 31.101; 31.11; 144.05; 144.07; 144.08; 144.12; 157.011*

**History:** *23 SR 519; 43 SR 295*

**Published Electronically:** *January 2, 2019*

**4626.1270 REFUSE; STORAGE AREAS, REDEEMING MACHINES, EQUIPMENT, AND RECEPTACLES; LOCATION. 5-501.19**

A. An area designated for refuse, recyclables, returnables, and, except as specified in item B, a redeeming machine for recyclables or returnables must be located so that it is separate from food, equipment, utensils, linens, and single-service and single-use articles and a nuisance or a public health hazard is not created.

B. A redeeming machine may be located in the packaged food storage area or consumer area of a food establishment if food, equipment, utensils, linens, and single-service and single-use articles are not subject to contamination from the machine and a public health hazard or nuisance is not created.

C. The location of receptacles and waste handling units for refuse, recyclables, and returnables must not create a public health hazard or nuisance or interfere with the cleaning of adjacent space.

**Statutory Authority:** *MS s 31.101; 31.11; 144.05; 144.07; 144.08; 144.12; 157.011*

**History:** *23 SR 519; 43 SR 295*

**Published Electronically:** *January 2, 2019*

**4626.1275 STORING REFUSE, RECYCLABLES, AND RETURNABLES; INSECT AND RODENT CONTROL. 5-501.110**

Refuse, recyclables, and returnables must be stored in receptacles or waste handling units so that they are inaccessible to insects and rodents.

**Statutory Authority:** *MS s 31.101; 31.11; 144.05; 144.07; 144.08; 144.12; 157.011*

**History:** *23 SR 519; 43 SR 295*

**Published Electronically:** *January 2, 2019*

**4626.1280 AREAS, ENCLOSURES, AND RECEPTACLES; GOOD REPAIR. 5-501.111**

Storage areas, enclosures, and receptacles for refuse, recyclables, and returnables must be maintained in good repair.

**Statutory Authority:** *MS s 31.101; 31.11; 144.05; 144.07; 144.08; 144.12; 157.011*

**History:** *23 SR 519; 43 SR 295*

**Published Electronically:** *January 2, 2019*

**4626.1285 OUTSIDE STORAGE PROHIBITIONS. 5-501.112**

A. Except as specified in item B, refuse receptacles not meeting the requirements specified in part 4626.1240, item A, including receptacles that are not rodent-resistant, unprotected plastic bags and paper bags, and baled units that contain materials with food residue, must not be stored outside.

B. Cardboard or other packaging material that does not contain food residue and that is awaiting regularly scheduled delivery to a recycling or disposal site may be stored outside without being in a covered receptacle if it is stored so that it does not create a rodent harborage problem.

**Statutory Authority:** *MS s 31.101; 31.11; 144.05; 144.07; 144.08; 144.12; 157.011*

**History:** *23 SR 519; 43 SR 295*

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**4626.1290 COVERING RECEPTACLES. 5-501.113**

Receptacles and waste handling units for refuse, recyclables, and returnables must be kept covered:

A. inside the food establishment:

- (1) if the receptacles and units contain food residue and are not in continuous use; or
- (2) after they are filled; and

B. with tight-fitting lids or doors if kept outside the food establishment.

**Statutory Authority:** *MS s 31.101; 31.11; 144.05; 144.07; 144.08; 144.12; 157.011*

**History:** *23 SR 519; 43 SR 295*

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**4626.1295 USING DRAIN PLUGS. 5-501.114**

Drains in receptacles and waste handling units for refuse, recyclables, and returnables must have drain plugs in place.

**Statutory Authority:** *MS s 31.101; 31.11; 144.05; 144.07; 144.08; 144.12; 157.011*

**History:** 23 SR 519; 43 SR 295

**Published Electronically:** January 2, 2019

#### **4626.1300 MAINTAINING REFUSE AREAS AND ENCLOSURES. 5-501.115**

A storage area and enclosure for refuse, recyclables, or returnables must be maintained free of unnecessary items, as specified in part 4626.1580, and clean.

**Statutory Authority:** *MS s 31.101; 31.11; 144.05; 144.07; 144.08; 144.12; 157.011*

**History:** 23 SR 519; 43 SR 295

**Published Electronically:** January 2, 2019

#### **4626.1305 CLEANING RECEPTACLES. 5-501.116**

A. Receptacles and waste handling units for refuse, recyclables, and returnables must be thoroughly cleaned in a way that does not contaminate food, equipment, utensils, linens, or single-service and single-use articles, and wastewater must be disposed of according to part 4626.1200 and applicable state laws and rules.

B. Receptacles and waste handling units for refuse, recyclables, and returnables must be cleaned at a frequency necessary to prevent them from developing a build-up of soil or becoming attractants for insects and rodents.

**Statutory Authority:** *MS s 31.101; 31.11; 144.05; 144.07; 144.08; 144.12; 157.011*

**History:** 23 SR 519; 43 SR 295

**Published Electronically:** January 2, 2019

#### **4626.1310 REFUSE, RECYCLABLES, AND RETURNABLES; REMOVAL FREQUENCY. 5-502.11**

Refuse, recyclables, and returnables must be removed from the premises at a frequency that will minimize the development of objectionable odors and other conditions that attract or harbor insects and rodents.

**Statutory Authority:** *MS s 31.101; 31.11; 144.05; 144.07; 144.08; 144.12; 157.011*

**History:** 23 SR 519; 43 SR 295

**Published Electronically:** January 2, 2019

#### **4626.1315 RECEPTACLES OR VEHICLES. 5-502.12**

Refuse, recyclables, and returnables must be removed from the premises by way of:

A. portable receptacles that are constructed and maintained according to applicable state laws and rules; or

B. a transport vehicle that is constructed, maintained, and operated according to applicable state laws and rules.

**Statutory Authority:** *MS s 31.101; 31.11; 144.05; 144.07; 144.08; 144.12; 157.011*

**History:** *23 SR 519; 43 SR 295*

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#### **4626.1320 SOLID WASTE COMMUNITY OR INDIVIDUAL FACILITY. 5-503.11**

Solid waste not disposed of through the sewage system, such as through grinders and pulpers, must be recycled or disposed of in an approved public or private community recycling or refuse facility; or solid waste must be disposed of in an individual refuse facility such as a landfill or incinerator that is sized, constructed, maintained, and operated according to applicable state laws and rules.

**Statutory Authority:** *MS s 31.101; 31.11; 144.05; 144.07; 144.08; 144.12; 157.011*

**History:** *23 SR 519; 43 SR 295*

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### **PHYSICAL FACILITY CONSTRUCTION MATERIALS**

#### **4626.1325 FLOORS, WALLS, AND CEILINGS; CHARACTERISTICS INDOOR AREAS AND MATERIALS. 6-101.11**

A. Except as specified in item B, materials for indoor floor, wall, and ceiling surfaces under conditions of normal use must be:

(1) smooth, durable, and easily cleanable for areas where food establishment operations are conducted;

(2) closely woven and easily cleanable carpet for all carpeted areas; and

(3) nonabsorbent for areas subject to moisture such as food preparation areas, walk-in refrigerators, warewashing areas, toilet rooms, all servicing areas, and areas subject to flushing or spray cleaning methods.

B. In any food cart, special event food stand, seasonal temporary food stand, seasonal permanent food stand, portable structure, or cart:

(1) if graded to drain, a floor may be concrete, machine-laid asphalt, or dirt or gravel if it is covered with mats, removable platforms, duckboards, or other suitable materials approved by the regulatory authority that are effectively treated to control dust and mud; and

(2) walls and ceilings must be constructed of a material that protects the interior from the weather and windblown dust and debris.

**Statutory Authority:** *MS s 31.101; 31.11; 144.05; 144.07; 144.08; 144.12; 157.011*

**History:** *23 SR 519; 43 SR 295*

**Published Electronically:** *January 2, 2019*

**4626.1330 OUTDOOR SURFACES; CHARACTERISTICS AND MATERIALS. 6-102.11**

A. Outdoor walking and driving areas must be surfaced with concrete, asphalt, gravel, or other materials that have been effectively treated to minimize dust, facilitate maintenance, and prevent muddy conditions.

B. Exterior surfaces of buildings and mobile food units, seasonal permanent food stands, and retail food vehicles must be of weather-resistant materials and must comply with law.

**Statutory Authority:** *MS s 31.101; 31.11; 144.05; 144.07; 144.08; 144.12; 157.011*

**History:** *23 SR 519; 43 SR 295*

**Published Electronically:** *January 2, 2019*

**PHYSICAL FACILITY DESIGN AND CONSTRUCTION****4626.1335 FLOORS, WALLS, AND CEILINGS; CLEANABILITY. 6-201.11**

A. Except as specified in part 4626.1350, the floors, floor coverings, walls, wall coverings, and ceilings must be designed, constructed, and installed so they are smooth and easily cleanable, except that antislip floor coverings or applications may be used for safety reasons.

B. Sealed concrete is prohibited in those areas described in part 4626.1325, item A, subitem (3), if food product packages, containers, or cases in those areas are opened. Sealed concrete is permitted in areas used exclusively for refuse storage.

**Statutory Authority:** *MS s 31.101; 31.11; 144.05; 144.07; 144.08; 144.12; 157.011*

**History:** *23 SR 519; 43 SR 295*

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**4626.1340 FLOORS, WALLS, AND CEILINGS; UTILITY LINES. 6-201.12**

A. Utility service lines and pipes must not be unnecessarily exposed.

B. Exposed utility service lines and pipes must be installed so they do not obstruct or prevent cleaning of the floors, walls, or ceilings.

C. Exposed horizontal utility service lines and pipes must not be installed directly on the floor.

**Statutory Authority:** *MS s 31.101; 31.11; 144.05; 144.07; 144.08; 144.12; 157.011*

**History:** *23 SR 519; 43 SR 295*

**Published Electronically:** *January 2, 2019*

**4626.1345 FLOOR AND WALL JUNCTURES; COVED AND ENCLOSED OR SEALED. 6-201.13**

A. In food establishments in which cleaning methods other than water flushing are used for cleaning floors, the floor and wall junctures must be coved and closed to no larger than 1/32 inch (1 millimeter).

