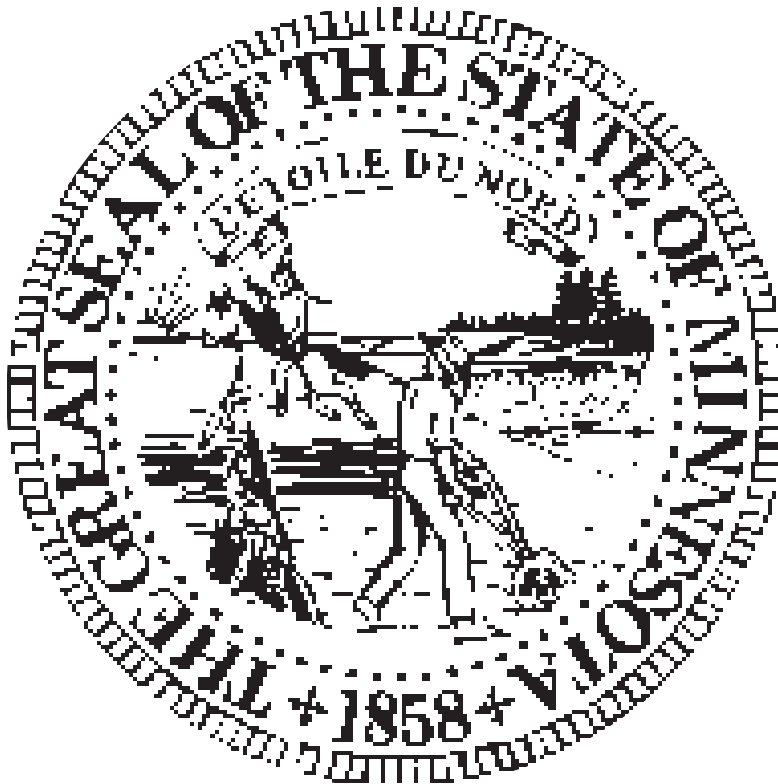


The Minnesota

State Register

Rules and Official Notices Edition



Published every Monday (Tuesday when Monday is a holiday) by the
Department of Administration – Communications Media Division

Monday 23 March 1998
Volume 22, Number 38
Pages 1621-1732

State Register

Judicial Notice Shall Be Taken of Material Published in the *State Register*

The *State Register* is the official publication of the State of Minnesota, containing executive and commissioners' orders, proposed and adopted rules, official and revenue notices, professional-technical-consulting contracts, non-state bids and public contracts and grants.

Printing Schedule and Submission Deadlines

Vol. 22 Issue Number	PUBLISH DATE	Deadline for both Adopted and Proposed RULES	Deadline for: Emergency Rules, Executive and Commissioner's Orders, Revenue and Official Notices, State Grants, Professional-Technical-Consulting Contracts, Non-State Bids and Public Contracts
# 38	Monday 23 March	Monday 9 March	Monday 16 March
# 39	Monday 30 March	Monday 16 March	Monday 23 March
# 40	Monday 6 April	Monday 23 March	Noon Tuesday 31 March
# 41	Monday 13 April	Noon Wednesday 1 April	Noon Tuesday 7 April
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Joanne E. Benson, Lt. Governor 612/296-3391		Judi Dutcher, State Auditor 612/297-3670	Michael A. McGrath, State Treasurer 612/296-7091
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Publication Number: 326630. (ISSN 0146-7751)

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- **"Professional, Technical and Consulting Contracts Awards Reports,"** – published each month listing the previous month's awards of contracts and RFPs that appeared in the Monday edition of the "*State Register*." Appears monthly in hard copy format only. Single copies are \$15.00 per report, plus \$3.00 shipping if applicable. Order stock # 99-43. Six-month subscriptions cost \$75.00. Order stock #90-15.

FOR LEGISLATIVE NEWS

Publications containing news and information from the Minnesota Senate and House of Representatives are available free to concerned citizens and the news media. To be placed on the mailing list, write or call the offices listed below:

Contact: Senate Public Information Office (612) 296-0504
Room 231 State Capitol, St. Paul, MN 55155

Contact: House Information Office (612) 296-2146
Room 175 State Office Building, St. Paul, MN 55155

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Professional, Technical and Consulting contract awards are published monthly in an *Awards Report*.

Individual copies and subscriptions for both publications are available through Minnesota's Bookstore, (612) 297-3000 or 1-800-657-3757.

Minnesota Rules: Amendments and Additions

NOTICE: How to Follow State Agency Rulemaking in the State Register

The *State Register* is the official source, and only complete listing, for all state agency rulemaking in its various stages. State agencies are required to publish notice of their rulemaking action in the *State Register*. Published every Monday, the *State Register* makes it easy to follow and participate in the important rulemaking process. Approximately 80 state agencies have the authority to issue rules. Each agency is assigned specific **Minnesota Rule** chapter numbers. Every odd-numbered year the **Minnesota Rules** are published. The current 1995 set is a 13-volume bound collection of all adopted rules in effect at the time. Supplements are published to update this set of rules. Generally speaking, proposed and adopted exempt rules do not appear in this set because of their short-term nature, but are published in the *State Register*.

An agency must first solicit **Comments on Planned Rules** or **Comments on Planned Rule Amendments** from the public on the subject matter of a possible rulemaking proposal under active consideration within the agency (*Minnesota Statutes* §§ 14.101). It does this by publishing a notice in the *State Register* at least 60 days before publication of a notice to adopt or a notice of hearing, or within 60 days of the effective date of any new statutory grant of required rulemaking.

When rules are first drafted, state agencies publish them as **Proposed Rules**, along with a notice of hearing, or a notice of intent to adopt rules without a hearing in the case of noncontroversial rules. This notice asks for comment on the rules as proposed. Proposed emergency rules and withdrawn proposed rules are also published in the *State Register*. After proposed rules have gone through the comment period, and have been rewritten into their final form, they again appear in the *State Register* as **Adopted Rules**. These final adopted rules are not printed in their entirety in the *State Register*, only the changes made since their publication as Proposed Rules. To see the full rule, as adopted and in effect, a person simply needs two issues of the *State Register*, the issue the rule appeared in as proposed, and later as adopted. For a more detailed description of the rulemaking process, see the most current edition of the *Minnesota Guidebook to State Agency Services*.

The *State Register* features partial and cumulative listings of rules in this section on the following schedule: issues #1-13 inclusive; issues #14-25 inclusive; issue #26 cumulative for issues #1-26; issues #27-38 inclusive; issue #39, cumulative for issues #1-39; issues #40-51 inclusive; and issues #1-52 (or 53 in some years), cumulative for issues #1-52 (or 53). An annual subject matter index for rules was separately printed usually in August, but starting with Volume 19 now appears in the final issue of each volume. For copies or subscriptions to the *State Register*, contact Minnesota's Bookstore, 117 University Avenue, St. Paul, MN 55155 (612) 297-3000, or toll-free 1-800-657-3757.

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Proposed Rules

Comments on Planned Rules or Rule Amendments

An agency must first solicit **Comments on Planned Rules** or **Comments on Planned Rule Amendments** from the public on the subject matter of a possible rulemaking proposal under active consideration within the agency (*Minnesota Statutes* §§ 14.101). It does this by publishing a notice in the *State Register* at least 60 days before publication of a notice to adopt or a notice of hearing, and within 60 days of the effective date of any new statutory grant of required rulemaking.

Rules to be Adopted After a Hearing

After receiving comments and deciding to hold a public hearing on the rule, an agency drafts its rule. It then publishes its rules with a notice of hearing. All persons wishing to make a statement must register at the hearing. Anyone who wishes to submit written comments may do so at the hearing, or within five working days of the close of the hearing. Administrative law judges may, during the hearing, extend the period for receiving comments up to 20 calendar days. For five business days after the submission period the agency and interested persons may respond to any new information submitted during the written submission period and the record then is closed. The administrative law judge prepares a report within 30 days, stating findings of fact, conclusions and recommendations. After receiving the report, the agency decides whether to adopt, withdraw or modify the proposed rule based on consideration of the comments made during the rule hearing procedure and the report of the administrative law judge. The agency must wait five days after receiving the report before taking any action.

Rules to be Adopted Without a Hearing

Pursuant to *Minnesota Statutes* § 14.22, an agency may propose to adopt, amend, suspend or repeal rules without first holding a public hearing. An agency must first solicit **Comments on Planned Rules** or **Comments on Planned Rule Amendments** from the public. The agency then publishes a notice of intent to adopt rules without a public hearing, together with the proposed rules, in the *State Register*. If, during the 30-day comment period, 25 or more persons submit to the agency a written request for a hearing of the proposed rules, the agency must proceed under the provisions of §§ 14.14-14.20, which state that if an agency decides to hold a public hearing, it must publish a notice of intent in the *State Register*.

Board of Education

Proposed Permanent Rules Relating to GED Test Scores

Notice of Intent to Adopt a Rule Without a Public Hearing

Proposed Amendment to Rule Governing Minimum Passing Scores for the Tests of General Educational Development (GED), *Minnesota Rule 3500.3100 Subpart 4 (B)*.

Introduction. The Minnesota State Board of Education intends to adopt a permanent rule amendment without a public hearing following the procedures set forth in the Administrative Procedure Act, *Minnesota Statutes*, section 14.22 and 14.28 and rules of the Office of Administrative Hearings, *Minnesota Rules*, parts 1400.2300 to 1400.2310. Written or oral comments on the proposed rule amendment may be submitted until 4:30 p.m. on April 28, 1998. A written request that a hearing be held on the proposed rule amendment may also be submitted.

Agency Contact Person. Comments or questions on the rule and written requests for a public hearing on the rule amendment must be submitted to Patrick L. Rupp, Minnesota Department of Children, Families and Learning, Room 257 Capitol Square Building, 550 Cedar Street, St. Paul, Minnesota 55101 Phone (612)-296-2704; FAX (612)-296-5224.

Subject of Rule and Statutory Authority. The proposed rule amendment concerns raising the minimum passing scores on the Tests of General Educational Development (GED) to reflect changes mandated by the GED Testing Service, the parent organization of the nation-wide high school credentialing program. The statutory authority to adopt this rule amendment is *Minnesota Laws* 1997, Chapter 162, Article 2, Section 11, Subdivision 7e. A copy of the proposed rule amendment is published in the *State Register* and attached to this notice as mailed.

Comments. Comments in support or opposition to the proposed rule amendment will be accepted until 4:30 p.m. on Tuesday, April 28, 1998. Comments must be in writing and received by the agency contact person by the due date. Comments are encouraged and should identify the proposed rule amendment addressed and the reason(s) for the comments. Any changes in the proposed rule amendment should also be made. Any comments made on the basis of the legality of the proposed rule amendment must also be made during this comment period.

Request for a Hearing. In addition to submitting comments, a request that a hearing be held on the rule may also be made. A request for a public hearing must be in writing and must be received by the agency contact person by 4:30 p.m. on Tuesday, April 28, 1998. The written request for a public hearing must include the name and address of the person making the request. The portion of the proposed rule amendment which is being opposed must be identified or a statement must be made that the entire rule amendment is being opposed. Any request that does not comply with these requirements is not valid and cannot be counted by the agency for determining whether a public hearing must be held.

Withdrawal of Requests. If 25 or more persons submit a written request for a hearing, a public hearing will be held unless a sufficient number withdrew their requests in writing. If enough requests for hearing are withdrawn to reduce the number below 25, the agency must give written notice of this to all persons who requested a hearing, explain the actions the agency took to effect the with-

drawal, and ask for written comments on this action. If a public hearing is required, the agency will follow the procedures in *Minnesota Statutes*, sections 14.131 to 14.20.

Modifications. The proposed rule amendment may be modified as a result of public comment. The modifications must be supported by comments and information submitted to the agency, and the adopted rule amendment may not be substantially different from this proposed rule amendment. Persons affected by the proposed rule amendment are encouraged to comment on it.

Statement of Need and Reasonableness. A statement of need and reasonableness is now available from the agency contact person. This statement contains a summary of the justification for the proposed rule amendment, including a description of who will be affected by the proposed rule amendment and an estimate of the probable cost of the proposed rule amendment.

Adoption and Review of Rule Amendment. If no hearing is required, the agency may adopt the rule amendment after the end of the comment period. The rule amendment and supporting documents will then be submitted to the Office of Administrative Hearings for review for legality. Persons may ask to be notified of the date the rule is submitted to the office. If a person wants to be so notified, or wants to receive a copy of the adopted rule, or wants to register with the agency to receive notice of future rule proceedings, a request must be submitted to the agency contact person listed above.

Dated: 9 March 1998

Jeanne Kling, Acting President
State Board of Education

3500.3100 COMPLETION OF SECONDARY SCHOOL REQUIREMENTS.

Subp. 4. **Equivalency certificate.** A secondary school equivalency certificate may be issued by the State Board of Education to a resident of Minnesota 19 years of age or over who needs the certificate for advancement in an occupational field or for higher education if both of the following are met:

A. the person makes written application on forms, prepared and provided by the Department of Children, Families, and Learning, which are available on request from any of the approved General Educational Development Testing Centers, most secondary schools, or from the Department of Children, Families, and Learning; and

B. the person obtains a minimum standard score of ~~35~~ 40 on each of the five General Educational Development Tests and an average standard score of at least 45 on all five tests or obtains the standard scores set by the General Educational Development Testing Service, whichever is greater.

General Educational Development tests shall be administered only by official agencies established by the American Council on Education and approved by the commissioner of children, families, and learning.

The minimum age requirement may be waived if supportive evidence of special need is provided by a recognized rehabilitative agency.

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Proposed Rules

Department of Health

Environmental Health Division

Department of Agriculture

Food and Dairy Inspection Division

Proposed Permanent Rules Relating to the Minnesota Food Code

DUAL NOTICE: Notice of Intent to Adopt Rules Without a Public Hearing Unless 25 or More Persons Request a Hearing, and Notice of Hearing If 25 or More Requests for Hearing Are Received

Proposed Rules Governing Minnesota Food Code; proposing *Minnesota Rules*, chapter 4626; amending *Minnesota Rules*, parts 1550.1225, 1550.1450, 1550.1490, and 1550.3200; and repealing *Minnesota Rules*, parts 1550.5000 to 1550.5130; parts 4625.2401 to 4625.7801; and chapter 1547, except for part 1547.0110, subpart 2.

Introduction. The Departments of Health and Agriculture intend to jointly adopt rules without a public hearing following the procedures set forth in the Administrative Procedure Act, *Minnesota Statutes*, sections 14.22 to 14.28, and rules of the Office of Administrative Hearings, *Minnesota Rules*, parts 1400.2300 to 1400.2310. If, however, 25 or more persons submit a written request for a hearing on the rules within 30 days or by 4:30 p.m. on April 22, 1998, a public hearing will be held in the Mississippi Room, Minnesota Department of Health Service Center (previously Builders Square), 1645 Energy Park Drive, St. Paul, Minnesota 55108, starting at 9:30 a.m. on Monday, May 4, 1998. To find out whether the rules will be adopted without a hearing or if the hearing will be held, you should contact the agency contact person after April 22, 1998, and before May 4, 1998.

Agency Contact Person. Comments or questions on the rules and written requests for a public hearing on the rules must be submitted to the agency contact person. The contact person for both the Department of Health and Department of Agriculture for this rulemaking is:

Jeanne Eggleston
Minnesota Department of Health
121 East Seventh Place, Suite 220
PO Box 64975
St. Paul, Minnesota 55164-0975
ph. 612/215-0735
fax 612/215-0979
e-mail: jeanne.eggleston@health.state.mn.us

If you are requesting a copy of the proposed rule and/or a copy of the Statement of Need and Reasonableness (SONAR) to be mailed, please contact: Linda Karwoski at phone: 612/215-0868 or e-mail: linda.karwoski@health.state.mn.us. The proposed rule is available on the Department of Health's web page at "www.health.state.mn.us" and also on the Department of Agriculture's web page at "www.mda.state.mn.us".

TTY users may call the Minnesota Department of Health at 612/623-5522.

Subject of Rules and Statutory Authority. The Minnesota Department of Health and the Minnesota Department of Agriculture are jointly proposing the "Minnesota Food Code" based on the federal 1995 Food Code of the United States Food and Drug Administration. Modifications to the federal code are also proposed and are considered case-by-case in the Statement of Need and Reasonableness. The Minnesota Food Code, chapter 4626, replaces existing rules of the Department of Health relating to food and beverage establishments, mobile food establishments, and itinerant carts and stands (*Minnesota Rules*, parts 4625.2401 to 4625.7801). Also replaced are the Department of Agriculture's existing rules relating to retail food stores (*Minnesota Rules*, chapter 1547 with the exception of 1547.0110, subp. 2) and portions of chapter 1550 relating to commercial bakeries.

The applicability of the food sanitation and safety standards are to any operation that stores, prepares, packages, serves, vends, or otherwise provides food for human consumption, including a restaurant, satellite or catered feeding location, market, grocery store, convenience store, special event food stand, school, boarding establishment, vending machine and vending location, institution, and retail bakery. Rules relating to food sanitation and safety administered by the Department of Health relating to mass gatherings are proposed, as are rules relating to mobile units, special event food stands, seasonal food stands and food carts. Rules administered by the Department of Agriculture relating to retail food vehicles, portable structures and carts are also proposed. The proposed rules are also of interest to persons regulated by rules relating to food service and vending, operations in hospitals, nursing homes, and supervised living facilities.

Provisions of the Food Code are compatible with the Hazard Analysis and Critical Control Point (HACCP) concept and terminology. HACCP is a system for ensuring food safety that involves identifying and monitoring the critical points in food preparation where the risks of food-borne hazards (microbial, chemical and physical) are greatest.

Prevention of food-borne illness is the primary focus of the Food Code. Examples of relevant provisions include:

- detailed charts that give specific requirements for time, temperature and humidity for cooking meat and other raw foods derived from animals. For example, ground meat must be cooked to an internal temperature of 155 degrees Fahrenheit (68 degrees Celsius) for 15 seconds to be safe. In most cases, the cold holding temperature is 41 degrees F (5 degrees C).
- requirements for retail managers on how to ensure food service workers' health and hygiene practices (including restricting infected employees), how to prepare ready-to-eat foods without contaminating them with bare hands, how to clean and sanitize food utensils, and how to maintain equipment and facilities. To comply with the Food Code, retail management must be able to demonstrate knowledge of food-borne illness prevention as it relates to their own food operation.

The Food Code also includes provisions for:

- setting time limits for holding cooked foods safely outside of controlled temperatures
- using food additives safely
- marking the date of preparation on potentially hazardous refrigerated ready-to-eat foods that are prepared and held for more than 24 hours in a food establishment
- preparing game animals and exotic animal species, and ensuring the safety of wild mushrooms
- ensuring honest presentation of foods to consumers
- ensuring the safety of molluscan shellfish, such as oysters, clams and mussels.
- ensuring safe egg storage and conditions recognizing a new processing plant technique for in-shell pasteurization (heating eggs long enough to destroy harmful bacteria without cooking the eggs).

The Department of Health's statutory authority to adopt the rules is *Minnesota Statutes*, sections 157.011, subdivision 1; 144.05, subdivision 1, items (b) and (c); 144.08; 144.12, subdivision 1, items (10) and (12); and 144.12, subd. 2. The Department of Agriculture's statutory authority to adopt rules is *Minnesota Statutes*, sections 31.11, subdivision 1; and 31.101, subdivision 1.

A copy of the proposed rules is published in the *State Register*. A free copy of the rules is available upon request as described above in the Agency Contact Person section.

Comments. You have until 4:30 p.m. on Wednesday, April 22, 1998, to submit written comment in support of or in opposition to the proposed rules or any part or subpart of the rules. Your comment must be in writing and received by the agency contact person by the due date. Comment is encouraged. Your comments should identify the portion of the proposed rules addressed, the reason for the comment, and any change proposed. You are encouraged to propose any change desired. Any comments that you would like to make on the legality of the proposed rules must also be made during this comment period.

Request for a Hearing. In addition to submitting comments, you may also request that a hearing be held on the rules. Your request for a public hearing must be in writing and must be received by the agency contact person by 4:30 p.m. on April 22, 1998. Your written request for a public hearing must include your name and address. You must identify the portion of the proposed rules to which you object or state that you oppose the entire set of rules. Any request that does not comply with these requirements is not valid and cannot be counted by the agency for determining whether a public hearing must be held. You are also encouraged to state the reason for the request and any changes you want made to the proposed rules.

Withdrawal of Requests. If 25 or more persons submit a written request for a hearing, a public hearing will be held unless a sufficient number withdraw their requests in writing. If enough requests for hearing are withdrawn to reduce the number below 25, the agency must give written notice of this to all persons who requested a hearing, explain the actions the agency took to effect the withdrawal, and ask for written comments on this action. If a public hearing is required, the agency will follow the procedures in *Minnesota Statutes*, sections 14.131 to 14.20.

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

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Proposed Rules

Modifications. The proposed rules may be modified, either as a result of public comment or as a result of the rule hearing process. Modifications must be supported by data and views submitted to the agency or presented at the hearing and the adopted rules may not be substantially different than these proposed rules. If the proposed rules affect you in any way, you are encouraged to participate in the rulemaking process.

Cancellation of Hearing. The hearing scheduled for May 4, 1998, will be canceled if the agency does not receive requests from 25 or more persons that a hearing be held on the rules. If you requested a public hearing, the agency will notify you before the scheduled hearing whether or not the hearing will be held. You may also call the agency contact person at 612/215-0735 after April 22, 1998, to find out whether the hearing will be held.

Notice of Hearing. If 25 or more persons submit written requests for a public hearing on the rules, a hearing will be held following the procedures in *Minnesota Statutes*, sections 14.131 to 14.20. The hearing will be held on the date and at the time and place listed above. The hearing will continue until all interested persons have been heard. Administrative Law Judge Barbara L. Neilson is assigned to conduct the hearing. Judge Neilson can be reached at the Office of Administrative Hearings, 100 Washington Square, Suite 1700, Minneapolis, Minnesota 55401-2138, telephone 612/341-7604, and fax 612/349-2665.

Hearing Procedure. If a hearing is held, you and all interested or affected persons, including representatives of associations or other interested groups, will have an opportunity to participate. You may present your views either orally at the hearing or in writing at any time before the close of the hearing record. All evidence presented should relate to the proposed rules. You may also submit written material to the Administrative Law Judge to be recorded in the hearing record for five working days after the public hearing ends. This five-day comment period may be extended for a longer period not to exceed 20 calendar days if ordered by the Administrative Law Judge at the hearing. Following the comment period, there is a five-working-day response period during which the agency and any interested person may respond in writing to any new information submitted. No additional evidence may be submitted during the five-day response period. All comments and responses submitted to the Administrative Law Judge must be received at the Office of Administrative Hearings no later than 4:30 p.m. on the due date. All comments or responses received will be available for review at the Office of Administrative Hearings. This rule hearing procedure is governed by *Minnesota Rules*, parts 1400.2000 to 1400.2240, and *Minnesota Statutes*, sections 14.131 to 14.20. Questions about procedure may be directed to the Administrative Law Judge.