B. The floors in food establishments in which water flushing cleaning methods are used must be provided with drains and graded to drain, and the floor and wall junctures must be coved and sealed.

**Statutory Authority:** *MS s 31.101; 31.11; 144.05; 144.07; 144.08; 144.12; 157.011*

**History:** *23 SR 519; 43 SR 295*

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**4626.1350 FLOOR CARPETING; RESTRICTIONS AND INSTALLATION. 6-201.14**

A. Carpeting or similar material must not be installed as a floor covering in food preparation areas; walk-in refrigerators or freezers; warewashing areas; toilet room areas where handwashing sinks, toilets, and urinals are located; refuse storage areas; wait stations; dressing rooms; locker rooms; janitorial areas; within 3 feet around permanently installed bars and salad bars, other food service equipment, and food storage rooms; or other areas where the floor is subject to moisture, flushing, or spray cleaning methods.

B. If carpeting is installed as a floor covering in areas other than those specified in item A, it must be:

(1) securely attached to the floor with a durable mastic, by using a stretch and tack method, or by another method; and

(2) installed tightly against the wall under the coving or installed away from the wall with a space between the carpet and the wall and with the edges of the carpet secured by metal stripping or some other means.

**Statutory Authority:** *MS s 31.101; 31.11; 144.05; 144.07; 144.08; 144.12; 157.011*

**History:** *23 SR 519; 43 SR 295*

**Published Electronically:** *January 2, 2019*

**4626.1355 FLOOR COVERING; MATS AND DUCKBOARDS. 6-201.15**

Mats and duckboards must be designed to be removable and easily cleanable.

**Statutory Authority:** *MS s 31.101; 31.11; 144.05; 144.07; 144.08; 144.12; 157.011*

**History:** *23 SR 519; 43 SR 295*

**Published Electronically:** *January 2, 2019*

**4626.1360 WALL AND CEILING COVERINGS AND COATINGS. 6-201.16**

A. Wall and ceiling covering materials must be attached so that they are easily cleanable.

B. Except in areas used only for dry storage, concrete, porous blocks or bricks used for indoor wall construction must be finished and sealed to provide a smooth, nonabsorbent, easily cleanable surface.

**Statutory Authority:** *MS s 31.101; 31.11; 144.05; 144.07; 144.08; 144.12; 157.011*

**History:** *23 SR 519; 43 SR 295*

**Published Electronically:** *January 2, 2019*

**4626.1365 WALLS AND CEILINGS; ATTACHMENTS. 6-201.17**

A. Except as specified in item B, attachments to walls and ceilings such as light fixtures, mechanical room ventilation system components, vent covers, wall mounted fans, decorative items, and other attachments must be easily cleanable.

B. In a consumer area, wall and ceiling surfaces and decorative items and attachments that are provided for ambiance need not comply with item A if they are kept clean.

**Statutory Authority:** *MS s 31.101; 31.11; 144.05; 144.07; 144.08; 144.12; 157.011*

**History:** *23 SR 519; 43 SR 295*

**Published Electronically:** *January 2, 2019*

**4626.1370 WALLS AND CEILINGS; STUDS, JOISTS, AND RAFTERS. 6-201.18**

Except for temporary food establishments, studs, joists, and rafters must not be exposed in areas subject to moisture.

**Statutory Authority:** *MS s 31.101; 31.11; 144.05; 144.07; 144.08; 144.12; 157.011*

**History:** *23 SR 519; 43 SR 295*

**Published Electronically:** *January 2, 2019*

**4626.1375 LIGHT BULBS; PROTECTIVE SHIELDING. 6-202.11**

A. Except as specified in item B, light bulbs must be shielded, coated, or otherwise shatter-resistant in areas where there is exposed food; clean equipment, utensils, and linens; or unwrapped single-service and single-use articles.

B. Shielded, coated, or otherwise shatter-resistant bulbs need not be used in areas used only for storing food in unopened packages, if:

(1) the integrity of the packages cannot be affected by broken glass falling onto them; and

(2) the packages are capable of being cleaned of debris from broken bulbs before the packages are opened.



C. An infrared or other heat lamp must be protected against breakage by a shield surrounding and extending beyond the bulb so that only the face of the bulb is exposed.

**Statutory Authority:** *MS s 31.101; 31.11; 144.05; 144.07; 144.08; 144.12; 157.011*

**History:** *23 SR 519; 43 SR 295*

**Published Electronically:** *January 2, 2019*

**4626.1380 HEATING, VENTILATING, AND AIR CONDITIONING SYSTEM VENTS. 6-202.12**

Heating, ventilating, and air conditioning systems must be designed and installed so that make-up air intake and exhaust vents do not cause contamination of food, food-contact surfaces, equipment, or utensils. Systems must be installed according to chapter 1346.

**Statutory Authority:** *MS s 31.101; 31.11; 144.05; 144.07; 144.08; 144.12; 157.011*

**History:** *23 SR 519; 43 SR 295*

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**4626.1385 INSECT CONTROL DEVICES; DESIGN AND INSTALLATION. 6-202.13**

A. Insect control devices that are used to electrocute or stun flying insects must be designed to retain the insect within the device.

B. Insect control devices must be installed so that:

(1) the devices are not located over a food preparation area; and

(2) dead insects and insect fragments are prevented from being impelled onto or falling on exposed food; clean equipment, utensils, and linens; and unwrapped single- service and single-use articles.

**Statutory Authority:** *MS s 31.101; 31.11; 144.05; 144.07; 144.08; 144.12; 157.011*

**History:** *23 SR 519; 43 SR 295*

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**4626.1390 TOILET ROOMS; ENCLOSED. 6-202.14**

Except where a toilet room is located outside a food establishment and does not open directly into the food establishment, such as a toilet room that is provided by the management of a shopping mall, a toilet room located on the premises must be completely enclosed and provided with a tight-fitting and self-closing door or as specified in part 4626.1555.

**Statutory Authority:** *MS s 31.101; 31.11; 144.05; 144.07; 144.08; 144.12; 157.011*

**History:** *23 SR 519; 43 SR 295*

**Published Electronically:** *January 2, 2019*

**4626.1395 OUTER OPENINGS; PROTECTED. 6-202.15**

A. Except in food carts, special event food stands, temporary food establishments, retail food vehicles, portable structures, carts, or outside areas used for beverage service, such as alcohol bar service or as specified in items B, C, E, and F and under item D, outer openings of a food establishment must be protected against the entry of insects and rodents by:

- (1) filling or closing holes and other gaps along floors, walls, and ceilings;
- (2) closed, tight-fitting windows; and
- (3) solid self-closing, tight-fitting doors.

B. Item A does not apply if a food establishment opens into a larger structure, such as a mall, airport, or office building, or into an attached structure, such as a porch, and the outer openings from the larger or attached structure are protected against the entry of insects and rodents.

C. Exterior doors used as exits need not be self-closing if they are:

- (1) solid and tight-fitting;
- (2) designated for use only when an emergency exists, by the fire protection authority that has jurisdiction over the food establishment; and
- (3) limited-use so they are not used for entrance or exit from the building for purposes other than the designated emergency exit use.

D. Except as specified in items B and E, if the windows or doors of a food establishment, or those of a larger structure where a food establishment is located, are kept open for ventilation or other purposes, the openings must be protected against the entry of insects and rodents by:

- (1) 16 mesh to 1 inch (25 mm) screens;
- (2) properly designed and installed air curtains to control flying insects; or
- (3) other effective means.

E. Item D does not apply to a temporary food establishment that does not have windows and doors.

F. Item D does not apply if flying insects and other pests are absent due to the location of the establishment, the weather, or other limiting condition.

**Statutory Authority:** *MS s 31.101; 31.11; 144.05; 144.07; 144.08; 144.12; 157.011*

**History:** *23 SR 519; 43 SR 295*

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**4626.1400 EXTERIOR WALLS AND ROOFS; PROTECTIVE BARRIER. 6-202.16**

A. Except as specified in item B, perimeter walls and roofs of a food establishment must effectively protect the establishment from the weather and the entry of insects, rodents, and other animals.

B. A food cart, special event food stand, temporary food establishment, retail vehicle, portable structure, or cart must provide protection during adverse weather by its construction or location. Food activities must cease if protection fails.

**Statutory Authority:** *MS s 31.101; 31.11; 144.05; 144.07; 144.08; 144.12; 157.011*

**History:** *23 SR 519; 43 SR 295*

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**4626.1405 OUTDOOR FOOD VENDING AREAS; OVERHEAD PROTECTION. 6-202.17**

If located outside, a machine used to vend food must be provided with overhead protection except that machines vending canned beverages need not comply with this part.

**Statutory Authority:** *MS s 31.101; 31.11; 144.05; 144.07; 144.08; 144.12; 157.011*

**History:** *23 SR 519; 43 SR 295*

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**4626.1410 OUTDOOR SERVICING AREAS; OVERHEAD PROTECTION. 6-202.18**

Servicing areas must be provided with overhead protection except that areas used only for loading water or discharging sewage and other liquid waste, through the use of a closed system of hoses, need not be provided with overhead protection.

**Statutory Authority:** *MS s 31.101; 31.11; 144.05; 144.07; 144.08; 144.12; 157.011*

**History:** *23 SR 519; 43 SR 295*

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**4626.1415 OUTDOOR WALKING AND DRIVING SURFACES; GRADED TO DRAIN. 6-202.19**

The exterior walking and driving surfaces must be graded to drain.

**Statutory Authority:** *MS s 31.101; 31.11; 144.05; 144.07; 144.08; 144.12; 157.011*

**History:** *23 SR 519; 43 SR 295*

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**4626.1420 OUTDOOR REFUSE AREAS; CURBED AND GRADED TO DRAIN. 6-202.110**

Outdoor refuse areas must be constructed according to law and must be curbed and graded to drain to collect and dispose of liquid waste that results from the refuse and from cleaning the area and waste receptacles.

**Statutory Authority:** *MS s 31.101; 31.11; 144.05; 144.07; 144.08; 144.12; 157.011*

**History:** *23 SR 519; 43 SR 295*

**Published Electronically:** *January 2, 2019*

**4626.1425 PRIVATE HOMES AND LIVING OR SLEEPING QUARTERS; USE PROHIBITION. 6-202.111**

A private home, a room used as living or sleeping quarters, or an area directly opening into a room used as living or sleeping quarters must not be used for conducting food establishment operations.<sup>p1</sup>

**Statutory Authority:** *MS s 31.101; 31.11; 144.05; 144.07; 144.08; 144.12; 157.011*

**History:** *23 SR 519; 43 SR 295*

**Published Electronically:** *January 2, 2019*

**4626.1430 LIVING OR SLEEPING QUARTERS; SEPARATION. 6-202.112**

Living or sleeping quarters located on the premises of a food establishment, including those provided for lodging registration clerks or resident managers, must be separated from rooms and areas used for food establishment operations by complete partitioning and solid self-closing doors.

**Statutory Authority:** *MS s 31.101; 31.11; 144.05; 144.07; 144.08; 144.12; 157.011*

**History:** *23 SR 519; 43 SR 295*

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**PHYSICAL FACILITY NUMBERS AND CAPACITIES**

**4626.1435 [Repealed, 43 SR 295]**

**Published Electronically:** *January 2, 2019*

**4626.1440 HANDWASHING SOAP; AVAILABILITY. 6-301.11**

Each handwashing sink or group of 2 adjacent handwashing sinks must be provided with a supply of soap.<sup>p2</sup>

**Statutory Authority:** *MS s 31.101; 31.11; 144.05; 144.07; 144.08; 144.12; 157.011*

**History:** *23 SR 519; 43 SR 295*

**Published Electronically:** *January 2, 2019*

**4626.1445 HAND DRYING PROVISION. 6-301.12**

Each handwashing sink or group of adjacent handwashing sinks must be provided with:

- A. individual, disposable towels;<sup>p2</sup>
- B. a continuous towel system that supplies the user with a clean towel;<sup>p2</sup>

C. a heated-air hand drying device;<sup>p2</sup> or

D. a hand drying device that employs an air-knife system that delivers high velocity, pressurized air at ambient temperatures.<sup>p2</sup>

**Statutory Authority:** *MS s 31.101; 31.11; 144.05; 144.07; 144.08; 144.12; 157.011*

**History:** *23 SR 519; 43 SR 295*

**Published Electronically:** *January 2, 2019*

#### **4626.1450 DISPOSABLE TOWELS; WASTE RECEPTACLE. 6-301.20**

A waste receptacle must be provided as specified in part 4626.1255, item B, for each handwashing lavatory or group of adjacent lavatories that is provided with individual, disposable towels specified in part 4626.1255, item C.

**Statutory Authority:** *MS s 31.101; 31.11; 144.05; 144.07; 144.08; 144.12; 157.011*

**History:** *23 SR 519; 43 SR 295*

**Published Electronically:** *January 2, 2019*

#### **4626.1455 HANDWASHING AIDS AND DEVICES; USE RESTRICTIONS. 6-301.14**

A sink used for food preparation or utensil washing, or a service sink or curbed cleaning facility used for the disposal of mop water or similar wastes, must not be provided with the handwashing aids and devices required for a handwashing sink as specified in parts 4626.1440 to 4626.1450.

**Statutory Authority:** *MS s 31.101; 31.11; 144.05; 144.07; 144.08; 144.12; 157.011*

**History:** *23 SR 519; 43 SR 295*

**Published Electronically:** *January 2, 2019*

#### **4626.1457 HANDWASHING SIGNAGE. 6-301.14**

A sign or poster that notifies food employees to wash their hands must be provided at all handwashing sinks used by food employees and must be clearly visible to food employees.

**Statutory Authority:** *MS s 31.101; 31.11; 144.07; 157.011*

**History:** *43 SR 295*

**Published Electronically:** *January 2, 2019*

#### **4626.1460 [Repealed, 43 SR 295]**

**Published Electronically:** *January 2, 2019*

#### **4626.1465 TOILET TISSUE; AVAILABILITY. 6-302.11**

A supply of toilet tissue must be available at each toilet.<sup>p2</sup>

**Statutory Authority:** *MS s 31.101; 31.11; 144.05; 144.07; 144.08; 144.12; 157.011*

**History:** 23 SR 519; 43 SR 295

**Published Electronically:** January 2, 2019

#### **4626.1470 LIGHTING INTENSITY. 6-303.11**

The light intensity must be:

A. at least 10 foot-candles (108 lux) at a distance of 30 inches (75 cm) above the floor, in walk-in refrigeration units and dry food storage areas, and in other areas and rooms during periods of cleaning;

B. at least 20 foot-candles (215 lux):

(1) at a surface where food is provided for consumer self-service, such as buffets and salad bars, or where fresh produce or packaged foods are sold or offered for consumption;

(2) inside equipment such as reach-in and under-counter refrigerators; and

(3) at a distance of 30 inches (75 cm) above the floor in areas used for handwashing, warewashing, and equipment and utensil storage, and in toilet rooms; and

C. at least 50 foot-candles (540 lux) at a surface where a food employee is working with food or working with utensils or equipment, such as knives, slicers, grinders, or saws where employee safety is a factor.

**Statutory Authority:** *MS s 31.101; 31.11; 144.05; 144.07; 144.08; 144.12; 157.011*

**History:** 23 SR 519; 43 SR 295

**Published Electronically:** January 2, 2019

#### **4626.1475 VENTILATION; MECHANICAL. 6-304.11**

A. All rooms must have sufficient mechanical tempered make-up air and exhaust ventilation to keep them free of grease, excessive heat, steam, condensation, vapors, obnoxious or disagreeable odors, smoke, and fumes according to the applicable provisions of the Minnesota Building Code and the Minnesota State Mechanical Code.

B. All ventilation systems, furnaces, gas- or oil-fired room heaters, and water heaters shall be designed, installed, and operated according to chapters 1305, 1346, and 7511.

C. All ventilation systems must be operated as designed while the ventilated equipment is in use.

D. Ventilation systems equipped with filters must not be operated with the filters removed.

**Statutory Authority:** *MS s 31.101; 31.11; 144.05; 144.07; 144.08; 144.12; 157.011*

**History:** 23 SR 519; 43 SR 295

**Published Electronically:** January 2, 2019

**4626.1480 DRESSING ROOMS AND LOCKERS; DESIGNATION. 6-305.11**

A. Dressing rooms or dressing areas must be designated if employees routinely change clothes in the establishment.

B. Lockers or other suitable facilities must be provided for the orderly storage of employees' clothing and other possessions.

**Statutory Authority:** *MS s 31.101; 31.11; 144.05; 144.07; 144.08; 144.12; 157.011*

**History:** *23 SR 519; 43 SR 295*

**Published Electronically:** *January 2, 2019*

**4626.1485** [Repealed, 43 SR 295]

**Published Electronically:** *January 2, 2019*

**PHYSICAL FACILITY PLACEMENT**

**4626.1490** [Repealed, 43 SR 295]

**Published Electronically:** *January 2, 2019*

**4626.1495 TOILET ROOMS; CONVENIENCE AND ACCESSIBILITY. 6-402.11**

Toilet rooms must be conveniently located and accessible to employees during all hours of operation.

**Statutory Authority:** *MS s 31.101; 31.11; 144.05; 144.07; 144.08; 144.12; 157.011*

**History:** *23 SR 519; 43 SR 295*

**Published Electronically:** *January 2, 2019*

**4626.1500 EMPLOYEE BREAK AREAS, LOCKERS; LOCATION. 6-403.11**

A. Areas designated for employees to eat, drink, and use tobacco must be located so that food, equipment, linens, and single-service and single-use articles are protected from contamination.

B. Lockers or other suitable facilities must be located in a designated room or area where contamination of food, equipment, utensils, linens, and single-service and single-use articles cannot occur.

**Statutory Authority:** *MS s 31.101; 31.11; 144.05; 144.07; 144.08; 144.12; 157.011*

**History:** *23 SR 519; 43 SR 295*

**Published Electronically:** *January 2, 2019*

**4626.1505 RETURNED PRODUCTS; SEGREGATION AND LOCATION. 6-404.11**

Products that are held by the licensee for credit, redemption, or return to the distributor, including damaged, spoiled, or recalled products, must be segregated and held in designated areas that are separated from food, equipment, utensils, linens, and single-service and single-use articles.<sub>p2</sub>

**Statutory Authority:** *MS s 31.101; 31.11; 144.05; 144.07; 144.08; 144.12; 157.011*

**History:** *23 SR 519; 43 SR 295*

**Published Electronically:** *January 2, 2019*

**4626.1510** [Repealed, 43 SR 295]

**Published Electronically:** *January 2, 2019*

## PHYSICAL FACILITY MAINTENANCE AND OPERATION

### 4626.1515 PHYSICAL FACILITIES; GOOD REPAIR. 6-501.11

Physical facilities must be maintained in good repair.

**Statutory Authority:** *MS s 31.101; 31.11; 144.05; 144.07; 144.08; 144.12; 157.011*

**History:** *23 SR 519; 43 SR 295*

**Published Electronically:** *January 2, 2019*

### 4626.1520 PHYSICAL FACILITIES; CLEANING FREQUENCY AND RESTRICTIONS. 6-501.12

A. Physical facilities must be cleaned as often as necessary to keep them clean.

B. Cleaning must be done after closing or during other periods when the least amount of food is exposed. This item does not apply to cleaning that is necessary due to a spill or other accident.