The agency requests that any person submitting written views or data to the Administrative Law Judge prior to the hearing or during the comment or response period also submit a copy of the written views or data to the agency contact person at the address stated above.

Statement of Need and Reasonableness. A statement of need and reasonableness is now available from the agency contact person. This statement contains a summary of the justification for the proposed rules, including a description of who will be affected by the proposed rules and an estimate of the probable cost of the proposed rules. The statement may also be reviewed and copies obtained at the cost of reproduction from either the agency or the Office of Administrative Hearings.

Lobbyist Registration. *Minnesota Statutes*, chapter 10A, requires each lobbyist to register with the State Campaign and Public Disclosure Board. Questions regarding this requirement may be directed to the Campaign and Public Disclosure Board at: First Floor South, Centennial Building, 658 Cedar Street, St. Paul, Minnesota 55155, telephone 612/296-5148 or 1-800-657-3889.

Adoption Procedure if No Hearing. If no hearing is required, the agency may adopt the rules after the end of the comment period. The rules and supporting documents will then be submitted to the Office of Administrative Hearings for review for legality. You may ask to be notified of the date the rules are submitted to the office. If you want to be so notified, or want to receive a copy of the adopted rules, or want to register with the agency to receive notice of future rule proceedings, submit your request to the agency contact person listed above.

Adoption Procedure After a Hearing. If a hearing is held, after the close of the hearing record, the Administrative Law Judge will issue a report on the proposed rules. You may ask to be notified of the date when the Administrative Law Judge's report will become available, and can make this request at the hearing or in writing to the Administrative Law Judge. You may also ask to be notified of the date on which the agency adopts the rules and files them with the Secretary of State, and can make this request at the hearing or in writing to the agency contact person stated above.

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

Dated: 9 March 1998

Anne M. Barry
Commissioner of Health

Dated: 9 March 1998

Gene Hugoson
Commissioner of Agriculture

1547.0110 REVIEW OF PLANS.

[For text of subpart 1, see M.R.]

Subp. 2. **Plan review fee.** Plans submitted to the Department of Agriculture under ~~this part~~ 4626.1720 must be accompanied by the appropriate fee and a plan review application form provided by the department. Fees are based on the square footage of the structure being constructed, remodeled, or converted as prescribed below.

Square Footage	Review Fee
0 - 4,999	\$125
5,000 - 24,999	175
25,000 plus	275

1550.1255 APPLICABILITY.

Parts 1550.1255 to 1550.1530 apply only to bakeries that do not sell bakery products directly to the ultimate consumer.

1550.1450 WATER SUPPLY.

A potable water supply shall be provided for use in all bakeries. Such water supply shall be from an approved water source which shall be easily accessible, adequate, and produce water of a safe, sanitary quality. Water from a water supply located, constructed, and operated in accordance with ~~the provisions of Section VII, Manual of Water Supply Sanitation, dated 1965 and adopted by the Minnesota Department of Health~~ chapters 4720 and 4725 shall be deemed to be an approved source. There shall be no cross connection between the approved potable water supply and any unsafe or questionable water supply or any source of pollution through which the approved potable water supply might become contaminated. The water supply shall be adequate in and connected to conveniently located faucets or taps and properly plumbed to all rooms or areas where products are processed in order to assure proper cleaning, sanitizing, and sanitation programs.

1550.1490 SATISFACTORY COMPLIANCE FOR EQUIPMENT AND UTENSILS.

Construction and design of equipment and utensils shall be considered satisfactory when the following conditions are met:

- A. Product contact surfaces are constructed of smooth, nontoxic, corrosion-resistant, odorless material.
- B. Product contact surfaces are free of cracks, crevices, pits, or other imperfections that contribute to insanitary conditions.
- C. Equipment is positioned for easy cleaning; it is a minimum of six inches from the floor and 18 inches from the walls and ceiling, except such ~~stationary~~ stationary equipment which is sealed to walls, floors, or ceilings in a sanitary manner that does not harbor insects, rodents, or filth. However, the exceptions to this requirement are supporting bases and equipment that pass through ceilings, walls, and floors.
- D. The distances between machines shall be large enough for convenient use of the machines as intended and for accessibility for cleaning and inspection.
- E. Equipment is designed to prevent accidental contamination of the product or product contact surfaces with extraneous material (e.g., lubricants).
- F. Equipment is easily cleanable. Equipment which is used in handling readily perishable items is either easily demountable or can be cleaned in place.
- G. Compressed air introduced into the product area is filtered. If piston-type compressors are used, the air lines are equipped with oil and water traps.
- H. The electrical wiring system, including conduits, switch boxes, and control panels, is so constructed and installed to prevent insect harborage.
- I. Equipment and utensils are used only for the purpose intended.
- J. Equipment and utensils are kept in good repair.

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Proposed Rules

K. Bakery equipment, when purchased or replaced, shall be of the design, construction, and materials, and shall be installed as to comply with the standards of the Baking Industry Sanitation Standards Committee, 1994 and subsequent editions, as follows. The standards are incorporated by reference. They are not subject to frequent change, and are available through the Minitex interlibrary loan system.

- (1) ~~Equipment~~ Standard No. 1 ~~Flour Handling~~ Equipment; ~~December 1, 1952~~, as revised to become effective on ~~March 1, 1962~~ for Handling and Storing Dry Ingredients.
- (2) ~~Equipment~~ Standard No. 2 Dough Troughs; ~~February 1, 1953~~, as revised to become effective on ~~April 1, 1967~~.
- (3) ~~Equipment~~ Standard No. 3 Mechanical Intermediate Proofers; ~~February 1, 1953~~, as revised to become effective on ~~June 1, 1967~~.
- (4) ~~Equipment~~ Standard No. 4 ~~Pan, Rack and Utensil~~ Mechanical Washers & Industrial Sinks; ~~July 1, 1953~~.
- (5) ~~Equipment~~ Standard No. 5 Cake Depositors, and Icing Machines; ~~March 1, 1954~~, as revised to become effective on ~~October 1, 1967~~.
- (6) ~~Equipment~~ Standard No. 6 Horizontal ~~Mixers~~ and Vertical Mixers; ~~November 1, 1954~~, as revised to become effective on ~~January 1, 1968~~.
- (7) ~~Equipment~~ Standard No. 7 Conveyors; ~~November 1, 1954~~, as revised to become effective on ~~October 1, 1967~~.
- (8) ~~Equipment~~ Standard No. 8 Dividers, Rounders and Bun Machines; ~~January 1, 1956~~, as revised to become effective on ~~January 1, 1968~~.
- (9) ~~Equipment~~ Standard No. 9 Bread Moulders; ~~January 1, 1956~~, as revised to become effective on ~~October 1, 1967~~.
- (10) ~~Equipment~~ Standard No. 10 Prefabricated Enclosures and Air Conditioning Equipment for Fermentation, Proofing, Cooling and Retarding; ~~January 1, 1956~~, as revised to become effective on ~~April 1, 1967~~.
- (11) ~~Equipment~~ Standard No. 11 Ingredient Water Coolers and Ice Makers (Atmospheric Type); ~~January 1, 1956~~, as revised to become effective on ~~January 1, 1968~~.
- (12) ~~Equipment~~ Standard No. 12 Coating Equipment; ~~March 1, 1958~~, as revised to become effective on ~~January 1, 1968~~.
- (13) ~~Equipment~~ Standard No. 13 ~~Bread, Cake and Roll~~ Cutting and Slicing; ~~Wrapping and Bagging Machines~~; ~~February 1, 1959~~, as revised to become effective on ~~October 1, 1967~~ Equipment.
- (14) ~~Equipment~~ Standard No. 14 ~~Mechanical~~ Ovens; ~~February 1, 1959~~, as revised to become effective on ~~January 1, 1968~~.
- (15) ~~Equipment~~ Standard No. 15 Caster Assemblies and Wheels; ~~June 1, 1967~~.
- (16) ~~Equipment~~ Standard No. 16 Doughnut Equipment; ~~October 1, 1959~~.
- (17) ~~Equipment~~ Standard No. 17 Pan Greasers; ~~July 1, 1960~~, as revised to become effective on ~~October 1, 1967~~.
- (18) ~~Equipment~~ Standard No. 18 ~~Emulsifiers and Homogenizers~~; ~~February 1, 1960~~, as revised to become effective on ~~January 1, 1968~~ Continuous Mix Equipment.
- (19) ~~Equipment~~ Standard No. 19 Spindle Mixers; ~~February 1, 1961~~, as revised to become effective on ~~January 1, 1968~~.
- (20) ~~Equipment~~ Standard No. 20 Liquid Ferment and ~~Continuous Mix Processing~~ Equipment; ~~March 1, 1962~~, as revised to become effective on ~~January 1, 1968~~.
- (21) ~~Equipment~~ Standard No. 21 Dough Chutes, Dough Hoppers, Dough Trough Hoists and Automatic Dough Trough Dumps; ~~March 1, 1962~~.
- (22) ~~Equipment~~ Standard No. 22 Depanners and Delidders for Bakery Products; ~~March 1, 1963~~, as revised to become effective on ~~June 1, 1967~~.
- (23) ~~Equipment~~ Standard No. 23 ~~Floor Scales and Ingredient Scales~~; ~~September 1, 1963~~, as revised to become effective on ~~January 1, 1968~~ Weighing Systems.
- (24) ~~Equipment~~ Standard No. 24 Racks, Pan Trucks; and ~~Dollies~~; ~~Skids and Reusable Pallets~~; ~~February 1, 1959~~, as revised to become effective on ~~January 1, 1968~~.
- (25) ~~Equipment~~ Standard No. 25 Kettles and ~~Kettle Agitators~~; ~~June 1, 1967~~ Accessory Equipment.
- (26) ~~Equipment~~ Standard No. 26 Liquid Measuring Systems; ~~June 1, 1967~~.
- (27) ~~Equipment~~ Standard No. 27 Facilities for Equipment Handling and Storing Refined Liquid and Dry Sweetening Products as revised to become effective on ~~January 1, 1968~~.

- (28) Standard No. 29 Electric Motors and Accessory Equipment.
- (29) Standard No. 30 Distribution Cabinets and Containers.
- (30) Standard No. 31 Pie Make-up Equipment.
- (31) Standard No. 32 Icing and Glazing Machines.
- (32) Standard No. 33 Coolers for Bakery Foods.
- (33) Standard No. 34 Portable Ingredient Containers.
- (34) Standard No. 35 Baking Pans.
- (35) Standard No. 37 Packaging and Package Handling Equipment.
- (36) Standard No. 38 Particle Size Reduction Equipment.
- (37) Standard No. 39 Dough Forming Equipment.
- (38) Standard No. 40 Sandwiching Equipment for Cookies and Crackers.
- (39) Standard No. 41 Pretzel Equipment.
- (40) Standard No. 42 Sugar Wafer, Wafer, and Sugar Rolled Cone Batter Systems.

1550.3200 DEFINITIONS.

[For text of subps 1 to 4, see M.R.]

Subp. 5. **Bottled water.** “Bottled water” means water that is intended for human consumption and that is sealed in bottles or other containers with no added ingredients, except that it may contain safe and suitable antimicrobial agents.

A. Bottled water may be used as an ingredient in beverages such as diluted juices and flavored bottled waters.

B. ~~It~~ Bottled Water may not include food ingredients that are declared in ingredient labeling as “water,” “carbonated water,” “disinfected water,” “filtered water,” “seltzer water,” “soda water,” and “tonic water.”

C. The processing and bottling of bottled water must comply with parts 1550.3200 to 1550.3320 and Code of Federal Regulations, title 21, part 129, ~~and other rules adopted by the department.~~

[For text of subps 6 to 33, see M.R.]

2910.3500 FOOD HANDLING PRACTICES.

Food service shall be provided ~~in accordance with the Minnesota Department of Health (parts 4625.2500 to 4625.4901)~~ according to chapter 4626. (Mandatory)

2930.5300 FOOD-HANDLING PRACTICES.

Subpart 1. **General.** Any food service provided in a correctional facility shall be in accordance with ~~the provisions of the Minnesota Department of Health rules (parts 4625.2500 to 4625.4901)~~ chapter 4626 governing food service and beverage service establishments.

[For text of subp 2, see M.R.]

Subp. 3. **Service of catered food.** When food is catered into the facility, it shall be obtained from a source acceptable to the Minnesota Department of Health pursuant to ~~parts 4625.2500 to 4625.4901~~ chapter 4626.

2935.4100 FOOD HANDLING PRACTICES.

Food service shall be in accordance with the Minnesota Department of Health rules, parts 4625.2500 to 4625.4901. (Mandatory)

Food catered to a facility shall be obtained from a source licensed by the Minnesota Department of Health or other authorized agency and transported, handled, and served in a manner consistent with ~~parts 4625.2500 to 4625.4901~~ chapter 4626.(Mandatory)

2945.3400 FOOD HANDLING PRACTICES (MANDATORY).

Food service shall be provided according to ~~parts 4625.2401 to 4625.4701~~ chapter 4626.

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Proposed Rules

2950.0900 FOOD HANDLING PRACTICES (MANDATORY).

Food service must be provided in accordance with ~~the Minnesota Department of Health, parts 4625.2501 to 4625.4901~~ chapter 4626.

4620.0100 DEFINITIONS.

[For text of subps 1 and 2, see M.R.]

Subp. 4. **Bar.** “Bar” means any establishment or portion of an establishment where one can purchase and consume alcoholic beverages. Any such establishment or portion of an establishment is not considered a “bar” for the purposes of parts 4620.0050 to 4620.1500 if it has:

A. table and seating facilities for more than 50 people at one time; and

B. licensed food service provided, in consideration of payment, excluding licensed limited food service establishments ~~as defined in part 4625.2401, subpart 22~~ under *Minnesota Statutes*, section 157.16, subdivision 3, paragraph (e), clause (1).

[For text of subps 4a to 15, see M.R.]

Subp. 16. **Restaurant.** “Restaurant” means any building, structure, or area used as, maintained as, or advertised as, or held out to the public ~~for food service as a food establishment~~ as defined in part ~~4625.2401, subpart 15~~, 4626.0020, subpart 35, which requires licensure under *Minnesota Statutes*, chapter 157, in consideration of payment other than a bar as defined in subpart 4.

[For text of subps 16a and 17, see M.R.]

4620.1025 BARS.

During the hours of operation when food service is available to patrons that requires licensure as a restaurant under *Minnesota Statutes*, chapter 157, and as a food ~~and beverage service~~ establishment under part ~~4625.2401, subpart 15~~, 4626.0020, subpart 35, a bar must provide the same percent or greater of nonsmoking seating as required for restaurants in part 4620.1000. During the hours of operation when a bar does not make such food service available, the bar may be designated as smoking-permitted in its entirety.

FOOD CODE GENERALLY

4626.0010 1-101.10 FOOD CODE.

This chapter shall be known as the Food Code, hereinafter referred to as the “Code.”

4626.0015 1-102.10 FOOD SAFETY.

Food offered by a food establishment shall not be adulterated, misbranded, or falsely advertised.

4626.0017 1-103.10 APPLICABILITY.

The Code applies to food establishments licensed and inspected by the Department of Agriculture, Department of Health, or local authorities that conduct inspections of food establishments.

DEFINITIONS

4626.0020 1-201.10 STATEMENT OF APPLICATION AND LISTING OF TERMS.

Subpart 1. **Applicability.** For purposes of parts 4626.0010 to 4626.1870, the following terms have the meanings given them.

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, subsection (s), and *Code of Federal Regulations*, title 21, section 170.3.

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

Subp. 3. **Adulterated.** “Adulterated” has the meaning given in *Minnesota Statutes*, section 31.121.

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. 5. **a.** “a_w” means water activity.

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. **C.** “C” means Celsius.

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. 11. **CIP.** “CIP” means cleaned in place by circulating or flowing by mechanical means through a piping system a detergent solution, water rinse, and sanitizing solution onto or over equipment surfaces that require cleaning, including the method used, in part, to clean and sanitize a frozen dessert machine.

CIP does not include cleaning band saws, slicers, mixers, or other equipment that are subjected to in-place manual cleaning without the use of a CIP system.

Subp. 12. **Commercial game animal.**

A. “Commercial game animal” means an animal, the products of which are food, that is not:

- (1) cattle, sheep, swine, goat, or other equine regulated in *Code of Federal Regulations*, title 9, parts 301 to 335;
- (2) poultry regulated in *Code of Federal Regulations*, title 9, part 381; or
- (3) fish as defined in subpart 29.

B. Commercial game animal includes:

- (1) farmed cervidae as defined in *Minnesota Statutes*, section 17.451, subdivision 2;
- (2) ratitae as defined in *Minnesota Statutes*, section 17.453, subdivision 3; or
- (3) llama as defined in *Minnesota Statutes*, section 17.455, subdivision 2.

Subp. 13. **Comminuted.** “Comminuted” means reduced in size by methods including chopping, flaking, grinding, or mincing.

Comminuted products include:

A. gefilte fish, gyros, ground beef, sausage, and other fish or meat products that are reduced in size and restructured or reformulated; and

B. sausages made from two or more meats and other mixtures of two or more types of meat that have been reduced in size and combined.

Subp. 14. **Common dining area.** “Common dining area” means a central location in a group residence where people gather to eat at mealtime.

Common dining area does not include a kitchenette or dining area located within a resident’s private living quarters.

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. **Cook and chill operation.** “Cook and chill operation” means a process that uses a plastic bag filled with hot cooked food from which air has been expelled and closed with a plastic or metal crimp.

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. 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. 20. **Critical item.**

A. “Critical item” means a part of the Code that, if in noncompliance, is more likely than other violations to contribute to food contamination, illness, or environmental degradation.

B. A part that is denoted in the Code with an asterisk (*) is a critical item.

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C. An asterisk (*) after a headnote indicates that all of the provisions within that part are critical for enforcement purposes unless otherwise indicated by being followed by a superscripted letter ^N. A superscripted ^N indicates that the provision directly preceding the designation is noncritical for enforcement purposes and is excluded from the critical designation of the part as a whole.

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 storing packaged or containerized bulk food that is not potentially hazardous and dry goods, including 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. weighing 14 kilograms (30 pounds) or less, mounted on casters, gliders, or rollers, or provided with a mechanical means requiring no more than 14 kilograms (30 pounds) of force 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. 25. **Employee.** “Employee” means a licensee, person in charge, 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.** “Equipment” means a freezer, grinder, hood, ice maker, meat block, mixer, oven, reach-in refrigerator, scale, sink, slicer, stove, table, temperature measuring device for ambient air, vending machine, warewashing machine, or other article that is used in the operation of a food establishment.

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

Subp. 27. **Extensive remodeling.** “Extensive remodeling” means an addition or change to the physical facility, a major equipment addition, or an equipment installation that results from changes in the menu.

Extensive remodeling does not include redecorating, cosmetic refurbishing, altering seating design, or reducing seating capacity.

Subp. 28. **F.** “F” means Fahrenheit.

Subp. 29. **Fish.** “Fish” means fresh or saltwater finfish, mollusks, crustaceans, alligators, frogs, aquatic turtles, jellyfish, sea cucumbers, sea urchins, roe, and other forms of aquatic animal life other than birds or mammals, if the animal life is intended for human consumption.

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.

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:

(1) stores, prepares, packages, serves, vends, or otherwise provides food for human consumption, including a restaurant, satellite or catered feeding location, market, grocery store, convenience store, special event food stand, school, boarding establishment, vending machine and vending location, institution, and retail bakery; or

(2) relinquishes possession of food to a consumer directly or indirectly through a delivery service, including the home delivery of grocery orders or restaurant takeout orders, and a delivery service that is provided by common carriers.

B. Food establishment includes:

(1) 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;

(2) an operation that is conducted in a mobile, stationary, temporary, or permanent facility, location, or cart, regardless of whether consumption is on or off the premises and regardless of whether there is a charge for the food; and

(3) 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.

C. Food establishment does not include:

(1) an establishment excluded from licensure under Minnesota Statutes, section 28A.15 or 31.56, or a wholesale food handler, wholesale food processor or manufacturer, or food broker as defined in Minnesota Statutes, section 28A.05, paragraphs (b) to (d);

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

(3) a food processing plant, wholesale food handler, or a custom operator as described in Code of Federal Regulations, title 9, section 303.1, paragraph (a), subparagraph (2), except:

(a) a custom processor as defined in Minnesota Statutes, section 28A.03, subdivision 8;

(b) a person engaged in custom processing as defined in Minnesota Statutes, section 31A.02, subdivision 5; or

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

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

(5) a food service limited to patient or resident care within a hospital, nursing home, or boarding care home 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; or

(6) a residential facility that is federally certified as an intermediate care facility for persons with mental retardation serving 18 or fewer persons.

Subp. 36. **Food processing plant.** “Food processing plant” means a commercial operation that manufactures, packages, labels, or stores food for human consumption and does not provide food directly to a consumer.

Food processing plant does not include a food establishment as defined in subpart 35.

Subp. 37. **Game animal.**

A. “Game animal” means an animal, the products of which are food, that is not cattle, sheep, swine, or goat regulated in Code of Federal Regulations, chapter 9, parts 301 to 335, poultry regulated in Code of Federal Regulations, chapter 9, part 381, or fish as defined in subpart 29.

B. Game animal includes:

(1) a reindeer, elk, deer, antelope, water buffalo, bison, rabbit, squirrel, bear, and muskrat; an aquatic or nonaquatic bird including a wild duck, goose, quail, and pheasant; a nonaquatic reptile including a rattlesnake; and an aquatic mammal; and

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(2) an exotic animal as defined in *Code of Federal Regulations*, title 9, section 1.1, including a lion, tiger, leopard, elephant, camel, antelope, anteater, kangaroo, water buffalo, and species of foreign domestic cattle, including ankole, gayal, and yak.

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

Subp. 39. Group residence. “Group residence” means a private or public housing corporation or institutional facility that provides living quarters and meals. Group residence includes a retirement home, a long-term health care facility, and other domiciles for unrelated persons.

Subp. 40. HACCP plan. “HACCP plan” means a written document that delineates the formal procedures for following the hazard analysis critical control point principles developed by the National Advisory Committee on Microbiological Criteria for Foods.

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. 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 having manipulated a meat so that infectious or toxigenic microorganisms may be introduced from its surface to its interior through tenderizing with deep penetration or injecting the meat with juices, which may be referred to as “injecting,” “pinning,” or “stitch pumping.”

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 including cloth hampers, cloth napkins, tablecloths, wiping cloths, cloth gloves, and other work garments.

Subp. 49. Mass gathering. “Mass gathering” means an actual or reasonably anticipated assembly of more than 1,500 persons that will continue, or may reasonably be expected to continue, for more than ten consecutive hours and that is held in an open space or temporary structure especially constructed, erected, or assembled for the gathering.

Subp. 50. Meat. “Meat” means the flesh of animals used as food including the dressed flesh of cattle, swine, sheep, or goats and other edible animals, except fish, poultry, and wild game, that is offered for human consumption.

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. 53. Packaged. “Packaged” means bottled, canned, cartoned, securely bagged, or securely wrapped, whether packaged in a food establishment or a food processing plant.

Packaged does not include a wrapper, carry-out box, or other nondurable container used to containerize food to protect food during service and receipt of the food by the consumer.