**Statutory Authority:** *MS s 31.101; 31.11; 144.05; 144.07; 144.08; 144.12; 157.011*

**History:** *23 SR 519; 43 SR 295*

**Published Electronically:** *January 2, 2019*

### 4626.1525 CLEANING FLOORS; DUSTLESS METHODS. 6-501.13

A. Except as specified in item B, only dustless methods of cleaning must be used, such as wet cleaning, vacuum cleaning, mopping with treated dust mops, or sweeping using a broom and dust-arresting compounds.

B. Spills or drippage on floors that occur between normal floor cleaning times may be cleaned:

(1) without the use of dust-arresting compounds; and

(2) in the case of liquid spills or drippage, with the use of a small amount of absorbent compound such as sawdust or diatomaceous earth applied immediately before spot cleaning.

**Statutory Authority:** *MS s 31.101; 31.11; 144.05; 144.07; 144.08; 144.12; 157.011*

**History:** *23 SR 519; 43 SR 295*

**Published Electronically:** *January 2, 2019*



**4626.1530 CLEANING VENTILATION SYSTEMS; NUISANCE AND DISCHARGE PROHIBITION. 6-501.14**

A. Intake and exhaust air ducts must be cleaned and filters changed so they are not a source of contamination by dust, dirt, and other materials.

B. If vented to the outside, ventilation systems must not create a public health hazard or nuisance or unlawful discharge.

**Statutory Authority:** *MS s 31.101; 31.11; 144.05; 144.07; 144.08; 144.12; 157.011*

**History:** *23 SR 519; 43 SR 295*

**Published Electronically:** *January 2, 2019*

**4626.1535 CLEANING MAINTENANCE TOOLS; PREVENTING CONTAMINATION. 6-501.15**

Food preparation sinks, handwashing sinks, and warewashing equipment must not be used for the cleaning of maintenance tools, the preparation or holding of maintenance materials, or the disposal of mop water and similar liquid wastes.<sup>p2</sup>

**Statutory Authority:** *MS s 31.101; 31.11; 144.05; 144.07; 144.08; 144.12; 157.011*

**History:** *23 SR 519; 43 SR 295*

**Published Electronically:** *January 2, 2019*

**4626.1540 DRYING MOPS. 6-501.16**

After use, mops must be placed in a position that allows them to air-dry without soiling walls, equipment, or supplies.

**Statutory Authority:** *MS s 31.101; 31.11; 144.05; 144.07; 144.08; 144.12; 157.011*

**History:** *23 SR 519; 43 SR 295*

**Published Electronically:** *January 2, 2019*

**4626.1545 ABSORBENT MATERIALS ON FLOORS; USE LIMITATION. 6-501.17**

Except as specified in part 4626.1525, item B, sawdust, wood shavings, granular salt, baked clay, diatomaceous earth, or similar absorbent materials must not be used on floors.

**Statutory Authority:** *MS s 31.101; 31.11; 144.05; 144.07; 144.08; 144.12; 157.011*

**History:** *23 SR 519; 43 SR 295*

**Published Electronically:** *January 2, 2019*

**4626.1550 CLEANING OF PLUMBING FIXTURES. 6-501.18**

Plumbing fixtures such as handwashing sinks, toilets, and urinals must be cleaned as often as necessary to keep them clean.

**Statutory Authority:** *MS s 31.101; 31.11; 144.05; 144.07; 144.08; 144.12; 157.011*

**History:** *23 SR 519; 43 SR 295*

**Published Electronically:** *January 2, 2019*

#### **4626.1555 CLOSING TOILET ROOM DOORS. 6-501.19**

Except during cleaning and maintenance operations, toilet room doors as specified in part 4626.1390 must be kept closed. Toilet room entries designed without doors do not need to comply with this provision.

**Statutory Authority:** *MS s 31.101; 31.11; 144.05; 144.07; 144.08; 144.12; 157.011*

**History:** *23 SR 519; 43 SR 295*

**Published Electronically:** *January 2, 2019*

#### **4626.1560 USING DRESSING ROOMS AND LOCKERS. 6-501.110**

A. Dressing rooms must be used by employees if the employees regularly change clothes in the establishment.

B. Lockers or other suitable facilities must be used for the orderly storage of employee clothing and other possessions.

**Statutory Authority:** *MS s 31.101; 31.11; 144.05; 144.07; 144.08; 144.12; 157.011*

**History:** *23 SR 519; 43 SR 295*

**Published Electronically:** *January 2, 2019*

#### **4626.1565 CONTROLLING PESTS. 6-501.111**

The premises must be maintained free of insects, rodents, and other pests. The presence of insects, rodents, and other pests must be controlled to eliminate their presence on the premises by:

A. routinely inspecting incoming shipments of food and supplies;

B. routinely inspecting the premises for evidence of pests;

C. using pest control methods if pests are found, such as trapping devices or other means of pest control as specified in parts 4626.1610, 4626.1650, and 4626.1655; and

D. eliminating harborage conditions.

**Statutory Authority:** *MS s 31.101; 31.11; 144.05; 144.07; 144.08; 144.12; 157.011*

**History:** *23 SR 519; 43 SR 295*

**Published Electronically:** *January 2, 2019*

**4626.1570 REMOVING DEAD OR TRAPPED BIRDS, INSECTS, RODENTS, AND OTHER PESTS. 6-501.112**

Dead or trapped birds, insects, rodents, and other pests must be removed from control devices and the premises at a frequency that prevents accumulation, decomposition, or attraction of pests.

**Statutory Authority:** *MS s 31.101; 31.11; 144.05; 144.07; 144.08; 144.12; 157.011*

**History:** *23 SR 519; 43 SR 295*

**Published Electronically:** *January 2, 2019*

**4626.1575 STORING MAINTENANCE TOOLS. 6-501.113**

Maintenance tools such as brooms, mops, vacuum cleaners, and similar items must be:

A. stored so they do not contaminate food, equipment, utensils, linens, and single-service and single-use articles; and

B. stored in an orderly manner that facilitates cleaning the area used for storing maintenance tools.

**Statutory Authority:** *MS s 31.101; 31.11; 144.05; 144.07; 144.08; 144.12; 157.011*

**History:** *23 SR 519; 43 SR 295*

**Published Electronically:** *January 2, 2019*

**4626.1580 MAINTAINING PREMISES; UNNECESSARY ITEMS AND LITTER. 6-501.114**

The premises must be free of:

A. items that are unnecessary to the operation or maintenance of the establishment, such as equipment that is nonfunctional or no longer used; and

B. litter.

**Statutory Authority:** *MS s 31.101; 31.11; 144.05; 144.07; 144.08; 144.12; 157.011*

**History:** *23 SR 519; 43 SR 295*

**Published Electronically:** *January 2, 2019*

**4626.1585 PROHIBITING ANIMALS. 6-501.115**

A. Except as specified in items B and C, live animals must not be allowed on the premises of a food establishment.<sup>p2</sup>

B. Live animals may be allowed in the following situations if the contamination of food; clean equipment, utensils, and linens; and unwrapped single-service and single-use articles does not result:

(1) edible fish or decorative fish in aquariums, shellfish or crustacea on ice or under refrigeration, and shellfish or crustacea in display tank systems;

(2) patrol dogs accompanying police or security officers in offices and dining, sales, and storage areas, and sentry dogs running loose in outside fenced areas;

(3) service animals that are controlled by the disabled employee or person in areas that are not used for food preparation and that are usually open for customers, such as dining and service areas, if no health or safety hazard will result from the presence or activities of the service animal;

(4) pets in the common dining areas of institutional care facilities at times other than during meals if:

(a) effective partitioning and self-closing doors separate the common dining areas from food storage or food preparation areas;

(b) condiments, equipment, and utensils are stored in enclosed cabinets or removed from the common dining areas when pets are present; and

(c) dining areas including tables, countertops, and similar surfaces are effectively cleaned before the next meal service; and

(5) in food establishments licensed by either the department, Minnesota Department of Agriculture, or a delegated authority in areas that are not used for food preparation, storage, sales, display, or dining, in which there are caged animals or animals that are similarly confined.

C. Live or dead fish bait must be stored so that contamination of food; clean equipment, utensils, and linens; and unwrapped single-use articles cannot result.

**Statutory Authority:** *MS s 31.101; 31.11; 144.05; 144.07; 144.08; 144.12; 157.011*

**History:** *23 SR 519; L 2005 c 56 s 2; 43 SR 295*

**Published Electronically:** *January 2, 2019*

## TOXIC LABELING

### 4626.1590 POISONOUS OR TOXIC MATERIALS; IDENTIFYING INFORMATION. 7-101.11

Containers of poisonous or toxic materials and personal care items must bear a legible manufacturer's label.<sup>p2</sup>

**Statutory Authority:** *MS s 31.101; 31.11; 144.05; 144.07; 144.08; 144.12; 157.011*

**History:** *23 SR 519; 43 SR 295*

**Published Electronically:** *January 2, 2019*

### 4626.1595 POISONOUS OR TOXIC MATERIALS; COMMON NAME. 7-102.11

Working containers used for storing poisonous or toxic materials such as cleaners and sanitizers taken from bulk supplies must be clearly and individually identified with the common name of the material.<sup>p2</sup>

**Statutory Authority:** *MS s 31.101; 31.11; 144.05; 144.07; 144.08; 144.12; 157.011*

**History:** *23 SR 519; 43 SR 295*

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## TOXIC SUPPLIES AND APPLICATIONS

### 4626.1600 POISONOUS OR TOXIC MATERIALS; STORAGE. 7-201.11

Poisonous or toxic materials must be stored so they cannot contaminate food, equipment, utensils, linens, and single-service and single-use articles by:

A. separating the poisonous or toxic materials by spacing or partitioning;<sup>p1</sup> and

B. locating the poisonous or toxic materials in an area that is not above food, equipment, utensils, linens, and single-service or single-use articles. This item does not apply to equipment and utensil cleaners and sanitizers that are stored in warewashing areas for availability and convenience if the materials are stored to prevent contamination of food, equipment, utensils, linens, and single-service and single-use articles.<sup>p1</sup>

**Statutory Authority:** *MS s 31.101; 31.11; 144.05; 144.07; 144.08; 144.12; 157.011*

**History:** *23 SR 519; 43 SR 295*

**Published Electronically:** *January 2, 2019*

### 4626.1605 POISONOUS OR TOXIC MATERIALS; RESTRICTION. 7-202.11

A. Only those poisonous or toxic materials that are required for the operation and maintenance of a food establishment, such as for the cleaning and sanitizing of equipment and utensils and the control of insects and rodents, may be allowed in a food establishment.<sup>p2</sup>

B. Item A does not apply to packaged poisonous or toxic materials that are for retail sale.

**Statutory Authority:** *MS s 31.101; 31.11; 144.05; 144.07; 144.08; 144.12; 157.011*

**History:** *23 SR 519; 43 SR 295*

**Published Electronically:** *January 2, 2019*

### 4626.1610 POISONOUS OR TOXIC MATERIALS; CONDITIONS OF USE. 7-202.12

Poisonous or toxic materials must be:

A. used according to:

- (1) Minnesota Statutes, chapter 18B and this Code;
- (2) the manufacturer's use directions included in labeling and, for a pesticide, the manufacturer's label instructions that state that use is allowed in a food establishment;<sup>p1</sup>and
- (3) the conditions of licensing, if licensing is required, for use of the pest control materials;<sup>p1</sup>

B. applied so that:

- (1) a hazard to employees or other persons is not constituted;<sup>p1</sup> and
- (2) contamination, including toxic residues due to drip, drain, fog, splash, or spray on food, equipment, utensils, linens, and single-service and single-use articles, is prevented and for a restricted use pesticide, this is achieved by:<sup>p1</sup>
  - (a) removing the items;<sup>p1</sup>
  - (b) covering the items with impermeable covers;<sup>p1</sup>
  - (c) taking other appropriate preventive actions;<sup>p1</sup> and
  - (d) cleaning and sanitizing equipment and utensils after the application;<sup>p1</sup> and

C. for a restricted-use pesticide, applied only by an applicator certified as defined in the Federal Insecticide, Fungicide, and Rodenticide Act, United States Code, title 7, section 136(e), and Minnesota Statutes, chapter 18B, or under the direct supervision of a certified applicator.<sup>p2</sup>

**Statutory Authority:** *MS s 31.101; 31.11; 144.05; 144.07; 144.08; 144.12; 157.011*

**History:** *23 SR 519; 43 SR 295*

**Published Electronically:** *January 2, 2019*

#### **4626.1615 POISONOUS OR TOXIC MATERIAL CONTAINERS. 7-203.11**

A container previously used to store poisonous or toxic materials must not be used to store, transport, or dispense food.<sup>p1</sup>

**Statutory Authority:** *MS s 31.101; 31.11; 144.05; 144.07; 144.08; 144.12; 157.011*

**History:** *23 SR 519; 43 SR 295*

**Published Electronically:** *January 2, 2019*

#### **4626.1620 SANITIZERS; CRITERIA. 7-204.11**

Chemical sanitizers, including chemical sanitizing solutions generated on site and other chemical antimicrobials applied to food-contact surfaces, must meet the requirements in Code of Federal Regulations, title 40, part 180, subpart D, section 180.940, or part 180, subpart E, section 180.2020.<sup>p1</sup>

**Statutory Authority:** *MS s 31.101; 31.11; 144.05; 144.07; 144.08; 144.12; 157.011*

**History:** *23 SR 519; 43 SR 295*

**Published Electronically:** *January 2, 2019*

#### **4626.1625 CHEMICALS FOR WASHING, TREATMENT, STORAGE AND PROCESSING; FRUITS AND VEGETABLES; CRITERIA. 7-204.12**

A. Chemicals, including those generated on site, used to wash or peel raw, whole fruits and vegetables must:

(1) be an approved food additive listed for this intended use in Code of Federal Regulations, title 21, section 173;<sub>P1</sub>

(2) be generally recognized as safe (GRAS) for this intended use;<sub>P1</sub> or

(3) be the subject of an effective food-contact notification for this intended use (only effective for the manufacturer or supplier identified in the notification);<sub>P1</sub> and

(4) meet the requirements in Code of Federal Regulations, title 40, section 156.<sub>P1</sub>

B. Ozone as an antimicrobial agent used in the treatment, storage, and processing of fruits and vegetables in a food establishment must meet the requirements specified in Code of Federal Regulations, title 21, part 173, subpart D, section 173.368.<sub>P1</sub>

**Statutory Authority:** *MS s 31.101; 31.11; 144.05; 144.07; 144.08; 144.12; 157.011*

**History:** *23 SR 519; 43 SR 295*

**Published Electronically:** *January 2, 2019*

#### **4626.1630 BOILER WATER ADDITIVES; CRITERIA. 7-204.13**

Chemicals used as boiler water additives must meet the requirements in Code of Federal Regulations, title 21, part 173, subpart D, section 173.310.<sub>P1</sub>

**Statutory Authority:** *MS s 31.101; 31.11; 144.05; 144.07; 144.08; 144.12; 157.011*

**History:** *23 SR 519; 43 SR 295*

**Published Electronically:** *January 2, 2019*

#### **4626.1635 DRYING AGENTS; CRITERIA. 7-204.14**

.A. Drying agents used in conjunction with sanitization must contain only components that are listed as one of the following:

(1) generally recognized as safe for use in food as specified in Code of Federal Regulations, title 21, part 182 or 184;<sub>P1</sub>

(2) generally recognized as safe for the intended use as specified in Code of Federal Regulations, title 21, part 186;<sub>P1</sub>

(3) generally recognized as safe for the intended use as determined by experts qualified in scientific training and experience to evaluate the safety of substances added directly or indirectly to food as described in Code of Federal Regulations, title 21, part 170, subpart B, section 170.30;<sub>P1</sub>

(4) the subject of an effective Food Contact Notification (FCN) for use as a component of a drying agent as described in United States Code, title 21, section 348(h);<sub>P1</sub>

(5) approved for use as a drying agent under a prior sanction as described in United States Code, title 21, section 321(s)(4);<sub>P1</sub>

(6) specifically regulated as an indirect food additive for use as a drying agent as specified in Code of Federal Regulations, title 21, parts 174 to 178;<sup>p1</sup> or

(7) approved for use as a drying agent under the threshold of regulation process established by Code of Federal Regulations, title 21, part 170, subpart B, section 170.39.<sup>p1</sup>

B. When sanitization is with chemicals, the approval required under item A, subitem (5) or (7), or the regulation as an indirect food additive as required under item A, subitem (6), must be specifically for use with chemical sanitizing solutions.<sup>p1</sup>

**Statutory Authority:** *MS s 31.101; 31.11; 144.05; 144.07; 144.08; 144.12; 157.011*

**History:** *23 SR 519; 43 SR 295*

**Published Electronically:** *January 2, 2019*

#### **4626.1640 LUBRICANTS; INCIDENTAL FOOD-CONTACT; CRITERIA. 7-205.11**

Lubricants must meet the requirements in Code of Federal Regulations, title 21, part 178, subpart D, section 178.3570, if they are used on food-contact surfaces, on bearings and gears located on or within food-contact surfaces, or on bearings and gears that are located so that lubricants may leak, drip, or be forced into food or onto food-contact surfaces.<sup>p1</sup>

**Statutory Authority:** *MS s 31.101; 31.11; 144.05; 144.07; 144.08; 144.12; 157.011*

**History:** *23 SR 519; 43 SR 295*

**Published Electronically:** *January 2, 2019*

#### **4626.1645 RESTRICTED USE PESTICIDES; CRITERIA. 7-206.11**

Restricted use pesticides specified in part 4626.1610, item C, must meet the requirements in Code of Federal Regulations, title 40, part 152, subpart A, section 152.1.<sup>p1</sup>

**Statutory Authority:** *MS s 31.101; 31.11; 144.05; 144.07; 144.08; 144.12; 157.011*

**History:** *23 SR 519; 43 SR 295*

**Published Electronically:** *January 2, 2019*

#### **4626.1650 RODENT BAIT STATIONS. 7-206.12**

Rodent bait must be contained in a covered, tamper-resistant bait station.<sup>p1</sup>

**Statutory Authority:** *MS s 31.101; 31.11; 144.05; 144.07; 144.08; 144.12; 157.011*

**History:** *23 SR 519; 43 SR 295*

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#### **4626.1655 TRACKING POWDERS; PEST CONTROL AND MONITORING. 7-206.13**

A. Except as specified in item B, a tracking powder pesticide must not be used in a food establishment.<sup>p1</sup>



B. If used, a nontoxic tracking powder such as talcum or flour must not contaminate food, equipment, utensils, linens, and single-service and single-use articles.

**Statutory Authority:** *MS s 31.101; 31.11; 144.05; 144.07; 144.08; 144.12; 157.011*

**History:** *23 SR 519; 43 SR 295*

**Published Electronically:** *January 2, 2019*

#### **4626.1660 EMPLOYEE MEDICINES; RESTRICTION AND STORAGE. 7-207.11**

A. Only those medicines that are necessary for the health of employees may be allowed in a food establishment. This part does not apply to medicines that are stored or displayed for retail sale.<sub>p2</sub>

B. Medicine that is in a food establishment for an employee's use must be labeled as specified in part 4626.1590 and located to prevent the contamination of food, equipment, utensils, linens, and single-service and single-use articles.<sub>p1</sub>

**Statutory Authority:** *MS s 31.101; 31.11; 144.05; 144.07; 144.08; 144.12; 157.011*

**History:** *23 SR 519; 43 SR 295*

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#### **4626.1665 REFRIGERATED MEDICINES; STORAGE. 7-207.12**

Medicines belonging to employees or children in a day care center that require refrigeration and are stored in a food refrigerator must be:

A. stored in a package or container and kept inside a covered, leakproof container that is identified as a container for the storage of medicines;<sub>p1</sub> and

B. located so they are inaccessible to children.<sub>p1</sub>

**Statutory Authority:** *MS s 31.101; 31.11; 144.05; 144.07; 144.08; 144.12; 157.011*

**History:** *23 SR 519; 43 SR 295*

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#### **4626.1670 FIRST AID STORAGE. 7-208.11**

First aid supplies that are in a food establishment for employee use must be:

A. labeled as specified in part 4626.1590;<sub>p2</sub> and

B. stored in a kit or container that is located to prevent the contamination of food, equipment, utensils, linens, and single-service and single-use articles.<sub>p1</sub>

**Statutory Authority:** *MS s 31.101; 31.11; 144.05; 144.07; 144.08; 144.12; 157.011*

**History:** *23 SR 519; 43 SR 295*

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**4626.1675 PERSONAL CARE ITEMS; STORAGE. 7-209.11**

Except as specified in parts 4626.1665 and 4626.1670, employees shall store personal care items in facilities as specified in part 4626.1560, item B.

**Statutory Authority:** *MS s 31.101; 31.11; 144.05; 144.07; 144.08; 144.12; 157.011*

**History:** *23 SR 519; 43 SR 295*

**Published Electronically:** *January 2, 2019*

**TOXIC RETAIL SALE****4626.1680 POISONOUS OR TOXIC MATERIALS; SEPARATION. 7-301.11**

Poisonous or toxic materials must be stored and displayed for retail sale so they cannot contaminate food, equipment, utensils, linens, and single-service and single-use articles by:

- A. separating the poisonous or toxic materials by spacing or partitioning;<sup>p1</sup> and
- B. locating the poisonous or toxic materials in an area that is not above food, equipment, utensils, linens, and single-service or single-use articles.<sup>p1</sup>

**Statutory Authority:** *MS s 31.101; 31.11; 144.05; 144.07; 144.08; 144.12; 157.011*

**History:** *23 SR 519; 43 SR 295*

**Published Electronically:** *January 2, 2019*

**CODE APPLICABILITY****4626.1685 PUBLIC HEALTH PROTECTION. 8-101.10**

In enforcing this Code, the regulatory authority shall assess existing facilities or equipment that were in use before September 8, 1998, based on the following considerations:

- A. whether the facilities or equipment are in good repair and capable of being maintained in a sanitary condition;
- B. whether food-contact surfaces comply with parts 4626.0450 to 4626.0495 and 4626.0506, item A;
- C. whether the capacities of cooling, heating, and holding equipment are sufficient to comply with part 4626.0675; and
- D. whether the existence of a documented agreement with the licensee that the facilities or equipment will be replaced as specified in the documented agreement.

**Statutory Authority:** *MS s 31.101; 31.11; 144.05; 144.07; 144.08; 144.12; 157.011*

**History:** *23 SR 519; 43 SR 295*

**Published Electronically:** *January 2, 2019*

**4626.1690 VARIANCE REQUEST; PROCEDURES. 8-103.11**

A person may ask the regulatory authority to grant a variance from the provisions of this Code according to parts 4626.1690 to 4626.1715.

A. A variance must not be granted from:

- (1) part 4626.0020, subpart 35;
- (2) parts 4626.0040 to 4626.0120;
- (3) part 4626.1565; and
- (4) parts 4626.1590 to 4626.1675.

B. The applicant for a variance shall be the person to whom the rule applies.

C. The person requesting the variance shall submit the request in writing to the regulatory authority with the appropriate fee, if required. If a variance is granted, the person shall retain the information and variance in the person's files. A request must contain:

- (1) the specified language in the rule or rules from which the variance is requested;<sub>p2</sub>
- (2) the reasons why the rule cannot be met;<sub>p2</sub>
- (3) the alternative measures that will be taken to ensure a comparable degree of protection to health or the environment if a variance is granted;<sub>p2</sub>
- (4) the length of time for which the variance is requested;<sub>p2</sub>
- (5) a statement that the person applying for the variance will comply with the terms of the variance, if granted;<sub>p2</sub>
- (6) other relevant information the regulatory authority determines necessary to properly evaluate the request for the variance;<sub>p2</sub> and
- (7) a HACCP plan, if required under part 4626.1730, that includes the information in part 4626.1735 that is relevant to the variance requested.<sub>p2</sub>

**Statutory Authority:** *MS s 31.101; 31.11; 144.05; 144.07; 144.08; 144.12; 157.011*

**History:** *23 SR 519; 43 SR 295*

**Published Electronically:** *January 2, 2019*

**4626.1695 VARIANCE REQUEST; CRITERIA FOR DECISION.**

The regulatory authority shall grant a variance if:

- A. the variance was requested in the manner prescribed in part 4626.1690;
- B. the variance will have no potential adverse effect on public health, safety, or the environment;

C. the alternative measures to be taken, if any, are equivalent to or superior to those prescribed;

D. strict compliance with the rule will impose an undue burden on the applicant;

E. the variance does not vary a statutory standard or preempt federal law or rule; and

F. the variance has only future effect.

**Statutory Authority:** *MS s 31.101; 31.11; 144.05; 144.07; 144.08; 144.12; 157.011*

**History:** *23 SR 519; 43 SR 295*

**Published Electronically:** *January 2, 2019*

#### **4626.1700 VARIANCE CONDITIONS; HACCP; NOTIFICATION OF DECISION. 8-103.12**

A. In granting a variance, the regulatory authority may attach conditions that the regulatory authority determines are needed to protect the public health, safety, or the environment.

B. If a HACCP plan is required to verify that the variance provides protection to the public health, safety, and environment that is equivalent to or superior to those prescribed in rule or law, the licensee shall:

(1) comply with the HACCP plan and procedures submitted and approved as the basis for the variance;<sup>p1</sup> and

(2) maintain and provide to the regulatory authority, on request, the records specified in part 4626.1735, items D and E, subitem (3), that demonstrate that the following are routinely employed:

(a) procedures for monitoring critical control points;<sup>p2</sup>

(b) monitoring of the critical control points;<sup>p2</sup>

(c) verification of the effectiveness of an operation or process;<sup>p2</sup> and

(d) necessary corrective actions if there is failure at a critical control point.<sup>p2</sup>

C. The regulatory authority shall notify the person in writing of the regulatory authority's decision to grant or deny the variance.

(1) If a variance is granted, the notification must specify the period of time for which the variance must be effective and the alternative measures or conditions, if any, the applicant shall meet.

(2) If a variance is denied, the regulatory authority shall specify the reasons for the denial.

D. Variances granted are not transferable.

**Statutory Authority:** *MS s 31.101; 31.11; 144.05; 144.07; 144.08; 144.12; 157.011*

**History:** 23 SR 519; 43 SR 295

**Published Electronically:** January 2, 2019

**4626.1705 VARIANCES; EFFECT OF ALTERNATIVE MEASURES OR CONDITIONS.  
8-103.13**

A. Alternative measures or conditions attached to a variance have the force and effect of law.

B. If a person violates alternative measures or conditions attached to a variance, the person is subject to the enforcement actions and penalties provided in law or rule.

C. A person to whom a variance has been issued shall notify the regulatory authority in writing within 30 days of a material change in the conditions upon which the variance was granted.<sup>p2</sup>

**Statutory Authority:** *MS s 31.101; 31.11; 144.05; 144.07; 144.08; 144.12; 157.011*

**History:** 23 SR 519; 43 SR 295

**Published Electronically:** January 2, 2019

**4626.1710 RENEWAL OF VARIANCE.**

A. A request for the renewal of a variance must be submitted to the regulatory authority in writing 30 days before its expiration date.

B. Renewal requests must contain the information in part 4626.1690.

C. The regulatory authority shall renew a variance if the person continues to satisfy the criteria in part 4626.1695 and demonstrates compliance with the alternative measures or conditions imposed at the time the original variance was approved.

D. This part does not apply if there has been a material change in the conditions upon which the variance was granted.

**Statutory Authority:** *MS s 31.101; 31.11; 144.05; 144.07; 144.08; 144.12; 157.011*

**History:** 23 SR 519; 43 SR 295

**Published Electronically:** January 2, 2019

**4626.1715 VARIANCE DENIAL, REVOCATION, OR REFUSAL TO RENEW; APPEALS.**

A. The regulatory authority shall deny, revoke, or refuse to renew a variance if the regulatory authority determines that the criteria in part 4626.1695 or the conditions in part 4626.1700 are not met.

B. A person may appeal the denial, revocation, or refusal to renew a variance by requesting, in writing, a contested case hearing under the Administrative Procedure Act, Minnesota Statutes, chapter 14, within 30 days of receipt of the notice of denial, revocation, or refusal to renew the variance.

**Statutory Authority:** *MS s 31.101; 31.11; 144.05; 144.07; 144.08; 144.12; 157.011*

**History:** *23 SR 519; 43 SR 295*

**Published Electronically:** *January 2, 2019*

### PLAN SUBMISSION AND APPROVAL

#### 4626.1720 PLANS; REVIEW REQUIRED. 8-201.11

A. A license applicant or licensee shall submit or cause to be submitted and receive approval of properly prepared plans and specifications and the required plan review application and plan review fee, to the regulatory authority for plan review and approval before beginning:

(1) the construction of a food establishment;<sup>p2</sup>

(2) the conversion of an existing structure for use as a food establishment;<sup>p2</sup> or

(3) the extensive remodeling of a food establishment or a change of type of food establishment or food operation if the regulatory authority determines that plans and specifications are necessary to ensure compliance with this Code.<sup>p2</sup>

B. Plans, specifications, an application form, and the fee specified in Minnesota Statutes, chapter 28A or 157, must be submitted to the regulatory authority at least 30 days before beginning construction, extensive remodeling, or conversion of a food establishment.<sup>p2</sup>

C. Special event food stands and retail food vehicles, portable structures, or carts are exempt from the requirement to submit plans and specifications.