Subp. 54. Person. “Person” means an association, corporation, individual, partnership, government, governmental subdivision or agency, or other legal entity.

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.

Personal care item includes medicines, first aid supplies, cosmetics, toothpaste, mouthwash, and other toiletries.

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. Values between 0 and 7 indicate acidity and values between 7 and 14 indicate alkalinity. The value for pure distilled water is 7, which is neutral.

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

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 four categories:

A. cleaners and sanitizers, including caustics, acids, drying agents, and polishes;

B. pesticides, including insecticides and rodenticides;

C. substances necessary for the operation and maintenance of the establishment, including 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 including 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.

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Subp. 63. **Poultry.** “Poultry” means any domesticated bird, including chickens, turkeys, ducks, geese, or guineas, whether live or dead.

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 contiguous land or property and its facilities and contents that are under the control of the licensee that may impact food establishment personnel, facilities, or operations, if a food establishment is only one component of a health care facility, hotel, motel, school, recreational camp, prison, or other large operation.

Subp. 65. **Primal cut.** “Primal cut” means a basic major cut into which carcasses and sides of meat are separated.

Subp. 66. **Public water system.** “Public water system” means a system as defined in chapter 4720 and *Code of Federal Regulations*, title 40, section 141.2.

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

A. “Ready-to-eat food” means food that is in a form that is edible without washing, cooking, or additional preparation by the food establishment or the consumer and that is reasonably expected to be consumed in that form.

B. Ready-to-eat food includes:

(1) unpackaged potentially hazardous food that is cooked to the temperature and time required for the specific food under parts 4626.0340 and 4626.0345;

(2) raw, washed, cut fruits and vegetables;

(3) whole, raw fruits and vegetables that are presented for consumption without the need for further washing; and

(4) other food presented for consumption for which further washing or cooking is not required and from which rinds, peels, husks, or shells are removed.

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

A. “Reduced oxygen packaging” means the reduction of the amount of oxygen in a package by mechanically evacuating the oxygen, displacing the oxygen with another gas or combination of gases, or otherwise controlling the oxygen content in a package to a level below that normally found in the surrounding atmosphere, which is 21 percent oxygen.

B. Reduced oxygen packaging includes methods that may be referred to as altered atmosphere, modified atmosphere, controlled atmosphere, low oxygen, and vacuum packaging including sous vide.

C. Reduced oxygen packaging does not include packaging that allows oxygen transmission of at least 7,200 cubic centimeters per square meter (480 cubic centimeters per 100 square inches) over a 24-hour period.

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. 71. **Restricted use pesticide.** “Restricted use pesticide” means a pesticide product that contains the active ingredients specified in the Federal Insecticide, Fungicide, and Rodenticide Act, *United States Code*, title 7, sections 136 to 136y, and *Code of Federal Regulations*, title 40, section 152.175, and that is limited to use by a commercial applicator.

Subp. 72. **Retail bakery.** “Retail bakery” means a building or part of a building used to process, store, or sell bakery products directly to the consumer.

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. 74. **Safe material.** “Safe material” means:

A. an article manufactured from or composed of materials that may not reasonably be expected to directly or indirectly become a component or otherwise affect the characteristics of a 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 a reduction of five 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. 77. **Servicing area.** “Servicing area” means an operating base location to which a mobile food establishment or transportation vehicle returns regularly for discharging liquid or solid wastes or refilling water tanks and ice bins, and where food, food equipment, and supplies for the business are stored.

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. 79. **Shellstock.** “Shellstock” means raw, in-shell molluscan shellfish.

Subp. 80. **Shucked shellfish.** “Shucked shellfish” means molluscan shellfish that have one or both shells removed.

Subp. 81. **Single-service article.** “Single-service article” means a tableware, carry-out utensil, bag, container, placemat, stirrer, straw, toothpick, wrapper, or other item that is designed and constructed for one-time, one-person use.

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 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, including allowing a food to gradually increase from a temperature of -23 degrees C (-10 degrees F) to -4 degrees C (25 degrees F) in preparation for deep-fat frying or for even heat penetration during the cooking of previously block-frozen food.

Subp. 84. **Smooth.** “Smooth” means:

A. for 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. for a non-food-contact surface of equipment, equal to the surface of commercial grade hot-rolled steel free of visible scale; or

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

Subp. 85. **Special event food stand or special event food stand-limited.** “Special event food stand” or “special event food stand-limited” have the meanings given in Minnesota Statutes, section 157.15, subdivisions 14 and 15.

Subp. 86. **Support animal.** “Support animal” means a seeing eye dog or other trained animal that accompanies a person with a disability to assist in managing the disability and enables the person to perform functions that the person would otherwise be unable to perform.

Subp. 87. **Table-mounted equipment.** “Table-mounted equipment” means equipment that is not portable and is designed to be mounted off the floor on a table, counter, or shelf.

Subp. 88. **Tableware.** “Tableware” means eating, drinking, or serving utensils for table use including forks, knives, spoons, and other flatware; bowls, cups, serving dishes, tumblers, and other hollowware; and plates.

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 seasonal temporary food stand, seasonal permanent food stand, or mobile food unit, as those terms are defined in Minnesota Statutes, section 157.15, subdivisions 9, 12a, and 13.

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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; and food temperature measuring devices.

Subp. 92. **Vending machine.** “Vending machine” means a self-service device that, upon insertion of a coin, paper currency, token, card, or key, 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 a room, enclosure, space, or area where one or more vending machines are installed and operated and includes the storage and servicing areas on the premises that are used in conjunction with the vending machines.

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

Subp. 95. **Water activity.** “Water activity” means a measure of the free moisture in a food, and is the quotient of the water vapor pressure of the substance divided by the vapor pressure of pure water at the same temperature.

Subp. 96. **Wild game animal.**

A. “Wild game animal” means:

- (1) an animal defined as a protected wild animal in *Minnesota Statutes*, section 97A.015, subdivision 39; and
- (2) an exotic animal as defined in *Code of Federal Regulations*, title 9, section 1.1, including a lion, tiger, leopard, elephant, camel, antelope, anteater, kangaroo, water buffalo, and species of foreign domestic cattle, including an ankole, gayal, and yak.

B. Wild game animal does not include:

- (1) farmed cervidae as defined in *Minnesota Statutes*, section 17.451, subdivision 2;
- (2) ratitae as defined in *Minnesota Statutes*, section 17.453, subdivision 3; or
- (3) llama as defined in *Minnesota Statutes*, section 17.455, subdivision 2.

SUPERVISION

4626.0025 2-101.11 ASSIGNMENT.*

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.

4626.0030 2-102.11 DEMONSTRATION.*

Based on the risks of foodborne illness inherent to the food operation, during inspections and upon request by the regulatory authority, the person in charge shall demonstrate to the regulatory authority knowledge of foodborne disease prevention, application of the hazard analysis critical control point principles when a HACCP plan is required under part 4626.1730, and the requirements of the Code. The areas of knowledge are:

- A. describing the relationship between the prevention of foodborne disease and the personal hygiene of a food employee;
- 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;
- C. identifying the usual symptoms of, modes of transmission of, typical incubation periods for, and most common foods associated with foodborne diseases;
- D. explaining the significance of the relationship between maintaining the time and temperature of potentially hazardous food and the prevention of foodborne illness;
- E. explaining the hazards involved in the consumption of raw or undercooked meat, poultry, eggs, and fish;
- F. stating the required food temperatures and times for safe cooking of potentially hazardous food including meat;
- G. stating the required temperatures and times for the safe refrigerated storage, hot holding, cooling, reheating, and transportation of potentially hazardous food;
- H. describing the relationship between the prevention of foodborne illness and the management and control of:
 - (1) cross-contamination;
 - (2) hand contact with ready-to-eat foods;
 - (3) handwashing; and
 - (4) maintenance of the food establishment in a clean condition and in good repair;

I. explaining the relationship between food safety and providing equipment that is:

(1) sufficient in number and capacity; and

(2) properly designed, constructed, located, installed, operated, maintained, and cleaned;

J. explaining correct procedures for cleaning and sanitizing utensils and food-contact surfaces of equipment;

K. identifying the source of water used and measures taken to ensure that the water remains protected from contamination including providing protection from backflow and precluding the creation of cross connections;

L. 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;

M. identifying critical control points in the operation from purchasing through sale or service that may contribute to food-borne illness and explaining steps taken to ensure that the points are controlled when a HACCP plan is required by part 4626.1730;

N. explaining the details of how the person in charge and food employees comply with the HACCP plan if a plan is required; and

O. explaining the responsibilities, rights, and authorities assigned by the Code to the:

(1) food employee;

(2) person in charge; and

(3) regulatory authority.

4626.0035 2-103.11 PERSON IN CHARGE.

The person in charge shall ensure that:

A. 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;

B. 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;

C. employees and other persons, including delivery and maintenance persons and pesticide applicators, entering the food preparation, food storage, and warewashing areas comply with the Code;

D. employees effectively clean their hands, by routinely monitoring the employees' handwashing;

E. employees visibly observe 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;

F. employees properly cook potentially hazardous food, being particularly careful in cooking those foods known to cause severe foodborne illness and death, including eggs and comminuted meats, through daily oversight of the employees' routine monitoring of the cooking temperatures;

G. employees use proper methods to rapidly cool potentially hazardous foods that are not held hot or are not for consumption within four hours, through daily oversight of the employees' routine monitoring of food temperatures during cooling;

H. employees properly sanitize 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; and

I. consumers are notified that clean tableware is to be used when they return to salad bars, buffets, or other self-service areas.

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EMPLOYEE HEALTH

4626.0040 2-201.11 RESPONSIBILITY OF PERSON IN CHARGE TO REQUIRE REPORTING BY FOOD EMPLOYEES AND APPLICANTS.*

A. The licensee shall require food employees and food employee applicants to whom a conditional offer of employment is made to report to the person in charge information about their health and activities as they relate to diseases transmissible through food.

B. A food employee or applicant shall report to the person in charge if the food employee or applicant has a symptom caused by illness, infection, or other source that is:

(1) associated with diarrhea, vomiting, or other acute gastrointestinal illness;

(2) jaundice; or

(3) a boil, infected wound, or other lesion containing pus that is open or draining and is:

(a) on the hands or wrists, unless a finger cot, stall, or other impermeable cover protects the lesion and a single-use glove is worn over the impermeable cover;

(b) on exposed portions of the arms, unless the lesion is protected by an impermeable cover; or

(c) on other parts of the body, unless the lesion is covered by a dry, durable, tight-fitting bandage.

C. The food employee or applicant shall report to the person in charge if the food employee or applicant is known to be infected with:

(1) Salmonella spp., Shigella spp., Escherichia coli 0157:H7, or other enteric bacterial pathogen; or

(2) the hepatitis A virus.

D. A food employee or applicant shall report the date of onset of any of the symptoms or illness specified in this part.

4626.0045 2-201.12 EXCLUSIONS AND RESTRICTIONS.*

The person in charge shall:

A. exclude a food employee from a food establishment if the food employee is ill with vomiting or diarrhea;

B. restrict 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 pathogen capable of being transmitted by food, including Salmonella spp., Shigella spp., or Escherichia coli 0157:H7, until the Department of Health has evaluated the potential for foodborne disease transmission; and

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 applicant presents a risk for transmission of foodborne disease.

4626.0050 2-201.13 REMOVAL OF RESTRICTION.

The restriction specified in part 4626.0045, item C, shall remain in effect for a food employee until the Department of Health completes an investigation of the confirmed disease outbreak and determines that there is no longer a risk of foodborne disease transmission.

4626.0055 2-201.14 RESPONSIBILITY OF FOOD EMPLOYEE OR APPLICANT TO REPORT TO PERSON IN CHARGE.*

A food employee or a person who applies for a job as a food employee shall:

A. report to the person in charge the information specified in part 4626.0040; and

B. comply with exclusions and restrictions that are specified in part 4626.0045.

4626.0060 2-201.15 REPORTING BY PERSON IN CHARGE.*

A. The person in charge shall notify the regulatory authority of a food employee infected with:

(1) Salmonella spp., Shigella spp., Escherichia coli 0157:H7, or other enteric bacterial pathogen capable of being transmitted by food; or

(2) the hepatitis A virus.

B. 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.

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

(1) diarrhea or vomiting;

(2) Salmonella spp., Shigella spp., Escherichia coli 0157:H7, or other enteric bacterial pathogen capable of being transmitted by food; or

(3) a hepatitis A virus infection.

PERSONAL CLEANLINESS

4626.0065 2-301.11 CLEAN CONDITION.*

A food employee shall keep hands and exposed portions of arms clean.

4626.0070 2-301.12 CLEANING PROCEDURE.*

A food employee shall clean the hands and exposed portions of the arms with a cleaning compound in a lavatory in the food preparation area that is equipped as specified in part 4626.1050, item A, by vigorously rubbing together the surfaces of the lathered hands and arms for at least 20 seconds and thoroughly rinsing with clean water. An employee shall pay particular attention to the areas underneath the fingernails and between the fingers by scrubbing thoroughly with a nail brush.

4626.0075 2-301.14 WHEN TO WASH.*

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

A. after touching bare human body parts other than clean hands and clean, exposed portions of arms; after defecating, contacting body fluids and discharges, or handling waste containing fecal matter, body fluids, or body discharges; and before beginning or returning to work;

B. after using the toilet, at a handwash sink, in the toilet room;

C. after caring for or handling support animals as allowed in part 4626.0120;

D. after coughing, sneezing, using a handkerchief or disposable tissue, using tobacco, eating, or drinking;

E. after handling soiled equipment or utensils;

F. immediately before engaging in food preparation including working with exposed food, clean utensils, and unwrapped single-service and single-use articles in the food preparation area;

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

H. when switching between working with raw foods and working with ready-to-eat foods; or

I. after engaging in other activities that contaminate the hands.

4626.0080 2-301.15 WHERE TO WASH.

A food employee shall clean the hands in a handwashing lavatory and shall not clean the 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.

4626.0085 2-301.16 HAND SANITIZERS.

A. A hand sanitizer or hand sanitizing solution shall be used:

(1) according to the rules adopted under Minnesota Statutes, section 31.101; or

(2) if consisting of or made up of a chemical formulation that is not generally recognized as safe under Code of Federal Regulations, title 21, parts 182 and 184, or that is not listed for use as a hand sanitizer under Code of Federal Regulations, title 21, section 178.1010, only if:

(a) followed by thorough hand rinsing in clean water or the use of gloves;

(b) used where there is no direct contact with food by the hands; or

(c) applied only to hands that are cleaned as specified in part 4626.0070.

B. A chemical hand sanitizing solution used as a hand dip shall be maintained clean and at a strength equivalent to 100 mg/L chlorine or above.

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Proposed Rules

4626.0090 2-302.11 FINGERNAIL MAINTENANCE.

A food employee shall keep the fingernails trimmed, filed, free of nail polish, and maintained so the edges and surfaces are clean-able and not rough.

4626.0095 2-303.11 JEWELRY PROHIBITION.

While preparing food, a food employee shall not wear jewelry on the arms and hands. This part does not apply to a wedding band or other plain ring.

4626.0100 2-304.11 CLOTHING; CLEAN CONDITION.

A food employee shall wear clean outer clothing. When moving from a raw food operation to a ready-to-eat food operation, a food employee shall wear a clean outer covering over clothing or change to clean clothing if clothing is soiled.

HYGIENIC PRACTICES

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

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.

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

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.

4626.0115 2-402.11 HAIR RESTRAINTS; EFFECTIVENESS.

A. Except as provided under item B, a food employee shall wear a hat, hair covering, net, or other hair restraint, a beard restraint, and clothing that covers body hair, all of which are 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 counter staff who only serve beverages and wrapped or packaged foods, hostesses, wait staff, or other food employees if they present a minimal risk of contaminating exposed food; clean equipment, utensils, and linens; and unwrapped single-service and single-use articles.

4626.0120 2-403.11 ANIMAL HANDLING PROHIBITION.*

A. Except as specified in item B, a food employee shall not care for or handle patrol dogs, support animals, pets, or other animals that are allowed under part 4626.1585, item B, subitems (2) to (4).

B. A food employee with a support animal may care for the support animal if the employee washes the hands as specified in part 4626.0070 before working with exposed food; clean equipment, utensils, and linens; or unwrapped single-service and single-use articles.

FOOD CHARACTERISTICS

4626.0125 3-101.11 NOT ADULTERATED, MISBRANDED, OR FALSELY ADVERTISED.

Food shall not be adulterated, and, as specified in part 4626.0430, shall not be misbranded or falsely advertised.

4626.0130 3-201.11 COMPLIANCE WITH FOOD LAW.*

A. Food shall be obtained from sources that comply with:

- (1) United States Code, title 15, sections 1451 to 1461;
- (2) United States Code, title 21, sections 301 to 395;
- (3) United States Code, title 21, sections 451 to 471;
- (4) United States Code, title 21, sections 601 to 695;
- (5) Code of Federal Regulations, title 7, parts 46 to 51;
- (6) Code of Federal Regulations, title 9, parts 301 to 391;

- (7) Code of Federal Regulations, title 21, parts 1 to 189;
- (8) Code of Federal Regulations, title 40, parts 104 to 135;
- (9) Code of Federal Regulations, title 40, parts 152 to 186;
- (10) Code of Federal Regulations, title 50, parts 260 to 285;
- (11) Minnesota Statutes, chapters 29, 30, 31, 31A, 32, 33, and 34; and
- (12) chapters 1520, 1525, 1530, 1535, 1540, 1545, 1550, and 1555 and part 4630.2700.

B. Except as allowed by Minnesota Statutes, sections 28A.15 and 157.22, clauses (6) and (7), food prepared or stored in a private home shall not be used or offered for human consumption in a food establishment.

C. Packaged food shall be labeled as specified in parts 4626.0200, 4626.0205, and 4626.0435.

D. Fish, other than molluscan shellfish, that are intended for consumption in raw form and allowed as specified in part 4626.0340, item B, subitem (1), shall be obtained from a supplier that freezes the fish as specified in part 4626.0350; or shall be frozen on the premises as specified in part 4626.0350 and records shall be retained as specified in part 4626.0355.

4626.0135 3-201.12 FOOD IN HERMETICALLY SEALED CONTAINER.*

Food in a hermetically sealed container shall be obtained from a food processing plant that is regulated by the food regulatory agency that has jurisdiction over the plant.

4626.0140 3-201.13 FLUID MILK AND MILK PRODUCTS.*

A. Fluid milk and fluid milk products shall be obtained from sources that comply with Grade A standards specified in Minnesota Statutes, chapter 32.

B. Dry milk and dry milk products used or offered for sale shall be made from pasteurized milk and milk products.

C. All ice cream, frozen custard, ice milk, milk sherbet, fruit or ice sherbet, yogurt, frozen malted milk, and other frozen dairy food shall comply with Minnesota Statutes, chapter 32.

4626.0145 3-201.14 FISH.*

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

(1) commercially and legally caught or harvested as prescribed in chapters 1545 and 6200, and Minnesota Statutes, section 31.11 and chapters 97A and 97C; or

(2) approved for sale or service.

B. Molluscan shellfish that are recreationally caught shall not be received for sale or service.

4626.0150 3-201.15 MOLLUSCAN SHELLFISH.*

A. Molluscan shellfish shall be obtained from sources according to the requirements specified in the United States Department of Health and Human Services, Public Health Service, Food and Drug Administration, National Shellfish Sanitation Program Manual of Operations, Part I Sanitation of Shellfish Growing Areas, and Part II Sanitation of the Harvesting, Processing and Distribution of Shellfish (1990 revision). The operations manual is incorporated by reference and is available through the Minitex interlibrary loan system or from the United States Food and Drug Administration, Shellfish Sanitation Branch, 200 "C" Street S.W., Washington D.C., 20204. The manual is not subject to frequent change.

B. Molluscan shellfish received in interstate commerce shall be from sources listed in the United States Department of Health and Human Services, Public Health Service, Food and Drug Administration, Interstate Certified Shellfish Shippers List (1987 and subsequent editions). The list is incorporated by reference and is available through the Minitex interlibrary loan system or from the United States Food and Drug Administration, Shellfish Sanitation Branch, 200 "C" Street S.W., Washington D.C., 20204. The list is subject to frequent change.

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Proposed Rules

4626.0155 3-201.16 WILD MUSHROOMS.*

A. Except as specified in item B, mushroom species picked in the wild shall be obtained from sources where each mushroom is individually inspected and found to be safe by a mushroom identification expert whose expertise has been verified and approved by the regulatory authority through the successful completion of a wild mushroom identification course provided by an accredited college or university. An individual who wants to be approved as a wild mushroom identification expert shall have on file with the regulatory authority a letter from an accredited college or university certifying successful completion of a wild mushroom identification course from an accredited college or university.

B. This part does not apply to:

(1) cultivated wild mushrooms species that are grown, harvested, and processed in an operation that is regulated by the food regulatory agency that has jurisdiction over the operation; or

(2) wild mushrooms species if they are in packaged form and are the product of a food processing plant that is regulated by the food regulatory agency that has jurisdiction over the plant.

4626.0160 3-201.17 GAME ANIMALS.*

A. Game animals commercially raised for food shall be raised, slaughtered, and processed under an inspection program that is conducted by the United States Department of Agriculture under *Code of Federal Regulations*, title 9, part 352, or the Minnesota Department of Agriculture under *Minnesota Statutes*, section 17.452, subdivision 8.

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

(1) comply with item A, or receive antemortem and postmortem examination by a veterinarian or a veterinarian's designee, approved by the regulatory authority; 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 United States Department of Agriculture 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.

C. Wild game animals lawfully taken and donated according to part 6214.0100 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 game is donated;

(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;

(3) evisceration was accomplished within two hours after harvest; and

(4) cooked to at least 74 degrees C (165 degrees F).

4626.0165 3-202.11 TEMPERATURE.*

A. Except as specified in item B, refrigerated, potentially hazardous food shall be at a temperature of 5 degrees C (41 degrees F) or below when received.

B. If a temperature other than 5 degrees C (41 degrees F) for a potentially hazardous food is specified in law governing its distribution, including laws governing milk, molluscan shellfish, and shell eggs, the food may be received at the specified temperature. A food may be received at the temperature specified in:

(1) *Minnesota Statutes*, section 29.23, subdivisions 3 and 4, for eggs;

(2) parts 1550.0960, 1550.0970, and 1550.0980, for readily perishable, frozen, and hot food; and

(3) the National Shellfish Sanitation Program Manual of Operations, Part II, section B, as the manual is described in part 4626.0150, item A.

C. Potentially hazardous food that is cooked to a temperature and for a time specified in parts 4626.0340 and 4626.0345 and received hot shall be at a temperature of 60 degrees C (140 degrees F) or above.

D. A food that is labeled frozen and shipped frozen by a food processing plant shall be received frozen.

E. Upon receipt, potentially hazardous food shall be free of evidence of previous temperature abuse.

4626.0170 3-202.12 ADDITIVES.*

Food shall not contain unapproved food additives or additives that exceed amounts allowed in *Code of Federal Regulations*, title 21, parts 170 to 180; generally recognized as safe or prior sanctioned substances that exceed amounts allowed in *Code of Federal Regulations*, title 21, parts 181 to 186; substances that exceed amounts specified in *Code of Federal Regulations*, title 9, section 318.7; or pesticide residues that exceed provisions specified in *Code of Federal Regulations*, title 40, part 185.