D. The regulatory authority shall approve the completed plans and specifications if they meet the requirements of this Code, and the regulatory authority shall report its findings to the license applicant or licensee within 30 days of the date the completed plans are received.

E. Plans and specifications that are not approved as submitted must be changed to comply or be deleted from the project.<sup>p2</sup>

F. A license applicant, licensee, or person who is subject to licensure under Minnesota Statutes, chapter 28A or 157, that starts work on construction, extensive remodeling, or conversion of a food establishment before plan approval, shall stop work on the project when the regulatory authority determines that the work is likely to lead to noncompliance with this Code and the regulatory authority orders work to stop. The work must not resume until plans have been submitted according to items A and B, and have been approved by the regulatory authority.<sup>p2</sup>

**Statutory Authority:** *MS s 31.101; 31.11; 144.05; 144.07; 144.08; 144.12; 157.011*

**History:** *23 SR 519; 43 SR 295*

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#### 4626.1721 [Renumbered 1560.9000]

**Published Electronically:** *October 11, 2007*

**4626.1725 CONTENTS OF PLANS AND SPECIFICATIONS. 8-201.12**

The plans and specifications for a food establishment must include:

- A. the intended menu;
- B. a description of the project including the anticipated volume of food to be stored, prepared, sold, or served;
- C. 1 complete set of plans drawn to scale, including the proposed layout, mechanical schematics, construction materials, and finish schedules for items such as floors, base coves, walls, and ceilings;
- D. the proposed equipment types, manufacturers, model numbers, locations on the layout, dimensions, performance capacities, and installation specifications;
- E. the HACCP plan as specified in part 4626.1730, if required;
- F. counters and cabinetry shop drawings, indicating cabinet construction, and countertop finish;
- G. the unique well number and individual sewage treatment system certificate of compliance for individual sewage disposal systems;
- H. a copy of the zoning approval or building permit from the local unit of government; and
- I. other information that may be required by the regulatory authority for the review of the proposed construction, conversion, or modification.

**Statutory Authority:** *MS s 31.101; 31.11; 144.05; 144.07; 144.08; 144.12; 157.011*

**History:** *23 SR 519; 43 SR 295*

**Published Electronically:** *January 2, 2019*

**4626.1730 WHEN A HACCP PLAN IS REQUIRED. 8-201.13**

A. Before engaging in an activity that requires a HACCP plan, a license applicant or licensee shall submit to the regulatory authority for approval a properly prepared HACCP plan as specified in part 4626.1735 and the relevant provisions of this Code if:

(1) a variance is required as specified in part 4626.0340, item D, subitem (4); 4626.0415; or 4626.0610, item B; or

(2) the regulatory authority determines that a food preparation or processing method requires a variance based on a plan submittal specified in part 4626.1725, an inspection finding, or a variance request.

B. Before engaging in reduced oxygen packaging without a variance as specified in part 4626.0420, a license applicant or licensee shall submit a properly prepared HACCP plan to the regulatory authority.

**Statutory Authority:** *MS s 31.101; 31.11; 144.05; 144.07; 144.08; 144.12; 157.011*

**History:** *23 SR 519; 43 SR 295*

**Published Electronically:** *January 2, 2019*

**4626.1735 CONTENTS OF HACCP PLAN. (SEE ALSO PART 4626.0420) 8-201.14**

For a food establishment that is required under part 4626.1730 to have a HACCP plan, the licensee shall submit to the regulatory authority a properly prepared HACCP plan that includes:

A. general information such as the name of the license applicant or licensee, the food establishment address, and contact information;

B. a categorization of the types of TCS foods that are to be controlled under the HACCP plan;<sup>p2</sup>

C. a flow diagram or chart for each specific food or category type that identifies:

(1) each step in the process;<sup>p2</sup>

(2) the hazards and controls for each step in the flow diagram or chart;<sup>p2</sup>

(3) the steps that are critical control points;<sup>p2</sup>

(4) the ingredients, materials, and equipment used in the preparation of that food;<sup>p2</sup> and

(5) formulations or recipes that delineate methods and procedural control measures that address the food safety concerns involved;<sup>p2</sup>

D. a critical control points summary for each specific food or category type that clearly identifies:

(1) each critical control point;<sup>p2</sup>

(2) the critical limits for each critical control point;<sup>p2</sup>

(3) the method and frequency for monitoring and controlling each critical control point by the designated food employee or the person in charge;<sup>p2</sup>

(4) the method and frequency for the person in charge to routinely verify that the food employee is following standard operating procedures and monitoring critical control points;<sup>p2</sup>

(5) action to be taken by the designated food employee or person in charge if the critical limits for each critical control point are not met;<sup>p2</sup> and

(6) records to be maintained by the person in charge to demonstrate that the HACCP plan is properly operated and managed;<sup>p2</sup>

E. supporting documents such as:

(1) food employee and supervisory training plan that addresses the food safety issues of concern;<sup>p2</sup>



(2) copies of blank records forms that are necessary to implement the HACCP plan;<sup>p2</sup>  
and

(3) additional scientific data or other information, as required by the regulatory authority, supporting the determination that food safety is not compromised by the proposal;<sup>p2</sup>and

F. any other information required by the regulatory authority.

**Statutory Authority:** *MS s 31.101; 31.11; 144.05; 144.07; 144.08; 144.12; 157.011*

**History:** *23 SR 519; 43 SR 295*

**Published Electronically:** *January 2, 2019*

#### **4626.1740 TRADE SECRETS. 8-202.10**

The regulatory authority shall treat as confidential, in accordance with Minnesota Statutes, section 13.02, information that meets the criteria in Minnesota Statutes, chapter 325C, for a trade secret and is contained in the plans and specifications submitted as specified in parts 4626.1725 and 4626.1735.

**Statutory Authority:** *MS s 31.101; 31.11; 144.05; 144.07; 144.08; 144.12; 157.011*

**History:** *23 SR 519; 43 SR 295*

**Published Electronically:** *January 2, 2019*

#### **4626.1745 PREOPERATIONAL INSPECTIONS. 8-203.10**

The regulatory authority shall conduct one or more preoperational inspections to verify that the food establishment is constructed and equipped according to the approved plans and approved modifications of those plans.

**Statutory Authority:** *MS s 31.101; 31.11; 144.05; 144.07; 144.08; 144.12; 157.011*

**History:** *23 SR 519; 43 SR 295*

**Published Electronically:** *January 2, 2019*

#### **4626.1750 NOTICE OF OPENING.**

The food establishment licensee shall provide notice of opening to the regulatory authority at least 14 calendar days before the opening date.

**Statutory Authority:** *MS s 31.101; 31.11; 144.05; 144.07; 144.08; 144.12; 157.011*

**History:** *23 SR 519; 43 SR 295*

**Published Electronically:** *January 2, 2019*

**LICENSE TO OPERATE****4626.1755 LICENSE REQUIRED. 8-301.11**

A. A person shall not operate a food establishment without a valid license to operate issued by the regulatory authority.p2

B. The license must be posted in a location in the food establishment that is conspicuous to consumers.

C. A license must not be transferred from one person to another person, from one food establishment to another, or from one type of operation to another.p2

D. A void license must be surrendered to the regulatory authority immediately by anyone in possession of it.

**Statutory Authority:** *MS s 31.101; 31.11; 144.05; 144.07; 144.08; 144.12; 157.011*

**History:** *23 SR 519; 43 SR 295*

**Published Electronically:** *January 2, 2019*

**4626.1760 LICENSE APPLICATION. 8-302.11**

An applicant shall submit a written application for a license on a form provided by the regulatory authority according to Minnesota Statutes, chapter 28A or 157.

**Statutory Authority:** *MS s 31.101; 31.11; 144.05; 144.07; 144.08; 144.12; 157.011*

**History:** *23 SR 519; 43 SR 295*

**Published Electronically:** *January 2, 2019*

**4626.1765** [Repealed, 43 SR 295]

**Published Electronically:** *January 2, 2019*

**4626.1770 QUALIFICATIONS AND RESPONSIBILITIES OF APPLICANTS. 8-302.13**

To qualify for a license, an applicant shall:

A. be an owner of the food establishment or an officer of the legal ownership;

B. comply with the requirements of this Code;

C. agree to allow access to the food establishment and provide information as required under Minnesota Statutes, section 157.20, subdivision 1; and

D. pay the applicable license fees at the time the application is submitted.

**Statutory Authority:** *MS s 31.101; 31.11; 144.05; 144.07; 144.08; 144.12; 157.011*

**History:** *23 SR 519; 43 SR 295*

**Published Electronically:** *January 2, 2019*

**4626.1775** [Repealed, 43 SR 295]

**Published Electronically:** *January 2, 2019*

**4626.1777 DENIAL OF APPLICATION FOR LICENSE; NOTICE. 8-303.30**

If an application for a license to operate is denied, the regulatory authority shall provide the applicant with a notice that includes:

- A. the specific reasons and Code citations for the license denial;
- B. the actions, if any, that the applicant shall take to qualify for a license; and
- C. advising the applicant of the applicant's right to appeal and the appeal process and time frames that are provided by law.

**Statutory Authority:** *MS s 31.101; 31.11; 144.07; 157.011*

**History:** *43 SR 295*

**Published Electronically:** *January 2, 2019*

**4626.1780** [Repealed, 43 SR 295]

**Published Electronically:** *January 2, 2019*

**INSPECTION AND CORRECTION OF VIOLATIONS**

**4626.1785 INSPECTION. 8-401.10**

The regulatory authority shall inspect a food establishment according to:

- A. Minnesota Statutes, chapters 28A, 30, 31, and 34A, for food establishments regulated by the Department of Agriculture;
- B. Minnesota Statutes, chapter 157, for establishments regulated by the Department of Health; and
- C. rules adopted under Minnesota Statutes, chapters 28A, 30, 31, 31A, 34A, and 157.