4626.0175 3-202.13 SHELL EGGS.*

Shell eggs shall be received clean and sound and shall:

A. not exceed the restricted egg tolerances for United States Consumer Grade B specified in Code of Federal Regulations, title 7, parts 56 and 59; and

B. comply with parts 1520.1200 to 1520.2000 and Minnesota Statutes, chapter 29.

4626.0180 3-202.14 EGGS AND EGG PRODUCTS.*

Liquid, frozen, and dry eggs and egg products shall be obtained pasteurized.

4626.0185 3-202.15 MILK AND MILK PRODUCTS.*

A. Fluid and dry milk and milk products complying with Grade A standards specified in Minnesota Statutes, chapter 32, shall be obtained pasteurized.

B. Frozen milk products, including ice cream, shall be obtained pasteurized according to Code of Federal Regulations, title 21, part 135.

C. Cheese shall be obtained pasteurized unless alternative procedures to pasteurization are provided for in Code of Federal Regulations, title 21, part 133, for curing certain cheese varieties.

4626.0190 3-202.16 PACKAGE INTEGRITY.*

Food packages shall be in good condition and protect the integrity of the contents so that the food is not exposed to adulteration or potential contaminants.

4626.0195 3-202.17 ICE.*

Ice for use as a food or a cooling medium shall be made from drinking water.

4626.0200 3-202.18 SHUCKED SHELLFISH; PACKAGING AND IDENTIFICATION.

A. Raw shucked shellfish shall be obtained in nonreturnable packages that bear a legible label that identifies:

(1) the name, address, and certification number of the shucker-packer or repacker of the molluscan shellfish; and

(2) the "sell by" date for packages with a capacity of less than 1.87 liter (one-half gallon) or the date shucked for packages with a capacity of 1.87 liter (one-half gallon) or more.

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 shall be subject to a hold order as allowed by Minnesota Statutes, section 31.05, subdivision 1, or seizure and destruction according to Code of Federal Regulations, title 21, section 1240.60, paragraph (d).

4626.0205 3-202.19 SHELLSTOCK IDENTIFICATION.*

Subpart 1. **Tags and labels.** Shellstock shall be obtained in containers bearing legible source identification tags or labels that:

A. are affixed by the harvester and each dealer that depurates, ships, or reships the shellstock, as specified in the National Shellfish Sanitation Program Manual of Operations, Part II, as the manual is described in part 4626.0150, items A; and

B. list:

(1) except as specified in subpart 3, on the harvester's tag or label, the following information in the following order:

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

(b) the date of harvesting;

(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;

(d) the type and quantity of shellfish; and

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

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(2) except as specified in subpart 4, on each dealer's tag or label, the following information in the following order:

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

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

(c) the information specified in subitem (1), units (b) to (d); and

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

Subp. 2. Hold order. 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 subpart 1 shall be subject to a hold order as allowed by *Minnesota Statutes*, section 31.05, subdivision 1, or seizure and destruction according to *Code of Federal Regulations*, title 21, section 1240.60, paragraph (d).

Subp. 3. Dealer information. 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 shall be listed first.

Subp. 4. Exception. If the harvester's tag or label is designed to accommodate each dealer's identification as specified in subpart 1, item B, subitem (2), units (a) and (b), individual dealer tags or labels need not be provided.

4626.0210 3-202.110 SHELLSTOCK; CONDITION.

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

4626.0215 3-203.11 MOLLUSCAN SHELLFISH; ORIGINAL CONTAINER.

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

B. 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 4626.0205 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 4626.0205 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.

4626.0220 3-203.12 SHELLSTOCK; MAINTAINING IDENTIFICATION.*

A. Except as specified in item B, subitem (2), shellstock tags shall remain attached to the container in which the shellstock are received until the container is empty.

B. The identity of the source of shellstock that are sold or served shall be maintained by retaining shellstock tags or labels for 90 calendar days from the date the container is emptied by:

(1) using an approved recordkeeping system that keeps the tags or labels in chronological order correlated to the date when, or dates during which, the shellstock are sold or served; and

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

(a) using only one tagged or labeled container at a time; or

(b) using more than one tagged or labeled container at a time and obtaining a variance from the regulatory authority as specified in parts 4626.1690 to 4626.1715 based on a HACCP plan developed according to parts 4626.1730 and 4626.1735 that:

i. is submitted by the licensee and approved by the regulatory authority as specified in parts 4626.1690 to 4626.1715;

ii. preserves source identification by using a recordkeeping system specified in subitem (1); and

iii. ensures that shellstock from one tagged or labeled container are not commingled with shellstock from another container before being ordered by the consumer.

PROTECTION FROM CONTAMINATION

4626.0225 3-301.11 PREVENTING CONTAMINATION FROM HANDS.*

- A. Food employees shall wash their hands as specified in part 4626.0070.
- B. Except when washing fruits and vegetables as specified in part 4626.0255, food employees shall limit direct hand contact with exposed, ready-to-eat food when deli tissue, spatulas, tongs, dispensing equipment, or other utensils can be used.
- C. Food employees shall minimize bare hand and arm contact with exposed food that is not in a ready-to-eat form.
- D. Except when wounds or lesions are present as described in part 4626.0040, single-use gloves are not required if proper handwashing as specified in parts 4626.0070 to 4626.0090 is undertaken.

4626.0230 3-301.12 PREVENTING CONTAMINATION WHEN TASTING.*

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

4626.0235 3-302.11 PACKAGED AND UNPACKAGED FOOD; SEPARATION, PACKAGING, AND SEGREGATION.*

- A. Food shall be protected from cross-contamination by:
- (1) separating raw animal foods during storage, preparation, holding, and display from:
 - (a) raw ready-to-eat food including fish for sushi, molluscan shellfish, or other raw animal food, and vegetables;
 - and
 - (b) cooked ready-to-eat food;
 - (2) except when combined as ingredients, separating types of raw animal foods from each other during storage, preparation, holding, and display by:
 - (a) one of the following:
 - i. using separate equipment for each type of food; or
 - ii. arranging each type of food in equipment so that cross-contamination of one type with another is prevented; and
 - (b) preparing each type of food at different times or in separate areas;
 - (3) cleaning equipment and utensils as specified in part 4626.0845, item A, and sanitizing as specified in part 4626.0905;
 - (4) except as specified in item B, storing the food in packages, covered containers, or wrappings;
 - (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 including 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.

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

Working containers holding food or food ingredients that are removed from their original packages for use in the food establishment, including cooking oils, flour, herbs, potato flakes, salt, spices, and sugar, shall 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.

4626.0245 3-302.13 PASTEURIZED EGGS; SUBSTITUTE FOR SHELL EGGS.*

A. Pasteurized eggs or egg products shall be substituted for raw shell eggs in the preparation of Caesar salad, hollandaise or bearnaise sauce, mayonnaise, eggnog, ice cream, egg-fortified beverages, and other foods that are not:

(1) cooked as specified in part 4626.0340, item A, subitem (1) or (2); or

(2) included in part 4626.0340, item C, subitem (1).

B. Tom and Jerry batter, mix, or base shall be obtained from a source that complies with parts 1555.7410 to 1555.7500.

4626.0250 3-302.14 PROTECTION FROM UNAPPROVED ADDITIVES.*

A. Food shall be protected from contamination that may result from the addition of, as specified in part 4626.0170:

(1) unsafe or unapproved food or color additives; and

(2) unsafe or unapproved levels of approved food and color additives.

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 vitamin B₁ as specified in *Code of Federal Regulations*, title 21, section 101.54, paragraph (c); or

(2) serve or sell food specified in subitem (1) that is treated with sulfiting agents before receipt by the food establishment, except that grapes need not meet this subitem.

4626.0255 3-302.15 WASHING FRUITS AND VEGETABLES.

A. Raw fruits and vegetables shall be thoroughly washed in water 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 that whole, raw fruits and vegetables that are intended for washing by the consumer before consumption need not be washed before they are sold.

B. Fruits and vegetables may be washed by using chemicals as specified in part 4626.1625.

4626.0260 3-303.11 ICE USED AS EXTERIOR COOLANT; PROHIBITION.

After use as a medium for cooling the exterior surfaces of food including melons, fish, or canned beverages or other packaged foods, or cooling coils and tubes of equipment, ice shall not be used as food.

4626.0265 3-303.12 STORAGE OR DISPLAY OF FOOD IN CONTACT WITH WATER OR ICE.

A. Packaged food shall 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 shall not be stored in contact with water or undrained ice.

C. Other than for direct retail sales, whole, raw fruits or vegetables; cut, raw vegetables including celery, carrot sticks, or potatoes; and tofu may be immersed in ice or water.

D. Raw chicken 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.

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

Food shall not contact:

A. probe-type price or identification tags;^s and

B. surfaces of equipment and utensils that are not cleaned as specified in parts 4626.0840 to 4626.0890 and sanitized as specified in parts 4626.0895 to 4626.0905.

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

A. During pauses in food preparation or dispensing, food preparation and dispensing utensils shall 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 potentially hazardous, with the handles above the top of the food within containers or equipment that can be closed, including bins of sugar, flour, or cinnamon;

(3) on a clean portion of the food preparation table or cooking equipment and shall be 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 including ice cream or mashed potatoes; or

(5) in a clean, protected location if the utensils, including ice scoops, are used only with a food that is not potentially hazardous.

B. For consumer self-service of bulk food, a manual dispensing utensil shall have a handle long enough to avoid consumer contact with bulk food. When not in use, the dispensing utensil shall be stored either in the food with the handle extended out of the food, or in a protective enclosure attached or adjacent to the display unit with the utensil on a tether of easily cleanable material short enough to prevent contact with the floor.

4626.0280 LINENS AND NAPKINS; USE LIMITATION.

Linens and napkins shall 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.

4626.0285 3-304.13 WIPING CLOTHS; USED FOR ONE PURPOSE.

A. Cloths that are in use for wiping food spills shall be used for no other purpose.

B. Cloths used for wiping food spills shall be:

(1) dry and used for wiping food spills from tableware and carry-out containers; or

(2) moist and cleaned as specified in part 4626.0915, item D, stored in a chemical sanitizer as specified in part 4626.1620, and used for wiping spills from food-contact and non-food-contact surfaces of equipment.

C. Dry or moist cloths that are used with raw animal foods shall be kept separate from cloths used for other purposes. Moist cloths used with raw animal foods shall be kept in a separate sanitizing solution.

4626.0287 3-304.14 GLOVES; USE LIMITATION.

A. If used, single-use gloves shall be used for only one task including 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.

B. Except as specified in item C, slash-resistant gloves that are used to protect the hands during operations requiring cutting shall be used in direct contact only with food that is subsequently cooked as specified in parts 4626.0340 to 4626.0365, including 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 shall not be used in direct contact with food unless the food is subsequently cooked as required under parts 4626.0340 to 4626.0365, including frozen food or a primal cut of meat.

4626.0290 3-304.15 USING CLEAN TABLEWARE FOR SECOND PORTIONS AND REFILLS.

A. A food employee shall not use single-service articles or other tableware 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 single-service articles or other tableware to obtain additional food from the display and serving equipment.

C. Cups and glasses 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.

4626.0295 3-304.16 REFILLING RETURNABLES.

A. A take-home food container returned to a food establishment shall not be refilled at a food establishment with a potentially hazardous food.

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B. Except as specified in item C, a take-home food container refilled with food that is not potentially hazardous shall be cleaned as specified in part 4626.0890.

C. Personal take-out beverage containers, including thermally insulated bottles, nonspill coffee cups, and promotional beverage glasses, may be refilled by employees or the consumer if refilling is a contamination-free process as specified in part 4626.0575, items A, B, and D.

4626.0300 3-305.11 FOOD STORAGE.

A. Except as specified in items B and C, food shall 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 15 cm (six inches) above the floor.

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

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

4626.0305 3-305.12 FOOD STORAGE; PROHIBITED AREAS.

Food shall not be stored:

- A. in a locker room;
- B. in a toilet room;
- C. in a dressing room;
- D. in a garbage room;
- E. in a mechanical room;
- F. under a sewer line that is not shielded to intercept potential drips;
- G. under a leaking water line, including a leaking automatic fire sprinkler head, or under a line on which water has condensed;
- H. under an open stairwell; or
- I. under any other source of contamination.

4626.0310 3-305.13 VENDED POTENTIALLY HAZARDOUS FOOD; ORIGINAL CONTAINER.

Potentially hazardous food dispensed through a vending machine shall be in the package in which it was placed at the food establishment or food processing plant where it was prepared.

4626.0315 3-305.14 FOOD PREPARATION.

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

4626.0320 3-306.11 FOOD DISPLAY.

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 shall be protected from contamination by the use of packaging; counter, service line, or salad bar food guards; display cases; or other effective means.

4626.0325 3-306.12 CONDIMENTS; PROTECTION.

A. Condiments shall 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 shall be in individual packages or provided in dispensers that are filled at a location that is approved by the regulatory authority, including 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.

4626.0330 3-306.13 CONSUMER SELF-SERVICE OPERATIONS.*

A. Unpackaged, raw animal food, including beef, lamb, pork, poultry, and fish, shall not be offered for consumer self-service. This item does not apply to consumer self-service of ready-to-eat foods at buffets or salad bars that serve foods including sushi or raw shellfish, or to ready-to-cook individual portions for immediate cooking and consumption on the premises including consumer-cooked meats or consumer-selected ingredients for Mongolian barbecue.

B. Consumer self-service operations for ready-to-eat foods shall be provided with suitable utensils or effective dispensing methods that protect the food from contamination.²

4626.0335 3-306.14 RETURNED FOOD; RESERVICE OR SALE.*

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 shall not be offered as food for human consumption.

B. Food that is not potentially hazardous, including crackers and condiments, and that is in an unopened original package and maintained in sound condition may be re-served or resold.

DESTROYING ORGANISMS

4626.0340 3-401.11 RAW ANIMAL FOODS.*

A. Except as specified in items B and C, raw animal foods, including eggs, fish, poultry, meat, and foods containing these raw animal foods, shall 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) 63 degrees C (145 degrees F) or above for 15 seconds for:

(a) raw shell eggs that are broken and prepared in response to a consumer's order and for immediate service; and

(b) except as specified in subitems (2) and (3) and item B, fish and meat including game animals commercially raised for food as specified in part 4626.0160;

(2) 68 degrees C (155 degrees F) for 15 seconds or the temperature specified in the following chart that corresponds to the holding time for pork; ratites; injected meats; the following if they are comminuted: fish, meat, and game animals commercially raised for food as specified in part 4626.0160; and raw eggs that are not prepared as specified in subitem (1), unit (a):

Minimum

<u>Temperature</u> <u>°C (°F)</u>	<u>Time</u>
63 (145)	3 minutes
66 (150)	1 minute

(3) 74 degrees C (165 degrees F) for 15 seconds for poultry; wild game animals specified in part 4626.0160; stuffed fish; stuffed meat; stuffed pasta; stuffed poultry; stuffed ratites; or stuffing containing fish, meat, poultry, or ratites.

B. Whole beef roasts and corned beef roasts shall 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:

<u>Oven Type</u>	<u>Oven Temperature</u> <u>Based on Roast Weight</u>								
	<table> <tr> <th><u>Less than to 4.5 kg</u> <u>(10 lbs)</u></th><th><u>4.5 kg (10 lbs) or more</u></th></tr> <tr> <td>Still dry</td><td>121°C (250°F) or more</td></tr> <tr> <td>Convection</td><td>163°C (325°F) or more</td></tr> <tr> <td>High humidity¹</td><td>121°C (250°F) or less</td></tr> </table>	<u>Less than to 4.5 kg</u> <u>(10 lbs)</u>	<u>4.5 kg (10 lbs) or more</u>	Still dry	121°C (250°F) or more	Convection	163°C (325°F) or more	High humidity ¹	121°C (250°F) or less
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	<table> <tr> <td>177°C (350°F) or more</td><td>121°C (250°F) or more</td></tr> <tr> <td>163°C (325°F) or more</td><td>163°C (325°F) or more</td></tr> <tr> <td>121°C (250°F) or less</td><td>121°C (250°F) or less</td></tr> </table>	177°C (350°F) or more	121°C (250°F) or more	163°C (325°F) or more	163°C (325°F) or more	121°C (250°F) or less	121°C (250°F) or less		
177°C (350°F) or more	121°C (250°F) or more								
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Proposed Rules

¹Relative humidity greater than 90 percent for at least one hour as measured in the cooking chamber or exit of the oven; or in a moisture-impermeable bag that provides 100 percent humidity.

(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:

<u>Temperature</u> <u>°C (°F)</u>	<u>Time¹</u> <u>in</u> <u>Minutes</u>
<u>54 (130)</u>	<u>121</u>
<u>56 (132)</u>	<u>77</u>
<u>57 (134)</u>	<u>47</u>
<u>58 (136)</u>	<u>32</u>
<u>59 (138)</u>	<u>19</u>
<u>60 (140)</u>	<u>12</u>
<u>61 (142)</u>	<u>8</u>
<u>62 (144)</u>	<u>5</u>
<u>63 (145)</u>	<u>3</u>

¹Holding time may include postoven heat rise.

C. Items A and B do not apply if:

(1) the food is a raw animal food, including raw egg, raw fish, raw-marinated fish, raw molluscan shellfish, steak tartare, or a partially cooked food including lightly cooked fish, rare meat, and soft cooked eggs that is served or offered for sale in a ready-to-eat form, and the consumer is informed that to ensure its safety, the food should be cooked as specified in item A; or

(2) the regulatory authority grants a variance from item A or B as specified in part 4626.1695, based on a HACCP plan that:

(a) is submitted by the licensee and approved as specified in part 4626.1695;

(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.

4626.0345 3-401.15 MICROWAVE COOKING.*

Raw animal foods cooked in a microwave oven shall 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 74 degrees C (165 degrees F) in all parts of the food; and

D. allowed to stand covered for two minutes after cooking to obtain temperature equilibrium.

4626.0350 3-402.11 PARASITE DESTRUCTION.*

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 other than molluscan shellfish shall be frozen throughout to a temperature of:

(1) -20 degrees C (-4 degrees F) or below for 168 hours (seven days) in a freezer; or

(2) -35 degrees C (-31 degrees F) or below for 15 hours in a blast freezer.

B. If the fish are 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), the fish may be served or sold in a raw, raw-marinated, or partially cooked ready-to-eat form without freezing as specified in item A.

4626.0355 3-402.12 RECORDS; CREATION AND RETENTION.

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.

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.

4626.0360 3-403.11 REHEATING FOR HOT HOLDING.*

A. Except as specified in items B, C, and E, potentially hazardous food that is cooked, cooled, and reheated for hot holding shall be reheated so that all parts of the food reach a temperature of at least 74 degrees C (165 degrees F) for 15 seconds.

B. Except as specified in item C, potentially hazardous food reheated in a microwave oven for hot holding shall be reheated so that all parts of the food reach a temperature of at least 74 degrees C (165 degrees F) and the food is rotated or stirred, covered, and allowed to stand covered for two minutes after reheating.

C. Ready-to-eat food taken from a commercially processed, hermetically sealed container, or from an intact package from a food processing plant that is inspected by the food regulatory authority that has jurisdiction over the plant, shall be heated to a temperature of at least 60 degrees C (140 degrees F) for hot holding.

D. Reheating for hot holding shall be done rapidly and the minimum temperature specified in item A shall be reached within two hours.

E. Remaining unsliced portions of roasts of beef 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.

4626.0365 3-403.12 REHEATING FOR IMMEDIATE SERVICE.

Cooked and refrigerated food that is prepared for immediate service in response to an individual consumer order, including roast beef sandwich au jus, may be served at any temperature.

4626.0370 3-501.11 FROZEN FOOD.

Stored frozen foods shall be maintained frozen.

4626.0375 3-501.12 POTENTIALLY HAZARDOUS FOOD; SLACKING.

Frozen potentially hazardous food that is slacked to moderate the temperature shall be held:

A. under refrigeration that maintains the food temperature at 5 degrees C (41 degrees F) or below under mechanical refrigeration; or

B. at any temperature if the food remains frozen.

4626.0380 3-501.13 THAWING.

Potentially hazardous food shall be thawed:

A. under refrigeration that maintains the food temperature at 5 degrees C (41 degrees F) or below;

B. completely submerged under running water:

(1) at a water temperature of 21 degrees C (70 degrees F) or below;

(2) with sufficient water velocity to agitate and float off loose particles in an overflow; and

(3) for a period of time that:

(a) does not allow thawed portions of ready-to-eat food to rise above 5 degrees C (41 degrees F); or

(b) 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 5 degrees C (41 degrees F) for more than four hours including the time the food is exposed to the running water and the time needed for preparation for cooking or the time it takes under refrigeration to lower the food temperature to 5 degrees C (41 degrees F);

C. as part of a cooking process if the food that is frozen is:

(1) cooked as specified in part 4626.0340, items A and B, or 4626.0345; or

(2) thawed in a microwave oven and immediately transferred to conventional cooking equipment, with no interruption in the process; or

D. using any approved procedure that thaws a portion of frozen ready-to-eat food that is prepared for immediate service in response to an individual consumer's order.

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4626.0385 3-501.14 COOLING.*

A. Cooked potentially hazardous food shall be cooled:

- (1) from 60 degrees C (140 degrees F) to 21 degrees C (70 degrees F) within two hours; and
- (2) from 21 degrees C (70 degrees F) to 5 degrees C (41 degrees F) or below within four hours.

B. Potentially hazardous food shall be cooled to 5 degrees C (41 degrees F) or below within four hours if prepared from ingredients at ambient temperature, including reconstituted foods and canned tuna.

C. A potentially hazardous food received in compliance with laws allowing a temperature above 5 degrees C (41 degrees F) during shipment from the supplier shall be cooled to 5 degrees C (41 degrees F) or below within four hours.

4626.0390 3-501.15 COOLING METHODS.

A. Cooling shall be accomplished according to the time and temperature criteria specified 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;
- (2) separating the food into smaller or thinner portions;
- (3) using rapid cooling equipment;
- (4) stirring the food in a container placed in an ice water bath;
- (5) using containers that facilitate heat transfer;
- (6) adding ice as an ingredient; or
- (7) other effective methods.

B. When placed in cooling or cold holding equipment, food containers in which food is being cooled shall 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.

4626.0395 3-501.16 POTENTIALLY HAZARDOUS FOOD; HOT AND COLD HOLDING.*

Except during preparation, cooking, or cooling, or when time is used as the public health control as specified in part 4626.0410, potentially hazardous food shall be maintained:

A. at 60 degrees C (140 degrees F) or above, except that roasts cooked to a temperature and for a time specified in part 4626.0340, item B, may be held at a temperature of 54 degrees C (130 degrees F); or

B. at 5 degrees C (41 degrees F) or below under mechanical refrigeration, except as specified in part 4626.0405, item B.

4626.0400 3-501.17 READY-TO-EAT, POTENTIALLY HAZARDOUS FOOD; DATE MARKING.*

A. Except as specified in item E, refrigerated, ready-to-eat potentially hazardous food prepared and held refrigerated for more than 24 hours in a food establishment shall be marked with the date of preparation to indicate the date by which the food shall be consumed, which is seven calendar days or less from the day of preparation, including the day of preparation, if the food is maintained at 5 degrees C (41 degrees F) or less.

B. Except as specified in item E, a ready-to-eat, potentially hazardous food prepared in a food establishment and subsequently frozen shall be clearly marked:

- (1) when the food is thawed, to indicate that the food shall be consumed within 24 hours; or
- (2) at both of the following times:

(a) when the food is placed into the freezer, to indicate the length of time before freezing that the food is held refrigerated, which is limited to seven calendar days or less from the day of preparation, including the day of preparation, if the food is maintained at 5 degrees C (41 degrees F) or less; and

(b) when the food is removed from the freezer, to indicate the date by which the food shall be consumed, which is seven calendar days or less after the food is removed from the freezer, minus the time before freezing that the food is held refrigerated if the food is maintained at 5 degrees C (41 degrees F) or less before and after freezing.

C. Except as specified in items E and F, a container of refrigerated, ready-to-eat potentially hazardous food prepared and packaged by a food processing plant shall be clearly marked at the time the original container is opened in a food establishment to indicate the date by which the food shall be consumed, which is seven calendar days or less after the original container is opened including the day the original container is opened, if the food is maintained at 5 degrees C (41 degrees F) or less.

D. Except as specified in items E and F, a container of refrigerated, ready-to-eat, potentially hazardous food prepared and packaged by a food processing plant and subsequently opened and frozen in a food establishment shall be clearly marked:

(1) when the food is thawed, to indicate that the food shall be consumed within 24 hours; or

(2) at both of the following times:

(a) to indicate the time between the opening of the original container and freezing that the food is held refrigerated, which is limited to seven calendar days or less after opening the original container, including the day the original container is opened, if the food is maintained at 5 degrees C (41 degrees F) or less; and

(b) when the food is removed from the freezer, to indicate the date by which the food shall be consumed, which is seven calendar days, minus the time before freezing that the food is held refrigerated if the food is maintained at 5 degrees C (41 degrees F) or less before and after freezing.

E. Items A to D do not apply to individual meal portions served or repackaged for sale from a bulk container upon a consumer's request.

F. Items C and D do not apply to whole, unsliced portions of a cured and processed product with the original casing maintained on the remaining portion, including bologna, salami, or other sausage in a cellulose casing.

4626.0405 3-501.18 READY-TO-EAT, POTENTIALLY HAZARDOUS FOOD; DISPOSITION.*

A. A food specified in part 4626.0400, item A, shall be discarded if not consumed within seven calendar days from the date of preparation, provided the food is maintained at 5 degrees C (41 degrees F) or less, except for those food products that are prepared in a food package or container that is sealed, moisture impermeable, and previously unopened before preparation or handling.

B. A food specified in part 4626.0400, item B, subitem (1) or D, subitem (1), shall be discarded if not consumed within 24 hours after thawing.

C. A food specified in part 4626.0400, item B, subitems (2) and (3) or D, subitems (2) and (3), shall be discarded on or before the most recent date marked on the food container or package if the food is not consumed by that date.

D. A food specified in part 4626.0400, item C, shall be discarded if not consumed within seven calendar days after the date that the original container is opened, including the day the original container is opened, if the food is maintained at 5 degrees C (41 degrees F) or less.

E. A food specified in part 4626.0400, item A, B, C, or D, shall be discarded if the food is:

(1) marked with the date specified in part 4626.0400, item A, B, C, or D, and the food is not consumed before the most recent date expires;

(2) in a container or package that does not bear a date or time; or

(3) inappropriately marked with a date or time that exceeds the date or time specified in part 4626.0400, item A, B, C, or D.

4626.0410 3-501.19 TIME AS PUBLIC HEALTH CONTROL.*

Time only, rather than time in conjunction with temperature, may be used as the public health control for a working supply of potentially hazardous food before cooking, or for ready-to-eat potentially hazardous food that is displayed or held for service for immediate consumption, if:

A. the food is marked or otherwise identified with the time within which it shall be cooked, served, or discarded;

B. the food is served or discarded within four hours from the point in time when the food is removed from temperature control;

C. food in unmarked containers or packages, or for which the time expires, is discarded; and

D. written procedures are maintained in the food establishment and made available to the regulatory authority upon request, to ensure compliance with:

(1) items A to C; and

(2) part 4626.0385 for food that is prepared, cooked, and refrigerated before time is used as a public health control.

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Proposed Rules

4626.0415 3-502.11 SPECIALIZED PROCESSING HACCP REQUIREMENTS.*

A HACCP plan shall be prepared by a food establishment before:

- A. smoking or curing food;
- B. using food additives or adding components, including vinegar, to:
 - (1) preserve food rather than to enhance flavor; or
 - (2) render a food so that it is not potentially hazardous;
- C. using a reduced oxygen method of packaging food; or
- D. custom processing field-harvested wild game that is for personal use as food and not for sale or service in a food establishment.

4626.0420 3-502.12 REDUCED OXYGEN PACKAGING; CRITERIA.*

A. A food establishment that packages potentially hazardous food using a reduced oxygen packaging method shall have a HACCP plan that contains the information specified in part 4626.1735, item A, subitem (4).

B. A HACCP plan under item A shall:

- (1) identify the food to be packaged;
- (2) limit the food packaged to a food that does not support the growth of *Clostridium botulinum* because the food:
 - (a) has an a_w of 0.91 or less;
 - (b) has a pH of 4.6 or less;
 - (c) is a food with a high level of competing organisms, including raw meat, raw poultry, or a naturally cultured standardized cheese; or
 - (d) is a meat or poultry product:
 - i. cured at a food processing plant regulated by the United States Department of Agriculture and received at the food establishment in an intact package; or
 - ii. cured using substances specified in *Code of Federal Regulations*, title 9, sections 318.7 and 381.147;
- (3) specify how the food will be maintained at 5 degrees C (41 degrees F) or below;
- (4) describe how the packages will be prominently and conspicuously labeled on the principal display panel in bold type on a contrasting background, with instructions to:
 - (a) keep refrigerated or frozen; and
 - (b) discard the food if within 14 calendar days of its packaging it is not served for on-premises consumption, or consumed if served or sold for off-premises consumption unless a variance, including a HACCP plan, has been granted by the regulatory authority under parts 4626.1690 to 4626.1715;
- (5) limit the shelf life to no more than 14 calendar days from packaging to consumption or the original manufacturer's "sell by" or "use by" date, whichever occurs first, unless a variance, including a HACCP plan, has been granted under parts 4626.1690 to 4626.1715;
- (6) include operational procedures that:
 - (a) comply with part 4626.0225 relating to contamination from hands;
 - (b) identify a designated area and the method by which:
 - i. physical barriers or methods of separation of raw foods and ready-to-eat foods minimize cross contamination; and
 - ii. access to the processing equipment is restricted to responsible trained personnel familiar with the potential hazards of the operation; and
 - (c) delineate cleaning and sanitization procedures for food-contact surfaces; and
- (7) describe the training program that ensures that the individual responsible for the reduced oxygen packaging operation understands the:
 - (a) concepts required for a safe operation;
 - (b) equipment and facilities; and
 - (c) procedures specified in subitem (6) and part 4626.1735, item A, subitem (3).

C. Except for fish that is frozen before, during, and after packaging, a food establishment shall not package fish using a reduced oxygen packaging method.

D. If a variance from item B, subitem (2), is requested according to parts 4626.1690 to 4626.1715, the variance request shall include a HACCP plan.

FOOD IDENTITY

4626.0425 3-601.11 STANDARDS OF IDENTITY.

When a standard of identity exists, food shall comply with the standard of identity specified in chapters 1520, 1525, 1530, 1535, 1540, 1545, 1550, and 1555; Minnesota Statutes, chapters 29, 30, 31, 31A, 32, and 34; and Code of Federal Regulations, titles 7, 9, 21, and 50. Where the federal authority duplicates the state, the federal standard preempts the state standard.

4626.0430 3-601.12 HONESTLY PRESENTED.

A. Food shall 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 shall not be used to misrepresent the true appearance, color, or quality of food.

4626.0435 3-602.11 FOOD LABELS.

Packaged food for sale in a food establishment shall be labeled according to:

A. United States Code, title 15, sections 1451 to 1461;

B. United States Code, title 21, sections 321, 331 to 334, 335b, 337, 341 to 343-1, 345, 346a, 350a, 371 to 374, 376, 379e, and 381;

C. Code of Federal Regulations, title 21, parts 1 to 1270;

D. Code of Federal Regulations, title 9, parts 301 to 391;

E. Code of Federal Regulations, title 7, parts 51, 52, 56, and 59;

F. Code of Federal Regulations, title 50, parts 260 to 285;

G. Minnesota Statutes, chapters 29, 30, 31, 31A, 32, 33, and 34; and

H. chapters 1520, 1525, 1530, 1535, 1540, 1545, 1550, and 1555.

4626.0440 3-602.12 OTHER FORMS OF INFORMATION.

A. Consumer information, including nutritional information, and consumer warnings shall be provided if required by United States Code, title 21, section 321, 331 to 334, 335b, 337, 341 to 343-1, 345, 346a, 350a, 371 to 374, 376, 379e, or 381.

B. The food establishment's or manufacturer's dating information on foods shall not be concealed or altered and shall be in compliance with parts 1550.1030 to 1550.1250.

C. Bulk food that is available for consumer self-service shall be prominently labeled as specified in Minnesota Statutes, sections 31.80 to 31.875, and Code of Federal Regulations, title 21, part 101, with the following information in plain view of the consumer:

(1) the manufacturer's or processor's label that was provided with the food, including nutritional labeling; or

(2) a card, sign, placard, or other method of notification clearly displayed at the point of purchase that includes:

(a) the common or usual name of the food;

(b) a list of ingredients in descending order of predominance;

(c) a declaration of artificial color if contained in the food, except that the food colors certified under United States Code, title 21, section 379e, and their respective lakes, as the term "lake" is defined in Code of Federal Regulations, title 21, section 70.3, shall be individually listed;

(d) a declaration of flavor and chemical preservatives if contained in the food;

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(e) for self-service beverage dispensers, conspicuous labeling attached to the beverage dispenser declaring the name of the beverage, artificial flavors, artificial colors including the Federal Food, Drug, and Cosmetic Act Yellow No. 5, the name and quantity of preservatives, and, if labeled as fruitade or drink, the ingredients in descending order of predominance; and

(f) nutrition labeling if specified in *Code of Federal Regulations*, title 21, part 101.

D. Foods that meet the exemptions and special labeling provision specified in *Code of Federal Regulations*, title 21, section 101.9, paragraph (j), are exempt from nutritional labeling if no nutrient content claim or health claim is made.

CONTAMINATED FOOD

4626.0445 3-701.11 DISCARDING OR RECONDITIONING ADULTERATED OR MISBRANDED FOOD.*

A. Food that is adulterated or misbranded shall be reconditioned according to *Minnesota Statutes*, section 31.495, or discarded.

B. Food that is not from an approved source specified in parts 4626.0130 to 4626.0160 shall be discarded.

C. Ready-to-eat food that may have been adulterated by an employee who has been restricted or excluded as specified in part 4626.0045 shall be discarded.

D. Food that is adulterated by food employees, consumers, or other persons through contact with hands, bodily discharges, including nasal or oral discharges, or any other means shall be discarded.

EQUIPMENT CONSTRUCTION MATERIALS

4626.0450 4-101.11 CHARACTERISTICS.*

Materials that are used in the construction of utensils and food-contact surfaces of equipment shall not allow the migration of deleterious substances or impart colors, odors, or tastes to food and under normal use conditions shall be:

A. safe;

B. durable, corrosion-resistant, and nonabsorbent;^N

C. sufficient in weight and thickness to withstand repeated warewashing;^N

D. finished to have a smooth, easily cleanable surface;^N and

E. resistant to pitting, chipping, crazing, scratching, scoring, distortion, and decomposition.^N

4626.0455 4-101.12 CAST IRON; USE LIMITATION.

A. Except as specified in items B and C, cast iron shall 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.

4626.0460 4-101.13 CERAMIC, CHINA, AND CRYSTAL UTENSILS; USE LIMITATION.

Ceramic, china, crystal utensils, and decorative utensils, including hand-painted ceramic or china, that are used in contact with food shall be lead-free or contain levels of lead not exceeding the limits of the following utensil categories:

<u>Utensil Category</u>	<u>Description</u>	<u>Maximum Lead mg/L</u>
<u>Hot beverage mugs</u>	<u>Coffee mugs</u>	<u>0.5</u>
<u>Large hollowware</u>	<u>Bowls ≥ 1.1 liter (1.16 quart)</u>	<u>1</u>
<u>Small hollowware</u>	<u>Bowls < 1.1 liter (1.16 quart)</u>	<u>2.0</u>
<u>Flat utensils</u>	<u>Plates, saucers</u>	<u>3.0</u>

4626.0465 4-101.14 COPPER; USE LIMITATION.*

A. Except as specified in item B, copper and copper alloys, including brass, shall not be used in contact with a food that has a pH below six, including vinegar, fruit juice, or wine, or for a fitting or tubing installed between a backflow prevention device and a carbonator.

B. Copper and copper alloys may be used in contact with beer brewing ingredients that have a pH below six in the prefermentation and fermentation steps of a brewpub, microbrewery, or other beer brewing operation.

4626.0470 4-101.15 GALVANIZED METAL; USE LIMITATION.*

Galvanized metal shall not be used for utensils or food-contact surfaces of equipment that are used for beverages, acidic food, moist food, or hygroscopic food.

4626.0475 4-101.16 SPONGES; USE LIMITATION.

Sponges shall not be used in contact with cleaned and sanitized or in-use food-contact surfaces.

4626.0480 4-101.17 PEWTER; USE LIMITATION.

A. Pewter shall not be used as a food-contact surface.

B. Imitation pewter meeting the characteristics of multiuse utensils specified in part 4626.0450 may be used as a food-contact surface.

4626.0485 4-101.18 SOLDER AND FLUX; USE LIMITATION.

Solder and flux containing lead in excess of 0.2 percent shall not be used on surfaces that contact food.

4626.0490 4-101.19 WOOD; USE LIMITATION.

A. Except as specified in items B to D, wood and wood wicker shall 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, rolling pins, doughnut dowels, salad bowls, chopsticks, and other utensils; and

(2) wooden paddles used in confectionery operations for pressure scraping kettles when manually preparing confections at a temperature of 110 degrees C (230 degrees F) 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 specified in Code of Federal Regulations, title 21, section 178.3800.

4626.0493 4-101.110 NONSTICK COATINGS; USE LIMITATIONS.

Frying pans, griddles, sauce pans, cookie sheets, waffle bakers, and other multiuse kitchenware that have a perfluorocarbon resin coating shall be used with nonscouring or nonscratching utensils and cleaning aids.

4626.0495 4-101.111 NON-FOOD-CONTACT SURFACES.

Non-food-contact surfaces of equipment that are exposed to splash, spillage, or other food soiling or that require frequent cleaning shall be constructed of a corrosion-resistant, nonabsorbent, and smooth material.

4626.0500 4-102.11 SINGLE-SERVICE AND SINGLE-USE ARTICLES; CHARACTERISTICS.*

Materials that are used to make single-service and single-use articles:

A. shall not:

(1) allow the migration of deleterious substances; or

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(2) impart colors, odors, or tastes to food,^N and

B. shall be:

(1) safe; and

(2) clean.^N

EQUIPMENT DESIGN AND CONSTRUCTION

4626.0505 4-201.11 EQUIPMENT AND UTENSILS.

A. Equipment and utensils shall be designed and constructed to be durable and to retain their characteristic qualities under normal use conditions.

B. Food equipment installed or placed in service after June 6, 1989, shall meet the applicable NSF International food service equipment standards specified in this item. The equipment shall be determined by NSF International or an American National Standards Institute (ANSI) Z34.1 accredited independent entity, including Underwriters Laboratory or the Edison Testing Laboratory, to be equivalent to the NSF International standard.

(1) Standard No. 2, Food Equipment, 1996 and subsequent editions.

(2) Standard No. 3, Commercial Spray-Type Dishwashing and Glasswashing Machines, 1996 and subsequent editions.

(3) Standard No. 4, Commercial Cooking, Rethermalization, and Powered Hot Food Holding and Transport Equipment, 1996 and subsequent editions.

(4) Standard No. 5, Water Heaters, Hot Water Supply Boilers, and Heat Recovery Equipment, 1992 and subsequent editions.

(5) Standard No. 6, Dispensing Freezers, 1996 and subsequent editions.

(6) Standard No. 7, Food Service Refrigerators and Storage Freezers, 1990 and subsequent editions.

(7) Standard No. 8, Commercial Powered Food Preparation Equipment, 1992 and subsequent editions.

(8) Standard No. 12, Automatic Ice Making Equipment, 1992 and subsequent editions.

(9) Standard No. 13, Refuse Compactors and Compactor Systems, 1992 and subsequent editions.

(10) Standard No. 18, Manual Food and Beverage Dispensing Equipment, 1996 and subsequent editions.

(11) Standard No. 20, Commercial Bulk Milk Dispensing Equipment, 1992 and subsequent editions.

(12) Standard No. 25, Vending Machines for Food and Beverages, 1990 and subsequent editions.

(13) Standard No. 26, Pot, Pan, and Utensil Commercial Spray-Type Washing Machines, 1990 and subsequent editions.

(14) Standard No. 29, Detergent and Chemical Feeders for Commercial Spray-Type Dishwashing Machines, 1992 and subsequent editions.

(15) Standard No. 35, Laminated Plastics for Surfacing Food Service Equipment, 1991 and subsequent editions.

(16) Standard No. 51, Plastic Materials and Components Used in Food Equipment, 1978 and subsequent editions.

(17) Standard No. 59, Food Carts, 1986 and subsequent editions.

(18) Criteria C-2, Special Equipment and Devices, 1983 and subsequent editions.

C. Vending machines and machines used to dispense water shall meet NSF International Standard No. 25 or 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, April 1990, and subsequent editions.

D. Vending machines that vend water shall meet the standards specified in parts 1550.3200 to 1550.3320.

E. Baking equipment shall comply with the NSF International standards specified in item B or the Bakery Industry Sanitation Standards Committee (BISSC) standards specified in part 1550.1490, item K.

F. If baking equipment was manufactured before the effective date of the Code and does not comply with NSF International or BISSC standards, the equipment shall be in good repair and shall not constitute a health hazard as determined by the regulatory authority.

G. Used equipment that does not meet the NSF International, NAMA, or BISSC standards specified in this part at the time of installation is permitted if it:

(1) met the NSF International, NAMA, or BISSC standard in effect at the time of manufacture;

(2) remains in good repair;

- (3) is capable of being maintained in a sanitary condition;
- (4) has food-contact surfaces that are not toxic;
- (5) does not constitute a health hazard; and
- (6) is approved by the regulatory authority.

H. If a NSF International, NAMA, or BISSC standard is not available for a piece of equipment used in a food establishment, the equipment shall be designed for commercial use, smooth, easily cleanable, and readily accessible for cleaning.

I. Retail shelving and refrigeration and freezer display cases shall be constructed as specified in item A and designed for commercial use.

J. When food service or a food operation in a child care center, residential care home, supervised living facility, apartment building with congregate dining, boarding establishment, bed and breakfast, or similar establishment is limited to serving ten or fewer individuals, domestic equipment may be substituted for the commercial equipment required under this part.

K. The NSF International, NAMA, and BISSC standards specified in this part are incorporated by reference, are not subject to frequent change, and are available through the Minitex interlibrary loan system.

4626.0510 4-201.12 FOOD TEMPERATURE MEASURING DEVICES.*

Food temperature measuring devices shall not have sensors or stems constructed of glass, except that candy thermometers and other thermometers with glass sensors or stems that are encased in a shatterproof coating may be used.

4626.0515 4-202.11 FOOD-CONTACT SURFACES.*

Multiuse food-contact surfaces shall be:

- A. smooth;
- B. free of breaks, open seams, cracks, chips, pits, and similar imperfections;
- C. free of sharp internal angles, corners, and crevices;
- D. finished to have smooth welds and joints; and
- E. accessible for cleaning and inspection by one of the following methods:

(1) without being disassembled;

(2) by disassembling without the use of tools; or

(3) by easy disassembling with the use of hand-held tools commonly available to maintenance and cleaning personnel, including screwdrivers, pliers, open-end wrenches, and allen wrenches.

4626.0520 4-202.12 CIP EQUIPMENT.

A. CIP equipment shall meet the characteristics specified in part 4626.0515 and shall be designed and constructed so that:

(1) cleaning and sanitizing solutions circulate throughout a fixed system and contact all interior food-contact surfaces; 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 shall be designed with inspection access points to ensure that all interior food-contact surfaces throughout the fixed system are effectively cleaned.

4626.0525 4-202.13 “V” THREADS; USE LIMITATION.

“V”-type threads shall not be used on food-contact surfaces. This part does not apply to hot oil cooking or filtering equipment.

4626.0530 4-202.14 HOT OIL FILTERING EQUIPMENT.

Hot oil filtering equipment shall meet the characteristics specified in part 4626.0515 or 4626.0520 and shall be readily accessible for filter replacement and filter cleaning.

4626.0535 4-202.15 CAN OPENERS.

Cutting or piercing parts of can openers shall be readily removable for cleaning and replacing.

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4626.0540 4-202.16 NON-FOOD-CONTACT SURFACES.

Non-food-contact surfaces shall be free of unnecessary ledges, projections, and crevices, and designed and constructed to allow easy cleaning and to facilitate maintenance.

4626.0545 4-202.17 KICK PLATES, REMOVABLE; ENCLOSED HOLLOW BASES.

A. Kick plates shall be designed so that the areas behind them are accessible for inspection and cleaning by being:

(1) removable by one of the methods specified in part 4626.0515, item E, subitems (1) to (3), 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.

4626.0550 4-202.18 VENTILATION HOOD SYSTEMS; FILTERS.

Filters or other grease extracting equipment shall be designed to be readily removable for cleaning and replacing if not designed to be cleaned in place.

4626.0555 4-203.11 TEMPERATURE MEASURING DEVICES; FOOD.

A. Food temperature measuring devices that are scaled only in Celsius or dually scaled in Celsius and Fahrenheit shall be accurate to 1 degree C (1.8 degrees F).

B. Food temperature measuring devices that are scaled only in Fahrenheit shall be accurate to 2 degrees F.

4626.0560 4-203.12 TEMPERATURE MEASURING DEVICES; AMBIENT AIR AND WATER.

A. Ambient air and water temperature measuring devices that are scaled in Celsius or dually scaled in Celsius and Fahrenheit shall be designed to be easily readable and accurate to 1.5 degrees C (2.7 degrees F) at the use range.

B. Ambient air and water temperature measuring devices that are scaled only in Fahrenheit shall be accurate to 3 degrees F at the use range.