**Statutory Authority:** *MS s 31.101; 31.11; 144.05; 144.07; 144.08; 144.12; 157.011*

**History:** *23 SR 519; 43 SR 295*

**Published Electronically:** *January 2, 2019*

**4626.1787 PERFORMANCE AND RISK-BASED INSPECTIONS. 8-401.20**

Within the parameters in part 4626.1785, the regulatory authority shall prioritize and conduct more frequent inspections based upon:

- A. the hazards associated with the particular foods that are prepared, stored, or served;
- B. a history of noncompliance with priority 1 or priority 2 items of this Code; or
- C. a history of noncompliance with HACCP plan requirements.

**Statutory Authority:** *MS s 31.101; 31.11; 144.07; 157.011*

**History:** *43 SR 295*

**Published Electronically:** *January 2, 2019*

#### **4626.1790 ALLOWED AT REASONABLE TIMES AFTER DUE NOTICE. 8-402.11**

After the regulatory authority presents official credentials and provides notice of the purpose of and an intent to conduct an inspection, the person in charge of the food establishment shall allow the regulatory authority to determine if the food establishment is in compliance with the Code by allowing access to the food establishment, allowing inspection, and providing information and the records specified in the Code and to which the regulatory authority is entitled according to law, during the food establishment's hours of operation and other reasonable times.

**Statutory Authority:** *MS s 31.101; 31.11; 144.05; 144.07; 144.08; 144.12; 157.011*

**History:** *23 SR 519; 43 SR 295*

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#### **4626.1791 DOCUMENTING INFORMATION AND OBSERVATIONS. 8-403.10**

The regulatory authority shall document on an inspection report form:

A. administrative information about the food establishment's legal identity, street and mailing addresses, type of establishment and operation, inspection date, and other information such as type of water supply and sewage disposal, status of the license, and personnel certificates that may be required; and

B. specific factual observations of violations or other deviations of this Code, including the specific code citation and a correct by or comply by date, that requires correction by the license holder.

**Statutory Authority:** *MS s 31.101; 31.11; 144.07; 157.011*

**History:** *43 SR 295*

**Published Electronically:** *January 2, 2019*

#### **4626.1792 ISSUING A REPORT. 8-403.30**

The regulatory authority shall provide a copy of the completed inspection report and the notice to correct violations to the licensee or to the person in charge.

**Statutory Authority:** *MS s 31.101; 31.11; 144.07; 157.011*

**History:** *43 SR 295*

**Published Electronically:** *January 2, 2019*

**4626.1795 CEASING OPERATIONS AND EMERGENCY REPORTING. 8-404.11**

A. Except as specified in item B, a licensee shall immediately discontinue operations and notify the regulatory authority if an imminent health hazard may exist because of an emergency such as a fire, flood, extended interruption of electrical or water service, sewage backup, misuse of poisonous or toxic materials, onset of an apparent foodborne illness outbreak, gross insanitary occurrence or condition, or other circumstance that may endanger public health.

B. A licensee need not discontinue operations in an area of an establishment that is unaffected by the imminent health hazard.

**Statutory Authority:** *MS s 31.101; 31.11; 144.05; 144.07; 144.08; 144.12; 157.011*

**History:** *23 SR 519; 43 SR 295*

**Published Electronically:** *January 2, 2019*

**4626.1797 RESUMPTION OF OPERATIONS. 8-404.12**

If operations are discontinued as specified in part 4626.1795, or otherwise according to law, the licensee shall obtain approval from the regulatory authority before resuming operations.

**Statutory Authority:** *MS s 31.101; 31.11; 144.07; 157.011*

**History:** *43 SR 295*

**Published Electronically:** *January 2, 2019*

**4626.1800 FOOD SAMPLES.**

The regulatory authority may collect, without cost, and examine samples of food as often as necessary for enforcement of this Code.

**Statutory Authority:** *MS s 31.101; 31.11; 144.05; 144.07; 144.08; 144.12; 157.011*

**History:** *23 SR 519; 43 SR 295*

**Published Electronically:** *January 2, 2019*

**4626.1805 EMBARGO.**

A. The regulatory authority may embargo and forbid the sale of, or cause to be removed or destroyed, any food that is:

- (1) unwholesome or adulterated;
- (2) prepared, processed, handled, packaged, transported, or stored in an unwholesome manner;
- (3) unfit for human consumption; or
- (4) otherwise prohibited by law.

B. Equipment and utensils that do not meet the requirements of this Code may be embargoed.

C. The regulatory authority may release equipment and utensils from an embargo when the licensee notifies the regulatory authority that the equipment or utensils have been modified to meet the requirements of this Code and after inspection of the equipment and utensils by the regulatory authority.

**Statutory Authority:** *MS s 31.101; 31.11; 144.05; 144.07; 144.08; 144.12; 157.011*

**History:** *23 SR 519; 43 SR 295*

**Published Electronically:** *January 2, 2019*

#### **4626.1810 CONDEMNATION.**

The regulatory authority may condemn and cause to be removed any food, equipment, clothing, or utensils found in a food establishment, the use of which does not comply with this Code or that is being used in violation of this Code, and may also condemn and cause to be removed any equipment, clothing, or utensils that because of dirt, filth, extraneous matter, insects, corrosion, open seams, or chipped or cracked surfaces are unfit for use.

**Statutory Authority:** *MS s 31.101; 31.11; 144.05; 144.07; 144.08; 144.12; 157.011*

**History:** *23 SR 519; 43 SR 295*

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#### **4626.1815 TAG.**

The regulatory authority may place a tag to indicate the embargo or the condemnation on food, equipment, utensils, or clothing. No person shall remove the tag except under the direction of the regulatory authority.

**Statutory Authority:** *MS s 31.101; 31.11; 144.05; 144.08; 144.12; 157.011*

**History:** *23 SR 519*

**Published Electronically:** *October 11, 2007*

### **MISCELLANEOUS HEALTH AND SAFETY**

#### **4626.1820 MINNESOTA CLEAN INDOOR AIR ACT.**

A food establishment must meet the requirements of the Minnesota Clean Indoor Air Act, Minnesota Statutes, sections 144.411 to 144.417, and rules adopted under those sections.

**Statutory Authority:** *MS s 31.101; 31.11; 144.05; 144.07; 144.08; 144.12; 157.011*

**History:** *23 SR 519; 43 SR 295*

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#### **4626.1825 [Repealed, 43 SR 295]**

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**TEMPORARY AND PORTABLE FOOD ESTABLISHMENTS**

**4626.1830** [Repealed, 43 SR 295]

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**4626.1835** [Repealed, 43 SR 295]

**Published Electronically:** *January 2, 2019*

**4626.1840** [Repealed, 43 SR 295]

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**4626.1845** [Repealed, 43 SR 295]

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**4626.1855 SPECIAL EVENT FOOD STANDS.**

This part applies to special event food stands.

A. In conjunction with the notice of opening required in part 4626.1750, the applicant for a license to operate a special event food stand shall provide to the regulatory authority information on the:

- (1) sources of the food;
- (2) type and volume of food to be served, held, prepared, packaged, or otherwise provided for human consumption;
- (3) equipment used to serve, hold, prepare, package, or otherwise provide food for human consumption;
- (4) time period and location of operation;
- (5) facilities for washing hands;
- (6) facilities for multiuse utensil and warewashing for other than prepackaged products;
- (7) source of water; and
- (8) methods of liquid and solid waste disposal.

B. Dry ice or cold packs may be substituted for the mechanical refrigeration required in parts 4626.0375 and 4626.0395 if the temperatures in parts 4626.0370 to 4626.0420 are maintained. Mechanical refrigeration shall be available for potentially hazardous foods held for four hours or longer.

C. Drained ice may be used as a cooling medium only for water-impervious beverage containers.

- D. Domestic slow cookers are prohibited.
- E. Food preparation and cooking areas shall be protected by an impervious shield or by a separation distance to ensure customer safety and prevent food contamination by customers.
- F. A handwashing device supplied with running water at a temperature between 21 degrees C and 43.5 degrees C (70 degrees F and 110 degrees F), soap, nail brush, and paper towels shall be provided at all stands where food is prepared.
- G. Water shall be supplied under pressure or by gravity with a faucet.
- H. A water inlet shall be protected from contamination and designed to preclude attachment of a nonpotable service connection.
- I. A water tank shall comply with the provisions for an alternate water supply specified in parts 4626.1035 and 4626.1135 to 4626.1175.
- J. A stand shall provide protection during adverse weather by its construction or location. Food activities shall cease if protection fails.
- K. Single-service disposable eating and drinking utensils shall be used.
- L. For warewashing multiuse utensils, a washing facility shall be available consisting of at least three containers of sufficient size to immerse utensils.
- M. Space shall be provided for air drying kitchenware, tableware, and utensils.
- N. Towel drying is prohibited.
- O. The sanitization procedures specified in parts 4626.0895 to 4626.0905 shall be used.
- P. For stands that are disassembled after each use, a gravity-fed handwashing device and three containers of sufficient size to immerse utensils may be used in lieu of the requirements of items F and G, if:
- (1) only beverages are served from an original container or bulk beverage dispenser;
  - (2) only prepackaged nonpotentially hazardous food is sold, prepared, or served; or
  - (3) the menu is limited to prepackaged potentially hazardous foods cooked or prepared to order, or precut or prewashed foods that have been obtained from a licensed food establishment.
- Q. A waste holding tank and waste removal shall comply with parts 4626.1180 to 4626.1220.
- R. The regulatory authority may restrict the type of food served or the method of food preparation based on equipment limitations, the unavailability of a permanent establishment for utensil and warewashing, adverse climatic conditions, or any other condition that poses a hazard to public health.

**Statutory Authority:** *MS s 31.101; 31.11; 144.05; 144.08; 144.12; 157.011*



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