4626.0563 PRESSURE MEASURING DEVICES; MECHANICAL WAREWASHING EQUIPMENT.

Pressure measuring devices that display the pressures in the water supply line for the fresh hot water sanitizing rinse shall have increments of seven kilopascals (one pound per square inch) or smaller and shall be accurate to 14 kilopascals (2 pounds per square inch) in the 100 to 170 kilopascals (15 to 25 pounds per square inch) range.

4626.0565 4-204.11 VENTILATION HOOD SYSTEMS, DRIP PREVENTION.

Exhaust ventilation hood systems in food preparation and warewashing areas, including hoods, fans, guards, ducting, and other components, shall be designed to prevent grease or condensation from draining or dripping onto food, equipment, utensils, linens, and single-service and single-use articles.

4626.0570 4-204.12 EQUIPMENT OPENINGS, CLOSURES, AND DEFLECTORS.

A. A cover or lid for equipment shall 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 shall be flanged upward at least five millimeters (two-tenths inch).

C. Except as specified in item D, fixed piping, temperature measuring devices, rotary shafts, and other parts extending into equipment shall 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 shall be equipped with an apron designed to deflect condensation, drips, and dust from food openings; and

(2) the opening shall be flanged as specified in item B.

4626.0575 4-204.13 DISPENSING EQUIPMENT; PROTECTION OF EQUIPMENT AND FOOD.

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 shall be designed with barriers, baffles, drip aprons, or similar devices to divert drips from condensation and splash from the opening of the container receiving the food;

B. the delivery tube, chute, and orifice shall be recessed or otherwise protected from manual contact;

C. the delivery tube or chute and orifice of equipment used to vend to self-service consumers shall 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; and

D. the dispensing equipment actuating lever or mechanism and filling device of consumer self-service beverage dispensing equipment shall be designed to prevent contact with the lip-contact surface of glasses or cups that are refilled.

4626.0580 4-204.14 VENDING MACHINE; VENDING STAGE CLOSURE.

The dispensing compartment of a vending machine, including a machine that is designed to vend chips, party mixes, pretzels, and other prepackaged snack food that is not potentially hazardous, shall 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.

4626.0585 4-204.15 BEARINGS AND GEAR BOXES; LEAKPROOF.

Equipment containing bearings and gears that require lubricants shall be designed and constructed so that the lubricant cannot leak, drip, or be forced into food or onto food-contact surfaces.

4626.0590 4-204.16 BEVERAGE TUBING; SEPARATION.

Beverage tubing and cold-plate beverage cooling devices shall not be installed in contact with stored ice. This part does not apply to cold plates that are constructed integrally with an ice storage bin.

4626.0595 4-204.17 ICE UNITS; SEPARATION OF DRAINS.

Liquid waste drain lines shall not pass through an ice machine or ice storage bin.

4626.0600 4-204.18 CONDENSER UNIT; SEPARATION.

If a condenser unit is an integral component of equipment, the condenser unit shall be separated from the food and food storage space by a dustproof barrier.

4626.0605 4-204.19 CAN OPENERS ON VENDING MACHINES.

Cutting or piercing parts of can openers on vending machines shall be protected from manual contact, dust, insects, rodents, and other contamination.

4626.0610 4-204.110 MOLLUSCAN SHELLFISH TANKS.

A. Except as specified in item B, molluscan shellfish life support system display tanks shall be used only to display shellfish that are not offered for human consumption and shall be conspicuously marked so that it is obvious to the consumer that the shellfish are for display only.

B. Molluscan shellfish life support system display tanks used to store and display shellfish that are offered for human consumption shall be operated and maintained according to a variance granted by the regulatory authority as specified in parts 4626.1690 to 4626.1715, with a HACCP plan as required in parts 4626.1730 and 4626.1735 that:

(1) is submitted by the licensee and approved by the regulatory authority as specified in parts 4626.1690 to 4626.1715; and

(2) ensures that:

(a) water used with fish other than molluscan shellfish does not flow into the molluscan tank;

(b) the safety and quality of the shellfish as they were received are not compromised by use of the tank; and

(c) the identity of the source of the shellstock is retained as specified in part 4626.0220.

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4626.0615 4-204.111 VENDING MACHINES; AUTOMATIC SHUTOFF.*

A. A machine vending potentially hazardous food shall 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 specified in parts 4626.0130 to 4626.0420; and

(2) if a condition specified in subitem (1) occurs, until the machine is serviced and restocked with food that has been maintained at temperatures specified in parts 4626.0130 to 4626.0420.

B. The temperature specified for activation of the automatic shutoff within a machine vending potentially hazardous food may deviate from the temperature and for a time as follows:

(1) in a refrigerated vending machine, at an ambient temperature of 7 degrees C (45 degrees F) or more, for no more than 30 minutes immediately after the machine is filled, serviced, or restocked; or

(2) in a hot holding vending machine, at an ambient temperature of less than 60 degrees C (140 degrees F), for no more than 120 minutes after the machine is filled, serviced, or restocked.

4626.0620 4-204.112 TEMPERATURE MEASURING DEVICES.

A. In a mechanically refrigerated or hot food storage unit, the sensor of a temperature measuring device shall be located to measure the air 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 potentially hazardous food shall be designed to include and shall be equipped with at least one 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, including calrod units, heat lamps, cold plates, bainmaries, steam tables, insulated food transport containers, and salad bars.

D. Temperature measuring devices shall be designed to be easily readable.

E. Food temperature measuring devices and water temperature measuring devices on warewashing machines shall have a numerical scale, printed record, or digital readout in increments no greater than 1 degree C or 2 degrees F in the intended range of use.

4626.0625 4-204.113 WAREWASHING MACHINES; DATA PLATE OPERATING SPECIFICATIONS.

A warewashing machine shall 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.

4626.0630 4-204.114 WAREWASHING MACHINES; INTERNAL BAFFLES.

Warewashing machine wash and rinse tanks shall be equipped with baffles, curtains, or other means to minimize internal cross-contamination of the solutions in wash and rinse tanks.

4626.0635 4-204.115 WAREWASHING MACHINES; TEMPERATURE MEASURING DEVICES.

A warewashing machine shall be equipped with a temperature measuring device that indicates the temperature of the water:

A. in each wash and rinse tank; and

B. as the water enters the hot water sanitizing final rinse manifold or in the chemical sanitizing solution tank.

4626.0640 4-204.116 MANUAL WAREWASHING EQUIPMENT; HEATERS AND BASKETS.

If hot water is used for sanitization in manual warewashing operations, the sanitizing compartment of the sink shall be:

A. designed with an integral heating device that is capable of maintaining water at a temperature not less than 77 degrees C (171 degrees F); and

B. provided with a rack or basket to allow complete immersion of equipment and utensils into the hot water.

4626.0643 WAREWASHING MACHINES; SANITIZER LEVEL INDICATOR.

A warewashing machine that uses a chemical for sanitization and that is installed after the effective date of the Code shall be equipped with a device that indicates audibly or visually when more chemical sanitizer needs to be added.

4626.0645 4-204.117 WAREWASHING MACHINES; FLOW PRESSURE DEVICE.

A. Warewashing machines that provide a fresh hot water sanitizing rinse shall be equipped with a pressure gauge, transducer, or similar device 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 shall be mounted in a 6.4 millimeter (one-fourth inch) 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.

4626.0650 4-204.118 WAREWASHING SINKS AND DRAINBOARDS; SELF-DRAINING.

Sinks and drainboards of warewashing sinks and machines shall be self-draining.

4626.0655 4-204.119 EQUIPMENT COMPARTMENTS; DRAINAGE.

Equipment compartments that are subject to accumulation of moisture due to condensation, food or beverage drip, water from melting ice, or similar conditions shall be sloped to an outlet that allows complete draining.

4626.0660 4-204.120 VENDING MACHINES; LIQUID WASTE PRODUCTS.

A. Vending machines designed to store beverages that are packaged in containers made from paper products shall be equipped with diversion devices and retention pans or drains for container leakage.

B. Vending machines that dispense liquid food in bulk shall 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 takes the machine out of operation before the waste receptacle overflows.

C. A shutoff device specified in item B, subitem (2), shall 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.

4626.0665 4-204.121 CASE LOT HANDLING EQUIPMENT; MOVEABILITY.

Dollies, pallets, racks, skids, and other equipment used to store and transport large quantities of packaged foods received from a supplier in a cased or overwrapped lot shall be designed to be moved by hand or by hand trucks, forklifts, or other conveniently available equipment.

4626.0670 4-204.122 VENDING MACHINE DOORS AND OPENINGS.

A. Vending machine doors and access opening covers to food and container storage spaces shall 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 1.5 millimeters (1/16 inch) by:

(1) being covered with louvers, screens, or materials that provide an equivalent opening of not greater than 1.5 millimeters (1/16 inch). Screening of 12 or more mesh to 2.5 centimeters (12 mesh to one inch) meets the requirements of this subitem;

(2) being effectively gasketed;

(3) having interface surfaces that are at least 13 millimeters (one-half inch) wide; or

(4) using 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 shall be closed by sealants, clamps, or grommets so that the openings are no larger than 1.5 millimeters (1/16 inch).

EQUIPMENT NUMBERS AND CAPACITIES**4626.0675 4-301.11 COOLING, HEATING, AND HOLDING CAPACITIES.**

Equipment for cooling and heating food, and holding cold and hot food, shall be sufficient in number and capacity to provide food temperatures specified in parts 4626.0130 to 4626.0420.

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Proposed Rules

4626.0680 4-301.12 MANUAL WAREWASHING; SINK COMPARTMENT REQUIREMENTS.

A. Except as specified in item C, a sink with at least three compartments and with integrally attached drainboards at each end shall be provided for manually washing, rinsing, and sanitizing equipment and utensils.

B. Sink compartments shall 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 shall be used.

C. Alternative manual warewashing equipment may be used when there are special cleaning needs or constraints and the regulatory authority approves the use of the alternative equipment. 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 provided they are used only for on-site vending machine cleaning and sanitizing.

4626.0685 4-301.13 DRAINBOARDS.

A. Integral drainboards, utensil racks, or tables large enough to accommodate all soiled and cleaned items that may accumulate during hours of operation shall be provided for necessary utensil holding before cleaning and after sanitizing.

B. Hot water sanitizing machines shall have space for and a minimum of three racks for drying utensils.

C. Chemical sanitizing machines shall have space for and a minimum of five racks for drying utensils.

4626.0690 4-301.14 VENTILATION HOOD SYSTEMS; ADEQUACY.

Ventilation hood systems and devices shall be sufficient in number and capacity to prevent grease or condensation from collecting on walls and ceilings.

4626.0695 4-301.15 CLOTHES WASHERS AND DRYERS.

A. Except as specified in item B, if work clothes or linens are laundered on the premises, a mechanical clothes washer and dryer shall 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.

4626.0700 4-302.11 UTENSILS; CONSUMER SELF-SERVICE.

A food dispensing utensil shall be available for each display container displayed at a buffet, salad bar, or other consumer self-service unit.

4626.0705 4-302.12 FOOD TEMPERATURE MEASURING DEVICES.

Food temperature measuring devices shall be provided and readily accessible for use in ensuring attainment and maintenance of food temperatures specified in parts 4626.0130 to 4626.0420.

4626.0710 4-302.13 TEMPERATURE MEASURING DEVICES; MANUAL WAREWASHING.

In manual warewashing operations, a temperature measuring device shall be provided and readily accessible for frequently measuring the washing and sanitizing temperatures.

4626.0715 4-302.14 SANITIZING SOLUTIONS; TESTING DEVICES.

A test kit or other device that accurately measures the concentration in mg/L of sanitizing solutions shall be provided.

EQUIPMENT LOCATION AND INSTALLATION

4626.0720 4-401.11 EQUIPMENT, CLOTHES WASHERS AND DRYERS, AND STORAGE CABINETS; CONTAMINATION PREVENTION.

A. Except as specified in items B and C, equipment; a cabinet that is used for the storage of food; or a cabinet that is used to store cleaned and sanitized equipment, utensils, laundered linens, or single-service and single-use articles shall not be located:

(1) in a locker room;

(2) in a toilet room;

(3) in a garbage room;

- (4) in a mechanical room;
- (5) under a sewer line that is not shielded to intercept potential drips;
- (6) under a leaking water line, including a leaking automatic fire sprinkler head, or under a line on which water has condensed;
- (7) under an open stairwell; or
- (8) under any other source of contamination.

B. A storage cabinet used for linens or single-service or single-use articles may be stored in a locker room.

C. If a mechanical clothes washer or dryer is provided, it shall be located so that the washer or dryer is protected from contamination and only in an area where there is no exposed food; clean equipment, utensils, or linens; or unwrapped single-service or single-use articles.

4626.0725 4-402.11 FIXED EQUIPMENT; SPACING OR SEALING.

A. A unit of equipment that is fixed because it is not easily movable shall be installed so that it is:

- (1) spaced to allow access for cleaning along the sides of, behind, and above the unit;
- (2) spaced from adjoining equipment, walls, and ceilings a distance of not more than one millimeter (1/32 inch); or
- (3) sealed to adjoining equipment or walls, if the unit is exposed to spillage or seepage.

B. Table-mounted equipment that is not easily movable shall be installed to allow cleaning of the equipment and areas underneath and around the equipment by being:

- (1) sealed to the table; or
- (2) elevated on legs specified in part 4626.0730, item D.

C. Carbon dioxide and bottled gas cylinders shall be secured by chains or other types of restraint.

4626.0730 4-402.12 FIXED EQUIPMENT; ELEVATION OR SEALING.

A. Except as specified in items B and C, floor-mounted equipment that is not easily movable shall be sealed to the floor or elevated on legs that provide at least a 15 centimeter (six inch) clearance between the floor and the equipment.

B. If no part of the floor under the floor-mounted equipment is more than 15 centimeters (six inches) from the point of cleaning access, the clearance space may be ten centimeters (four inches).

C. This part does not apply to display shelving units, display refrigeration units, and display freezer units located in the consumer shopping areas of a retail food store, if the floor under the units is maintained clean.

D. Except as specified in item E, table-mounted equipment that is not easily movable shall be elevated on legs that provide at least a ten centimeter (four inch) clearance between the table and the equipment.

E. The clearance space between the table and table-mounted equipment may be:

- (1) 7.5 centimeters (three inches) if the horizontal distance of the table top under the equipment is no more than 50 centimeters (20 inches) from the point of access for cleaning; or
- (2) five centimeters (two inches) if the horizontal distance of the table top under the equipment is no more than 7.5 centimeters (three inches) from the point of access for cleaning.

EQUIPMENT MAINTENANCE AND OPERATION

4626.0735 4-501.11 GOOD REPAIR AND PROPER ADJUSTMENT.

A. Equipment shall be maintained in a state of repair and condition that meets the requirements specified in parts 4626.0450 to 4626.0670.

B. Doors, seals, hinges, fasteners, kick plates, and other equipment components shall be kept intact, tight, and adjusted according to manufacturer's specifications.

C. Cutting or piercing parts of can openers shall be kept sharp to minimize the creation of metal fragments that can contaminate food when the container is opened.

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Proposed Rules

4626.0740 4-501.12 CUTTING SURFACES.

Cutting blocks and boards and other surfaces that are subject to scratching and scoring shall be resurfaced if they can no longer be effectively cleaned and sanitized, or discarded if they are not capable of being resurfaced.

4626.0745 4-501.13 MICROWAVE OVENS.

Microwave ovens shall meet the safety standards specified in *Code of Federal Regulations*, title 21, section 1030.10.

4626.0750 4-501.14 EQUIPMENT CLEANING FREQUENCY.

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 shall 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 once every 24 hours.

4626.0755 4-501.15 WAREWASHING MACHINE; MANUFACTURER'S OPERATING INSTRUCTIONS.

A. A warewashing machine and its auxiliary components shall 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 shall be maintained accurately timed according to manufacturer's specifications.

4626.0760 4-501.16 WAREWASHING SINKS; USE LIMITATION.

A. A warewashing sink shall not be used for handwashing or dumping mop water.

B. For food establishments licensed before the effective date of the Code:

(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 shall be sanitized as specified in parts 4626.0895 to 4626.0905 before and after using the sink to wash or thaw food.

4626.0765 4-501.17 WAREWASHING EQUIPMENT; CLEANING AGENTS.

The wash compartment of a sink, mechanical warewasher, or wash receptacle of alternative manual warewashing equipment specified in part 4626.0680, item C, shall, when used for warewashing, 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.

4626.0770 4-501.18 WAREWASHING EQUIPMENT; CLEAN SOLUTIONS.

The wash, rinse, and sanitize solutions shall be maintained clean.

4626.0775 4-501.19 MANUAL WAREWASHING EQUIPMENT; WASH SOLUTION TEMPERATURE.

The temperature of the wash solution in manual warewashing equipment shall be maintained at not less than 43 degrees C (110 degrees F) unless a different temperature is specified on the cleaning agent manufacturer's label instructions.

4626.0780 FOOD PREPARATION SINKS; NEW OR EXTENSIVELY REMODELED ESTABLISHMENT.

For a food establishment newly licensed, extensively remodeled, or adding a food product to the menu that requires washing or thawing in a sink, if food will be washed or thawed using a sink, the food establishment shall have a separate food preparation sink.

4626.0785 4-501.110 MECHANICAL WAREWASHING EQUIPMENT; WASH SOLUTION TEMPERATURE.

A. The temperature of the wash solution in spray-type warewashers that use hot water to sanitize shall not be less than:

(1) for a single tank, stationary rack, single temperature machine, 74 degrees C (165 degrees F);

(2) for a single tank, conveyor, dual temperature machine, 71 degrees C (160 degrees F);

(3) for a single tank, stationary rack, dual temperature machine, 66 degrees C (150 degrees F); or

(4) for a multitank, conveyor, multitemperature machine, 66 degrees C (150 degrees F).

B. The temperature of the wash solution in spray-type warewashers that use chemicals to sanitize shall not be less than 49 degrees C (120 degrees F).

4626.0790 4-501.111 MANUAL WAREWASHING EQUIPMENT; HOT WATER SANITIZATION TEMPERATURES.*

If immersion in hot water is used for sanitizing in a manual operation, the temperature of the water shall be maintained at 77 degrees C (171 degrees F) or above.

4626.0795 4-501.112 MECHANICAL WAREWASHING EQUIPMENT; HOT WATER SANITIZATION TEMPERATURES.

A. Except as provided in item B, in a mechanical operation, the temperature of the fresh hot water sanitizing rinse as it enters the manifold shall not be more than 90 degrees C (194 degrees F) or less than:

- (1) for a stationary rack, single temperature machine, 74 degrees C (165 degrees F); or
- (2) for all other machines, 82 degrees C (180 degrees F).

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, including meat saws.

4626.0800 4-501.113 MECHANICAL WAREWASHING EQUIPMENT; SANITIZATION PRESSURE.

The flow pressure of the fresh hot water sanitizing rinse in a warewashing machine shall not be less than 100 kilopascals (15 pounds per square inch) or more than 170 kilopascals (25 pounds per square inch) as measured in the water line immediately downstream or upstream from the fresh hot water sanitizing rinse control valve.

4626.0805 4-501.114 MANUAL AND MECHANICAL WAREWASHING EQUIPMENT; CHEMICAL SANITIZATION, TEMPERATURE, PH, CONCENTRATION, AND HARDNESS.*

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, shall be listed in *Code of Federal Regulations*, title 21, section 178.1010, or in *Minnesota Statutes*, chapter 31. The sanitizer shall be used according to this part and the manufacturer's label approved by the federal Environmental Protection Agency.

B. The sanitizer shall not exceed the amount specified on the manufacturer's label approved by the federal 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 shall be used as specified in this item.

- (1) Unless the product label specifies otherwise, a chlorine solution shall have a minimum concentration of 50 ppm and:

- (a) a minimum temperature of 24 degrees C (75 degrees F) for water with a pH of eight or less; or
- (b) a minimum temperature of 38 degrees C (100 degrees F) for water with a pH of 8.1 to 10.

- (2) An iodine solution shall have:

- (a) a minimum temperature of 24 degrees C (75 degrees F);
- (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; and
- (c) a concentration between 12.5 mg/L and 25 mg/L.

- (3) A quaternary ammonium compound solution shall:

- (a) have a minimum temperature of 24 degrees C (75 degrees F);
- (b) have a concentration specified in part 4626.1620 and as indicated by the manufacturer's use directions included in the labeling; 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.

D. Mechanical warewashing equipment shall be equipped with a visual or audible warning device to permit the operator to easily verify when the sanitizing agent is depleted.

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Proposed Rules

E. Other chemical sanitizers may be used if they are applied according to the manufacturer's use directions included in the labeling.

4626.0810 4-501.115 MANUAL WAREWASHING EQUIPMENT; CHEMICAL SANITIZATION USING DETERGENT-SANITIZERS.

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 cleaning step shall be the same detergent-sanitizer.

4626.0815 4-501.116 WAREWASHING EQUIPMENT; DETERMINING CHEMICAL SANITIZER CONCENTRATION.

Concentration of the sanitizing solution shall be accurately determined by using a test kit or other device.

4626.0820 4-502.11 GOOD REPAIR AND PROPER CALIBRATION.

A. Utensils shall be maintained in a state of repair or condition that complies with parts 4626.0450 and 4626.0670 or shall be discarded.

B. Temperature measuring devices shall be calibrated according to manufacturer's specifications as necessary to ensure their accuracy.

4626.0825 4-502.12 SINGLE-SERVICE AND SINGLE-USE ARTICLES; REQUIRED USE.*

A food establishment without facilities specified in parts 4626.0840 to 4626.0905 for cleaning and sanitizing kitchenware and tableware shall 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.

4626.0830 4-502.13 SINGLE-SERVICE AND SINGLE-USE ARTICLES; RE-USE LIMITATION.

Single-service and single-use articles shall not be re-used.

4626.0833 BULK MILK CONTAINERS.

The bulk milk container dispensing tube shall be cut on the diagonal leaving no more than one inch protruding from the chilled dispensing head.

4626.0835 4-502.14 SHELLS; USE LIMITATION.

Molluscan and crustacea shells shall not be used more than once as serving containers.

CLEANING EQUIPMENT AND UTENSILS

4626.0840 4-601.11 EQUIPMENT, FOOD-CONTACT SURFACES, NON-FOOD-CONTACT SURFACES, AND UTENSILS.*

A. Equipment food-contact surfaces and utensils shall be clean to sight and touch.

B. The food-contact surfaces of cooking equipment and pans shall be kept free of encrusted grease deposits and other soil accumulations.^N

C. Non-food-contact surfaces of equipment shall be kept free of an accumulation of dust, dirt, food residue, and other debris.^N

D. Water filters used as part of a vending machine shall be cleaned or replaced according to the manufacturer's instructions.

4626.0845 4-602.11 EQUIPMENT, FOOD-CONTACT SURFACES, AND UTENSILS.*

A. Equipment food-contact surfaces and utensils shall be cleaned:

(1) except as specified in item B, before each use with a different type of raw animal food, including beef, fish, lamb, pork, or poultry;

(2) each time there is a change from working with raw foods to working with ready-to-eat foods;

(3) between uses with raw fruits or vegetables and with potentially hazardous food;

(4) before using or storing a food temperature measuring device; and

(5) at any time during the operation when contamination may have occurred.

B. Item A, subitem (1), does not apply if raw animal foods that require cooking temperatures specified in part 4626.0340, item A, subitem (3), are prepared after foods that require cooking temperatures specified in part 4626.0340, items A, subitems (1) and (2), and B.

C. Except as specified in item D, if used with potentially hazardous food, equipment food-contact surfaces and utensils shall be cleaned throughout the day at least once every four hours.

D. Surfaces of utensils and equipment contacting potentially hazardous food may be cleaned less frequently than once every four hours if:

(1) in storage, containers of potentially hazardous food and their contents are maintained at temperatures specified in parts 4626.0130 to 4626.0420 and the containers are cleaned when they are empty;

(2) utensils and equipment are used to prepare food in a refrigerated room that maintains the utensils, equipment, and food under preparation at temperatures specified in parts 4626.0130 to 4626.0420 and the utensils and equipment are cleaned at least once every 24 hours;

(3) containers in salad bars, delis, cafeteria lines, and other serving situations that hold ready-to-eat, potentially hazardous food that is maintained at the temperatures specified in parts 4626.0130 to 4626.0420 are intermittently combined with additional supplies of the same food that is at the required temperature and are cleaned at least once every 24 hours;

(4) temperature measuring devices are maintained in contact with foods that are held at temperatures specified in parts 4626.0130 to 4626.0420; or

(5) equipment is used for storage of packaged or unpackaged food, including a reach-in refrigerator, and the equipment is cleaned at a frequency necessary to preclude accumulation of soil residues; or

(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.

E. Except when dry cleaning methods are used as specified in part 4626.0860, surfaces of utensils and equipment contacting food that is not potentially hazardous shall be cleaned:

(1) at any time when contamination may have occurred;

(2) at least once every 24 hours for iced tea dispensers and tongs, scoops, ladles, or other consumer self-service utensils;

(3) before restocking condiment dispensers, display containers, and other consumer self-service equipment and utensils;

(4) for ice bins, beverage dispensing nozzles, and the enclosed components of ice makers, beverage 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.

4626.0850 4-602.12 COOKING AND BAKING EQUIPMENT.

A. The food-contact surfaces of cooking and baking equipment shall be cleaned at least once 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 shall be cleaned at least once every 24 hours by using the manufacturer's recommended cleaning procedure.

4626.0855 4-602.13 NON-FOOD-CONTACT SURFACES.

Non-food-contact surfaces of equipment shall be cleaned at a frequency necessary to preclude accumulation of soil residues.

4626.0860 4-603.11 DRY CLEANING.

A. If used, brushing, scraping, vacuuming, and other dry cleaning methods shall contact only surfaces that are soiled with dry food residues that are not potentially hazardous.

B. Cleaning equipment used in dry cleaning food-contact surfaces shall not be used for any other purpose.

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Proposed Rules

4626.0865 4-603.12 PRECLEANING.

A. Food debris on equipment and utensils shall be scrapped over a waste disposal unit, scupper, or garbage receptacle or shall be removed in a warewashing machine with a prewash cycle.

B. If necessary for effective cleaning, utensils and equipment shall be preflushed, presoaked, or scrubbed with abrasives.

4626.0870 4-603.13 LOADING OF SOILED ITEMS; WAREWASHING MACHINES.

Soiled items to be cleaned in a warewashing machine shall 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.

4626.0875 4-603.14 WET CLEANING.

A. Equipment food-contact surfaces and utensils shall be effectively washed to remove or completely loosen soils by using the manual or mechanical means necessary, including 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 shall be based on the type and purpose of the equipment or utensil and on the type of soil to be removed.

4626.0880 4-603.15 WASHING; PROCEDURES FOR ALTERNATIVE MANUAL WAREWASHING EQUIPMENT.

When the equipment is fixed, the utensils are too large, or washing in sink compartments or a warewashing machine is otherwise impractical, washing shall be done by using alternative manual warewashing equipment specified in part 4626.0680, item C, according to the following procedures:

A. equipment shall be disassembled as necessary to allow access of the detergent solution to all parts;

B. equipment components and utensils shall be scrapped or roughly cleaned to remove food particle accumulation; and

C. equipment and utensils shall be washed as specified in part 4626.0875, item A.

4626.0885 4-603.16 RINSING PROCEDURES.

Washed utensils and equipment shall be rinsed to remove abrasives and to remove or dilute cleaning chemicals with 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 three-compartment sink;

(2) alternative manual warewashing equipment equivalent to a three-compartment sink specified in part 4626.0680, item C, subitem (1); or

(3) a three-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. use of a nondistinct water rinse that is integrated in the hot water sanitization immersion step of a two-compartment sink operation;

D. if using a warewashing machine that does not recycle the sanitizing solution as specified in item E, or alternative manual warewashing equipment, including 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

E. 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.

4626.0890 4-603.17 RETURNABLES; CLEANING FOR REFILLING.*

A. Except as specified in items B and C, returned empty containers intended for cleaning and refilling with food shall be cleaned and refilled in a regulated food processing plant.

B. A food-specific container for beverages may be refilled at a food establishment if:

- (1) only a beverage that is not a potentially hazardous food is used as specified in part 4626.0295, item A;
- (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 with fresh, hot water that is under pressure and not recirculated are provided, before refilling returned containers, 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 that cannot be bypassed by the container owner.

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

SANITIZING EQUIPMENT AND UTENSILS

4626.0895 4-701.11 FOOD-CONTACT SURFACES AND UTENSILS.*

Equipment food-contact surfaces and utensils shall be sanitized.

4626.0900 4-702.11 BEFORE USE AFTER CLEANING.*

Utensils and food-contact surfaces of equipment shall be sanitized before use after cleaning.

4626.0905 4-703.11 HOT WATER AND CHEMICAL.*

After being cleaned, equipment food-contact surfaces and utensils shall be sanitized in:

- A. hot water manual operations by immersion for at least 30 seconds as specified in part 4626.0790;
- 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 71 degrees C (160 degrees F) as measured by an irreversible registering temperature indicator; 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 by providing:
 - (1) an exposure time of at least ten seconds for a chlorine solution;
 - (2) an exposure time of at least 30 seconds for other chemical sanitizer solutions; or
 - (3) an exposure 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.

LAUNDERING

4626.0910 4-801.11 CLEAN LINENS.

Clean linens shall be free from food residues and other soil.

4626.0915 4-802.11 FREQUENCY OF LAUNDERING.

- A. Linens that do not come in direct contact with food shall be laundered between uses if they become wet, sticky, or visibly soiled.
- B. Cloth gloves specified in part 4626.0287, item D, shall be laundered before being used with a different type of raw animal food, including beef, lamb, poultry, pork, and fish.
- C. Linens used as specified in part 4626.0280 and cloth napkins shall be laundered between each use.
- D. Wet wiping cloths shall be laundered before being used with a fresh solution of cleanser or sanitizer.
- E. Dry wiping cloths shall be laundered as necessary to prevent contamination of food and clean serving utensils.

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Proposed Rules

4626.0920 4-803.11 STORAGE OF SOILED LINENS.

Soiled linens shall 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.

4626.0925 4-803.12 MECHANICAL WASHING.

A. Except as specified in item B, linens shall 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 or food preparation sink that is cleaned as specified in part 4626.0750.

4626.0930 4-803.13 USE OF LAUNDRY FACILITIES.

A. Except as specified in item B, laundry facilities on the premises of a food establishment shall 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.

PROTECTING CLEAN ITEMS

4626.0935 4-901.11 EQUIPMENT AND UTENSILS; AIR-DRYING REQUIRED.

A. Except as specified in item C, after cleaning and sanitizing, equipment and utensils shall not be cloth-dried.

B. Equipment and utensils shall be air-dried or used after adequate draining before contact with food.

C. Utensils that have been air-dried may be polished with cloths that are maintained clean and dry.

4626.0940 4-901.12 WIPING CLOTHS; AIR-DRYING LOCATIONS.

Wiping cloths laundered in a food establishment that does not have a mechanical clothes dryer specified in part 4626.0695, item B, shall 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 wiping cloths. This part does not apply if wiping cloths are stored after laundering in a sanitizing solution specified in part 4626.0805.

4626.0945 4-902.11 LUBRICANTS.

Lubricants shall be applied to food-contact surfaces that require lubrication in a manner that does not contaminate the food-contact surfaces.

4626.0950 4-902.12 EQUIPMENT REASSEMBLY.

Equipment shall be reassembled so that food-contact surfaces are not contaminated.

4626.0955 4-903.11 EQUIPMENT, UTENSILS, LINENS, AND SINGLE-SERVICE AND SINGLE-USE ARTICLES; STORAGE.

A. Except as specified in item D, clean equipment and utensils, laundered linens, and single-service and single-use articles shall be stored:

(1) in a clean, dry location;

(2) where they are not exposed to splash, dust, or other contamination; and

(3) at least 15 centimeters (six inches) above the floor.

B. Clean equipment and utensils shall be stored as specified in item A and shall be stored:

(1) in a self-draining position that permits air drying; and

(2) covered or inverted.

C. Single-service and single-use articles shall be stored as specified in item A and shall 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 15 centimeters (six inches) above the floor on dollies, pallets, racks, and skids that are designed as provided in part 4626.0665.

4626.0960 4-903.12 STORAGE PROHIBITIONS.

A. Except as specified in item B, cleaned and sanitized equipment, utensils, laundered linens, or single-service and single-use articles shall not be stored:

- (1) in a locker room;
- (2) in a toilet room;
- (3) in a garbage room;
- (4) in a mechanical room;
- (5) under a sewer line that is not shielded to intercept potential drips;
- (6) under a leaking water line including a leaking automatic fire sprinkler head or under a line on which water has condensed;
- (7) under an open stairwell; or
- (8) under any other source of contamination.

B. Laundered linens and single-service and single-use articles that are packaged or in a cabinet or similar facility may be stored in a locker room.

4626.0965 4-904.11 KITCHENWARE AND TABLEWARE.

A. Single-service and single-use articles and cleaned and sanitized utensils shall be handled, displayed, and dispensed so that contamination of food-contact and lip-contact surfaces is prevented.

B. Knives, forks, and spoons that are not prewrapped shall 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 shall be furnished for consumer self-service with the original individual wrapper intact or from an approved dispenser.

4626.0970 4-904.12 SOILED AND CLEAN TABLEWARE.

Soiled tableware shall be removed from consumer eating and drinking areas and handled so that clean tableware is not contaminated.

4626.0975 4-904.13 PRESET TABLEWARE.

Tableware may be preset if:

- A. it is protected from contamination by being wrapped, covered, or inverted;
- B. it is exposed and unused settings are removed when a consumer is seated; or
- C. it is exposed, unused settings are not removed when a consumer is seated, and the unused settings are cleaned and sanitized before further use.

WATER**4626.0980 5-101.11 APPROVED SOURCE REQUIREMENT.***

Drinking water shall be obtained only from a source that meets the requirements specified in chapters 4720 and 4725 and Minnesota Statutes, section 31.175.

4626.0985 5-101.12 SYSTEM FLUSHING AND DISINFECTION.*

A drinking water system shall be flushed and disinfected according to chapters 4715, 4720, and 4725 before being placed in service after construction, repair, or modification and after a flood or other emergency situation that may introduce contamination to the system.

4626.0990 5-101.13 BOTTLED DRINKING WATER.*

Bottled drinking water used or sold in a food establishment shall be obtained from approved sources according to Code of Federal Regulations, title 21, part 129, and comply with parts 1550.3200 to 1550.3320.

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Proposed Rules

4626.0995 5-102.11 DRINKING WATER STANDARDS.*

Drinking water shall meet the requirements of chapters 4715, 4720, and 4725.

4626.1000 5-102.12 NONDRINKING WATER.*

Nondrinking water shall be used only for air conditioning, nonfood equipment cooling, fire protection, irrigation, and other non-culinary purposes.

4626.1005 5-102.13 SAMPLING.

Except when used as specified in part 4626.1000, water shall be sampled and tested as required in chapter 4720.

4626.1010 5-102.14 SAMPLE REPORT.

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.

4626.1015 5-103.11 WATER SYSTEM CAPACITY.*

The water source and system shall be of sufficient capacity to meet the water demands of the food establishment.

4626.1020 5-103.12 WATER PRESSURE.

Water under pressure shall be provided to all fixtures, equipment, and nonfood equipment that are required to use water except that water supplied as specified in part 4626.1035, items A and B, to a temporary food establishment or in response to a temporary interruption of a water supply need not be under pressure.

4626.1025 5-103.13 HOT WATER.

Hot water generation and distribution systems shall be sufficient to meet the peak hot water demands throughout the food establishment.

4626.1030 5-104.11 WATER SYSTEM.

Water shall be received from the source through the use of:

A. an approved public water main regulated under chapter 4720; or

B. one or more of the following:

(1) a nonpublic water main, water pumps, pipes, connections, and other appurtenances that comply with chapter 4715;

(2) water transport vehicles that comply with parts 4720.4000 to 4720.4400;

(3) hoses that comply with NSF International Standard No. 51, which is incorporated by reference in part 4626.0505; or

(4) water containers that comply with parts 4626.1135 to 4626.1175 and 4720.4000 to 4720.4400.

4626.1035 5-104.12 ALTERNATIVE WATER SUPPLY.

Water meeting the requirements of parts 4626.0980 to 4626.1025 shall be made available for a mobile establishment, a temporary food establishment without a permanent water supply, and a food establishment with a temporary interruption of its water supply through:

A. containers of commercially bottled drinking water that comply with parts 1550.3200 to 1550.3320;

B. one or more closed portable water containers that comply with parts 4720.4000 to 4720.4400;

C. an enclosed vehicular water tank that complies with parts 4720.4000 to 4720.4400; or

D. piping, tubing, or hoses connected to an adjacent source that complies with part 4626.1160, chapters 4720 and 4725, and NSF International Standard No. 51, which is incorporated by reference in part 4626.0505.

PLUMBING SYSTEM

4626.1040 5-201.11 APPROVED MATERIALS.*

A. A plumbing system conveying water shall be constructed and repaired with approved materials according to chapter 4715 and *Minnesota Statutes*, sections 326.37 to 326.45.

B. A water filter shall be made of safe materials and comply with the applicable NSF International standards:

(1) Standard No. 42, Drinking Water Treatment Unit - Aesthetic Effects, 1988 and subsequent editions;

(2) Standard No. 44, Cation Exchange Water Softeners, 1987 and subsequent editions;

(3) Standard No. 53, Drinking Water Treatment Units - Health Effects, 1996 and subsequent editions; or

(4) Standard No. 58, Reverse Osmosis Drinking Water Systems, 1996 and subsequent editions.

C. The NSF International standards specified in item B are incorporated by reference, are not subject to frequent change, and are available through the Minitex interlibrary loan system.

4626.1045 5-202.11 APPROVED SYSTEM AND CLEANABLE FIXTURES.*

A. A plumbing system shall be designed, constructed, and installed according to chapter 4715 and Minnesota Statutes, sections 326.37 to 326.45.

B. A handwashing lavatory, toilet, urinal, or other plumbing fixture shall be easily cleanable.^s

4626.1050 5-202.12 HANDWASHING LAVATORY; WATER TEMPERATURE AND FLOW.

A. A handwashing lavatory shall be equipped to provide water at a temperature of at least 43 degrees C (110 degrees F) through a mixing valve or combination faucet.

B. A steam mixing valve shall not be used at a handwashing lavatory.

C. A self-closing, slow-closing, or metering faucet shall provide a flow of water for at least 15 seconds without the need to reactivate the faucet.

4626.1055 5-202.13 BACKFLOW PREVENTION; AIR GAP.*

An air gap between the water supply inlet and the flood level rim of the plumbing fixture, equipment, or nonfood equipment shall be at least twice the diameter of the water supply inlet and shall not be less than 25 millimeters (one inch).

4626.1060 5-202.14 BACKFLOW PREVENTION DEVICE; DESIGN STANDARD.

A backflow or backsiphonage prevention device installed on a water supply system shall meet American Society of Sanitary Engineering standards for construction, installation, maintenance, inspection, and testing for that specific application and type of device.

4626.1065 5-202.15 CONDITIONING DEVICE; DESIGN.

A water filter, screen, or other water conditioning device installed on a water line shall be designed to facilitate disassembly for periodic servicing and cleaning. A water filter element shall be replaceable.

4626.1070 5-203.11 HANDWASHING LAVATORY.*

A. At least one handwashing lavatory, the number of handwashing lavatories necessary for their convenient use by employees in the areas specified in part 4626.1095, and not fewer than the number of handwashing lavatories required by chapter 4715 shall be provided.

B. When food exposure is limited and handwashing lavatories are not conveniently available at vending machine locations, employees may use chemically treated towelettes for handwashing.

4626.1075 5-203.12 TOILETS AND URINALS.*

At least one toilet and not fewer than the number of toilets required by chapter 4715 shall be provided. In accordance with chapter 4715, urinals may be substituted for toilets if more than the required minimum number of toilets are provided.

4626.1080 5-203.13 SERVICE SINK.

At least one service sink or one curbed cleaning facility equipped with a floor drain shall be provided and conveniently located for cleaning mops or similar wet floor cleaning tools and for disposing of mop water and similar liquid waste. The service sink or cleaning facility shall include a faucet accessible for supply of drinking water at all times.

4626.1085 5-203.14 BACKFLOW PREVENTION DEVICE; WHEN REQUIRED.*

A plumbing system shall 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, including on a hose bibb if a hose is attached or on a hose bibb if a hose is not attached and backflow prevention is required by law, by:

A. providing an air gap specified in part 4626.1055; or

B. installing an approved backflow prevention device specified in part 4626.1060.

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Proposed Rules

4626.1090 5-203.15 BACKFLOW PREVENTION DEVICE; CARBONATOR.*

Post-mix carbonated beverage machines shall have backflow prevention that complies with chapter 4715.

4626.1095 5-204.11 HANDWASHING LAVATORY.*

A handwashing lavatory shall be located:

- A. to allow convenient use by employees in food preparation, food dispensing, and warewashing areas; and
- B. in toilet rooms.

4626.1100 5-204.12 BACKFLOW PREVENTION DEVICE; LOCATION.

A backflow prevention device shall be located so that it may be serviced and maintained.

4626.1105 5-204.13 CONDITIONING DEVICE; LOCATION.

A water filter, screen, or other water conditioning device installed on a water line shall be located to facilitate disassembly for periodic servicing and cleaning.

4626.1110 5-205.11 USING HANDWASHING LAVATORY.

- A. A handwashing lavatory shall be maintained so that it is accessible at all times for employee use.
- B. A handwashing lavatory shall not be used for purposes other than handwashing.

4626.1115 5-205.12 PROHIBITING CROSS-CONNECTION.*

A. Except as allowed under *Code of Federal Regulations*, title 9, section 308.3, paragraph (d), for firefighting, 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.

B. The piping of a nondrinking water system shall be durably identified so that it is readily distinguishable from piping that carries drinking water.^N

4626.1120 5-205.13 SCHEDULING INSPECTION AND SERVICE FOR WATER TREATMENT DEVICE.

A. A water treatment device, other than a water softener, shall be scheduled for inspection and service according to the manufacturer's instructions and as necessary to prevent device failure based on local water conditions.

B. A backflow preventer shall be inspected, tested, and maintained according to chapter 4715.

4626.1125 5-205.14 WATER RESERVOIR OF FOGGING DEVICES; CLEANING.*

A. A reservoir that is used to supply water to a produce fogger or similar device shall be:

(1) maintained according to the manufacturer's specifications; and

(2) cleaned according to the manufacturer's specifications or according to the procedures specified in item B, whichever is more stringent.

B. Cleaning procedures shall include at least the following steps and shall be conducted at least once a week:

(1) draining and complete disassembly of the water and aerosol contact parts;

(2) brush-cleaning the reservoir, aerosol tubing, and discharge nozzles with a suitable detergent solution;

(3) flushing the complete system with water to remove the detergent solution and particulate accumulation; and

(4) rinsing by immersing, spraying, or swabbing the reservoir, aerosol tubing, and discharge nozzles with at least 50 mg/L hypochlorite solution.

4626.1130 5-205.15 SYSTEM MAINTAINED IN GOOD REPAIR.*

A plumbing system shall be:

A. repaired according to chapter 4715; and

B. maintained in good repair.^N

WATER TANKS

4626.1135 5-301.11 APPROVED.

A mobile water tank used to supply a food establishment, mobile food establishment water tank, or any appurtenances shall meet:

A. the requirements specified in parts 4626.1135 to 4626.1175;

B. the requirements specified in part 4626.0450, items A, B, D, and E; and

C. the standards for water haulers specified in parts 4720.4000 to 4720.4400.

4626.1140 5-302.16 HOSE; CONSTRUCTION AND IDENTIFICATION.

A hose used for conveying drinking water from a water tank shall have a smooth interior surface, shall be of food grade material, and, if not permanently attached, shall be clearly and durably identified as to its use.

4626.1145 5-303.11 FILTER; COMPRESSED AIR.

A filter that does not pass oil or oil vapors shall 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.

4626.1150 5-303.12 PROTECTIVE EQUIPMENT OR DEVICE.

A cap and keeper chain, closed cabinet, closed storage tube, or other approved protective equipment or device shall be provided for a water inlet, outlet, and hose.

4626.1155 5-303.13 MOBILE FOOD ESTABLISHMENT TANK INLET.

A mobile food establishment's water tank inlet shall be:

A. 19.1 millimeters (three-fourths inch) 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.

4626.1160 5-304.11 SYSTEM FLUSHING AND DISINFECTION.*

A water tank, pump, and hose shall be flushed and sanitized before being placed in service after construction, repair, modification, and periods of nonuse.

4626.1165 5-304.12 USING PUMP AND HOSE; BACKFLOW PREVENTION.

A person shall operate a water tank, pump, and hose so that backflow and other contamination of the water supply are prevented.

4626.1170 5-304.13 PROTECTING INLET, OUTLET, AND HOSE FITTING.

If not in use, a water tank and hose inlet and outlet fitting shall be protected as specified in part 4626.1150.

4626.1175 5-304.14 TANK, PUMP, AND HOSE; DEDICATION.

A. Except as specified in item B, a water tank, pump, or hose used for conveying drinking water shall be used for no other purpose.

B. A water tank, pump, or hose approved for liquid foods may be used for conveying drinking water if it is cleaned and sanitized after each use.

SEWAGE**4626.1180 5-401.11 CAPACITY AND DRAINAGE.**

A sewage holding tank in a mobile food establishment shall be:

A. sized 15 percent larger in capacity than the water supply tank; and

B. sloped to a drain that is 25 millimeters (one inch) in inner diameter or greater, equipped with a shut-off valve.

4626.1185 5-402.11 ESTABLISHMENT DRAINAGE SYSTEM.

Food establishment drainage systems, including grease traps, that convey sewage shall be sized and installed as specified in part 4626.1045, item A.

4626.1190 5-402.12 BACKFLOW PREVENTION.*

A. Except as specified in items B and C, a direct connection shall not exist between the sewage system and a drain originating from equipment in which food, portable equipment, or utensils are placed.

B. If allowed by chapter 4715, a warewashing machine may have a direct connection between its waste outlet and a floor drain when the machine is located within 1.5 meters (five feet) of a trapped floor drain and the machine outlet is connected to the inlet side of a properly vented floor drain trap.

C. If allowed by chapter 4715, a warewashing or culinary sink may have a direct connection.

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Proposed Rules

4626.1195 5-402.13 GREASE TRAP.

If used, a grease trap shall be located to be easily accessible for cleaning.

4626.1200 5-402.14 CONVEYING SEWAGE.*

Sewage shall 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 chapter 7080 and *Minnesota Statutes*, section 115.55.

4626.1205 5-402.15 REMOVING MOBILE FOOD ESTABLISHMENT WASTES.

Sewage and other liquid wastes shall be removed from a mobile food establishment 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.

4626.1210 5-402.16 FLUSHING WASTE RETENTION TANK.

A tank for liquid waste retention shall be thoroughly flushed and drained in a sanitary manner during the servicing operation.

4626.1215 5-403.11 APPROVED SEWAGE DISPOSAL SYSTEM.*

Sewage shall be disposed through an approved facility that is:

A. a public sewage treatment plant; or

B. an individual sewage disposal system that is sized, constructed, maintained, and operated according to chapter 7080.

4626.1220 5-403.12 OTHER LIQUID WASTES AND RAINWATER.

Condensate drainage and other nonsewage liquids and rainwater shall be drained from point of discharge to disposal according to chapter 7080.

REFUSE AND RECYCLABLES

4626.1225 5-501.10 INDOOR STORAGE AREA.

If located within the food establishment, a storage area for refuse, recyclables, and returnables shall meet the requirements specified in parts 4626.1325, 4626.1335, 4626.1370, 4626.1395, and 4626.1400.

4626.1230 5-501.11 OUTDOOR STORAGE SURFACE.

An outdoor storage surface for refuse, recyclables, and returnables shall be constructed of concrete, asphalt, or other nonabsorbent material and shall be smooth, durable, and sloped to drain.

4626.1235 5-501.12 OUTDOOR ENCLOSURE.

If used, an outdoor enclosure for refuse, recyclables, and returnables shall be constructed of durable and cleanable materials.

4626.1240 5-501.13 RECEPTACLES.

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 shall 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 closed outside receptacles.

4626.1245 5-501.14 RECEPTACLES IN VENDING MACHINES.

A refuse receptacle shall not be located within a vending machine, except that a receptacle for beverage bottle crown closures may be located within a vending machine.

4626.1250 5-501.15 OUTSIDE RECEPTACLES.

A. Receptacles and waste handling units for refuse, recyclables, and returnables used with materials containing food residue and used outside the food establishment shall be designed and constructed to have tight-fitting lids, doors, or covers.

B. Receptacles and waste handling units for refuse and recyclables, including an on-site compactor, shall 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.

4626.1255 5-501.16 STORAGE AREAS, ROOMS, AND RECEPTACLES; CAPACITY AND AVAILABILITY.

A. An inside storage room and area, an outside storage area and enclosure, and receptacles shall be of sufficient capacity to hold refuse, recyclables, and returnables that accumulate.

B. A receptacle shall 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 lavatories, a waste receptacle shall be located at each lavatory or group of adjacent lavatories.

4626.1260 5-501.17 TOILET ROOM RECEPTACLE; COVERED.

A toilet room shall be provided with a covered receptacle for sanitary napkins or diapers.

4626.1265 5-501.18 CLEANING EQUIPMENT AND SUPPLIES.

A. Except as specified in item B, suitable cleaning equipment and supplies, including high pressure pumps, hot water, steam, and detergent, shall be provided as necessary to effectively clean receptacles and waste handling units for refuse, recyclables, and returnables.

B. If approved, off-premises-based cleaning services may be used if on-premises cleaning implements and supplies are not provided.

4626.1270 5-501.19 STORAGE AREAS, REDEEMING MACHINES, EQUIPMENT, AND RECEPTACLES; LOCATION.

A. An area designated for refuse, recyclables, returnables, and, except as specified in item B, a redeeming machine for recyclables or returnables shall be located so that it is separate from food, equipment, utensils, linens, and single-service and single-use articles and a public health hazard or nuisance 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 shall not create a public health hazard or nuisance or interfere with the cleaning of adjacent space.

4626.1275 5-501.110 STORING REFUSE, RECYCLABLES, AND RETURNABLES.

Refuse, recyclables, and returnables shall be stored in receptacles or waste handling units so that they are inaccessible to insects and rodents.

4626.1280 5-501.111 AREAS, ENCLOSURES, AND RECEPTACLES; GOOD REPAIR.

Storage areas, enclosures, and receptacles for refuse, recyclables, and returnables shall be maintained in good repair.

4626.1285 5-501.112 OUTSIDE STORAGE PROHIBITIONS.

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, shall 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.

4626.1290 5-501.113 COVERING RECEPTACLES.

Receptacles and waste handling units for refuse, recyclables, and returnables shall 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.

4626.1295 5-501.114 USING DRAIN PLUGS.

Drains in receptacles and waste handling units for refuse, recyclables, and returnables shall have drain plugs in place.

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Proposed Rules

4626.1300 5-501.115 MAINTAINING REFUSE AREAS AND ENCLOSURES.

A storage area and enclosure for refuse, recyclables, or returnables shall be maintained clean and free of unnecessary items as specified in part 4626.1580.

4626.1305 5-501.116 CLEANING RECEPTACLES.

A. Receptacles and waste handling units for refuse, recyclables, and returnables shall be thoroughly cleaned in a way that does not contaminate food, equipment, utensils, linens, or single-service and single-use articles, and wastewater shall be disposed of as specified in *Minnesota Statutes*, chapter 115A.

B. Soiled receptacles and waste handling units for refuse, recyclables, and returnables shall be cleaned at a frequency necessary to prevent them from developing a build-up of soil or becoming attractants for insects and rodents.

4626.1310 5-502.11 FREQUENCY.

Refuse, recyclables, and returnables shall 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.

4626.1315 5-502.12 RECEPTACLES OR VEHICLES.

Refuse, recyclables, and returnables shall be removed from the premises by way of:

A. portable receptacles that are constructed and maintained according to *Minnesota Statutes*, chapter 115A; or

B. a transport vehicle that is constructed, maintained, and operated according to *Minnesota Statutes*, chapter 115A.

4626.1320 5-503.11 COMMUNITY OR INDIVIDUAL FACILITY.

Solid waste not disposed of through the sewage system, including that disposed of with grinders and pulpers, shall be:

A. recycled or disposed of in an approved public or private community recycling or refuse facility; or

B. disposed of in a landfill, incinerator, or other individual refuse facility that is sized, constructed, maintained, and operated according to *Minnesota Statutes*, chapter 115A, and section 473.803.

PHYSICAL FACILITY CONSTRUCTION MATERIALS

4626.1325 6-101.11 SURFACE CHARACTERISTICS; INDOOR AREAS.

A. Except as specified in item B, materials for indoor floor, wall, and ceiling surfaces under conditions of normal use shall be:

(1) smooth, durable, and easily cleanable for areas where food establishment operations are conducted;

(2) closely woven and easily cleanable carpet, where carpeting is permitted; and

(3) nonabsorbent for food preparation areas, walk-in refrigerators, warewashing areas, toilet rooms, mobile food establishment servicing areas, handwash areas, janitorial areas, laundry areas, interior garbage and refuse storage rooms, areas subject to flushing or spray cleaning methods, and other areas subject to moisture.

B. In a temporary food establishment, retail portable structure, special event food stand, or seasonal food stand:

(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) food activities shall cease in adverse weather unless walls and ceilings are constructed of a material that protects the interior from the weather and windblown dust and debris.

4626.1330 6-102.11 SURFACE CHARACTERISTICS; OUTDOOR AREAS.

A. Exterior walking and driving areas of a food establishment shall 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 establishments shall be of weather-resistant materials and shall comply with law.

C. Outdoor storage areas for refuse, recyclables, or returnables shall be of materials specified in parts 4626.1230 and 4626.1235.

PHYSICAL FACILITY DESIGN AND CONSTRUCTION

4626.1335 6-201.11 FLOORS, WALLS, AND CEILINGS.

A. Except as specified in part 4626.1350, the floors, floor coverings, walls, wall coverings, and ceilings shall 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. Surfaces shall be maintained in good repair.

C. Vinyl flooring is prohibited in a walk-in cooler or freezer.

D. 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.

4626.1340 6-201.12 FLOORS, WALLS, AND CEILINGS; UTILITY LINES.

A. Utility service lines and pipes shall not be unnecessarily exposed.

B. Exposed utility service lines and pipes shall be installed so they do not obstruct or prevent cleaning of the floors, walls, or ceilings.

C. Exposed utility service lines and pipes shall not be installed directly on the walls or floor, except:

(1) quick disconnect gas hoses approved by the American Gas Association or NSF International; and

(2) flexible cords and caps for commercial cooking equipment on casters, listed by Underwriter's Laboratory.

4626.1345 6-201.13 FLOOR AND WALL JUNCTURES; COVED AND ENCLOSED OR SEALED.

A. In food establishments in which cleaning methods other than water flushing are used for cleaning floors, the floor and wall junctures shall be coved and closed to no larger than one millimeter (1/32 inch).

B. The floors in food establishments in which water flushing cleaning methods are used shall be provided with drains and graded to drain, and the floor and wall junctures shall be coved and sealed.

4626.1350 6-201.14 FLOOR CARPETING; RESTRICTIONS AND INSTALLATION.

A. Carpeting or similar material shall not be installed as a floor covering in food preparation areas; walk-in refrigerators or freezers; warewashing areas; toilet room areas where handwashing lavatories, toilets, and urinals are located; refuse storage areas; wait stations; dressing rooms; locker rooms; janitorial areas; within three feet around permanently installed bars and salad bars; other food service equipment, and food storage rooms; or other areas 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 shall 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.

4626.1355 6-201.15 FLOOR COVERING; MATS AND DUCKBOARDS.

A. Mats and duckboards shall be constructed of nonabsorbent, nonwood, grease-resistant materials.

B. Throw carpeting may be used at customer entrances.

C. The size, design, and construction of the material shall facilitate easy cleaning.

4626.1360 6-201.16 WALL AND CEILING COVERINGS AND COATINGS.

A. Wall and ceiling covering materials shall 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 shall be finished and sealed to provide a smooth, nonabsorbent, easily cleanable surface.

4626.1365 6-201.17 WALLS AND CEILINGS; ATTACHMENTS.

A. Except as specified in item B, light fixtures, mechanical room ventilation system components, vent covers, wall mounted fans, decorative items, and other attachments to walls and ceilings shall 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.

4626.1370 6-201.18 WALLS AND CEILINGS; STUDS, JOISTS, AND RAFTERS.

Studs, joists, and rafters may be exposed only in areas used exclusively for the storage of food and single-use articles in unopened packages. This part does not apply to temporary food establishments.

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Proposed Rules

4626.1375 6-202.11 LIGHT BULBS; PROTECTIVE SHIELDING.

A. Except as specified in item B, light bulbs shall 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 shall be protected against breakage by a shield surrounding and extending beyond the bulb so that only the face of the bulb is exposed.

4626.1380 6-202.12 HEATING, VENTILATING, AND AIR CONDITIONING SYSTEM VENTS.

Heating, ventilating, and air conditioning systems shall be designed and installed so that make-up air intake and exhaust vents do not cause contamination of food, food preparation surfaces, equipment, or utensils. Systems shall be installed according to chapter 1346.

4626.1385 6-202.13 INSECT CONTROL DEVICES; DESIGN AND INSTALLATION.

A. Devices that are used to electrocute flying insects shall be designed to have escape-resistant trays.

B. Devices that are used to electrocute flying insects and that may impel insects or insect fragments or to trap insects by adherence shall 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.

4626.1390 6-202.14 TOILET ROOMS; ENCLOSED.

A toilet room located on the premises shall be completely enclosed and provided with a tight-fitting and self-closing door except that this part does not apply to a toilet room that is located outside a food establishment and does not open directly into the food establishment, including a toilet room that is provided by the management of a shopping mall.

4626.1395 6-202.15 OUTER OPENINGS; PROTECTED.

A. Except in temporary food establishments, openings to a portion of a building that is not part of the food establishment or to the outdoors shall 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. Except as specified in item C, if windows or doors are kept open for ventilation or other purposes, or the food operation is conducted in a temporary food establishment that is not provided with windows and solid doors, the openings shall be protected against the entry of insects and rodents by:

- (1) 16 mesh to 25.4 millimeters (one inch) screens;
- (2) properly designed and installed air curtains; or
- (3) other effective means.

C. Item B does not apply if flying insects and other pests are absent due to the location of the establishment, the weather, or other limiting condition.

4626.1400 6-202.16 EXTERIOR WALLS AND ROOFS; PROTECTIVE BARRIER.

Perimeter walls and roofs of a food establishment shall effectively protect the establishment from the weather and the entry of insects, rodents, and other animals.

4626.1405 6-202.17 OUTDOOR FOOD VENDING AREAS; OVERHEAD PROTECTION.

If located outside, a machine used to vend food shall be provided with overhead protection except that machines vending canned beverages need not comply with this part.

4626.1410 6-202.18 OUTDOOR SERVICING AREAS; OVERHEAD PROTECTION.

Servicing areas shall 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.

4626.1415 6-202.19 OUTDOOR WALKING AND DRIVING SURFACES; GRADED TO DRAIN.

The exterior walking and driving surfaces of the food establishment shall be graded to drain.

4626.1420 6-202.110 OUTDOOR REFUSE AREAS; CURBED AND GRADED TO DRAIN.

Outdoor refuse areas shall be constructed according to law and shall be curbed and graded to drain to collect and dispose of liquid waste that results from refuse and from cleaning the area and waste receptacles.

4626.1425 6-202.111 PRIVATE HOMES AND LIVING OR SLEEPING QUARTERS; USE PROHIBITION.

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 shall not be used for conducting food establishment operations.

4626.1430 6-202.112 LIVING OR SLEEPING QUARTERS; SEPARATION.

Living or sleeping quarters located on the premises of a food establishment, including those provided for lodging registration clerks or resident managers, shall be separated from rooms and areas used for food establishment operations by complete partitioning and solid self-closing doors.

PHYSICAL FACILITY NUMBERS AND CAPACITIES**4626.1435 6-301.10 MINIMUM NUMBER.**

Handwashing lavatories shall be provided as specified in part 4626.1070.

4626.1440 6-301.11 HANDWASHING CLEANSER AND NAILBRUSH; AVAILABILITY.

Each handwashing lavatory or group of two adjacent lavatories shall have available:

- A. a supply of hand cleaning liquid, powder, or bar soap; and
- B. a nailbrush at the handwashing sink used by food employees.

4626.1445 6-301.12 HAND DRYING PROVISION.

Each handwashing lavatory or group of adjacent lavatories shall be provided with:

- A. individual, disposable towels;
- B. a continuous towel system that supplies the user with a clean towel; or
- C. a heated-air hand drying device except that a heated-air hand drying device shall not be the only device provided at a sink used by food employees in a food preparation or warewashing area.

4626.1450 6-301.13 DISPOSABLE TOWELS; WASTE RECEPTACLE.

A waste receptacle shall 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 4626.1445, item A.

4626.1455 6-301.14 HANDWASHING AIDS AND DEVICES; USE RESTRICTIONS.

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, shall not be provided with the handwashing aids and devices required for a handwashing lavatory specified in parts 4626.1440 to 4626.1450.

4626.1460 6-302.10 TOILETS AND URINALS; MINIMUM NUMBER.

Toilets and urinals shall be provided as specified in part 4626.1075.

4626.1465 6-302.11 TOILET TISSUE; AVAILABILITY.

A supply of toilet tissue shall be available at each toilet.

4626.1470 6-303.11 LIGHTING INTENSITY.

The light intensity shall be:

- A. at least 110 lux (ten foot candles) at a distance of 75 cm (30 inches) above the floor, in walk-in refrigeration units and dry food storage areas, and in other areas and rooms during periods of cleaning;

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Proposed Rules

B. at least 220 lux (20 foot candles):

(1) at a surface where food is provided for consumer self-service, including buffets and salad bars, or where fresh produce or packaged foods are sold or offered for consumption;

(2) inside equipment including reach-in and under-counter refrigerators;

(3) at a distance of 75 cm (30 inches) above the floor in areas used for equipment and utensil storage and in toilet rooms; and

(4) for areas behind a bar exempt under item C; and

C. at least 540 lux (50 foot candles) at a surface where a food employee is working with food or working with utensils or equipment, including knives, slicers, grinders, or saws, where employee safety is a factor and in areas used for warewashing other than the area behind a bar.

4626.1475 6-304.11 MECHANICAL.

A. All rooms shall have sufficient tempered make-up air and exhaust ventilation to keep them free of excessive heat, steam, condensation, vapors, obnoxious or disagreeable odors, smoke, and fumes.

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 7510.

C. All ventilation systems shall be operated as designed while the ventilated equipment is in use.

D. Ventilation systems equipped with filters shall not be operated with the filters removed.

4626.1480 6-305.11 DRESSING ROOMS AND LOCKERS; DESIGNATION.

A. Dressing rooms or dressing areas shall be designated if employees routinely change clothes in the establishment.

B. Lockers or other suitable facilities shall be provided for the orderly storage of employees' clothing and other possessions.

4626.1485 6-306.10 SERVICE SINK; AVAILABILITY.

A service sink or curbed cleaning facility shall be provided as specified in part 4626.1080.

PHYSICAL FACILITY PLACEMENT

4626.1490 6-401.10 HANDWASHING LAVATORIES; CONVENIENTLY LOCATED.

Handwashing lavatories shall be conveniently located as specified in part 4626.1095.

4626.1495 6-402.11 TOILET ROOMS; CONVENIENCE AND ACCESSIBILITY.

Toilet rooms shall be conveniently located and accessible to employees during all hours of operation.

4626.1500 6-403.11 DESIGNATED AREAS.

A. Areas designated for employees to eat, drink, and use tobacco shall be located so that food, equipment, linens, and single-service and single-use articles are protected from contamination.

B. Lockers or other suitable facilities shall be located in a designated room or area where contamination of food, equipment, utensils, linens, and single-service and single-use articles cannot occur.

4626.1505 6-404.11 SEGREGATION AND LOCATION.

Products that are held by the licensee for credit, redemption, or return to the distributor, including damaged, spoiled, or recalled products, shall be segregated and held in designated areas that are separated from food, equipment, utensils, linens, and single-service and single-use articles.

4626.1510 6-405.10 EQUIPMENT, RECEPTACLES, AND DESIGNATED STORAGE AREA.

Equipment, receptacles, and areas designated for storage of refuse and recyclable and returnable containers shall be located as specified in part 4626.1270.

PHYSICAL FACILITY MAINTENANCE AND OPERATION

4626.1515 6-501.11 REPAIRING.

The physical facilities shall be maintained in good repair.

4626.1520 6-501.12 CLEANING; FREQUENCY AND RESTRICTIONS.

A. The physical facilities shall be cleaned as often as necessary to keep them clean.

B. Cleaning shall 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.

4626.1525 6-501.13 CLEANING FLOORS; DUSTLESS METHODS.

A. Except as specified in item B, only wet cleaning, vacuum cleaning, mopping with treated dust mops, sweeping using a broom and dust-arresting compounds, or other dustless methods of cleaning shall be used to clean floors.

B. Spills or dripage 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 dripage, with the use of a small amount of sawdust, diatomaceous earth, or other absorbent compound applied immediately before spot cleaning.

4626.1530 6-501.14 CLEANING VENTILATION SYSTEMS; NUISANCE AND DISCHARGE PROHIBITION.

A. Intake and exhaust air ducts shall 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 shall not create a public health hazard or nuisance or unlawful discharge.

4626.1535 6-501.15 CLEANING MAINTENANCE TOOLS; PREVENTING CONTAMINATION.

Food preparation sinks, handwashing lavatories, and warewashing equipment shall not be used to clean maintenance tools, to prepare or hold maintenance materials, or to dispose of mop water and similar liquid wastes.

4626.1540 6-501.16 DRYING MOPS.

After use, mops shall be placed in a position that allows them to air-dry without soiling walls, equipment, or supplies.

4626.1545 6-501.17 ABSORBENT MATERIALS ON FLOORS; USE LIMITATION.

Except as specified in part 4626.1525, item B, sawdust, wood shavings, granular salt, baked clay, diatomaceous earth, or similar absorbent materials shall not be used on floors.

4626.1550 6-501.18 MAINTAINING AND USING HANDWASHING LAVATORIES.

Handwashing lavatories shall be kept clean and maintained and used as specified in part 4626.1110.

4626.1555 6-501.19 CLOSING TOILET ROOM DOORS.

Toilet room doors specified in part 4626.1390 shall be kept closed except during cleaning and maintenance operations.

4626.1560 6-501.110 USING DRESSING ROOMS AND LOCKERS.

A. Dressing rooms shall be used by employees if the employees regularly change clothes in the establishment.

B. Lockers or other suitable facilities shall be used for the orderly storage of employee clothing and other possessions.

4626.1565 6-501.111 CONTROLLING PESTS.*

The presence of insects, rodents, and other pests shall be controlled to minimize their presence on the premises by:

A. routinely inspecting incoming shipments of food and supplies;^N

B. routinely inspecting the premises for evidence of pests;^N

C. if pests are found, using trapping devices or other means of pest control specified in parts 4626.1610, 4626.1650, and 4626.1655; and

D. eliminating harborage conditions.^N

4626.1570 6-501.112 REMOVING DEAD OR TRAPPED PESTS.

Dead or trapped birds, insects, rodents, and other pests shall be removed from control devices and the premises at a frequency that prevents accumulation, decomposition, or attraction of pests.

4626.1575 6-501.113 STORING MAINTENANCE EQUIPMENT.

Brooms, mops, vacuum cleaners, and similar maintenance tools shall 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.

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Proposed Rules

4626.1580 6-501.114 MAINTAINING PREMISES; UNNECESSARY ITEMS AND LITTER.

The food establishment premises shall be free of:

A. items that are unnecessary to the operation or maintenance of the establishment, including equipment that is nonfunctional or no longer used; and

B. litter.

4626.1585 6-501.115 PROHIBITING ANIMALS.*

A. Except as specified in items B and C, live animals shall not be allowed on the premises of a food establishment.

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 cannot 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) in areas that are not used for food preparation, including dining and sales areas, support animals that are trained to assist an employee or other person who is handicapped, are controlled by the handicapped employee or person, and are not allowed on seats or tables; and

(4) pets in the common dining areas of group residences 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.

C. Live or dead bait may be allowed if separately stored so that contamination of food; food preparation areas; clean equipment, utensils, and linens; and unwrapped single-use articles cannot result.

TOXIC LABELING

4626.1590 7-101.11 IDENTIFYING INFORMATION; PROMINENCE.*

Containers of poisonous or toxic materials and personal care items shall bear a legible manufacturer's label.

4626.1595 7-102.11 COMMON NAME.*

Working containers used for storing cleaners, sanitizers, and other poisonous or toxic materials taken from bulk supplies shall be clearly and individually identified with the common name of the material.

TOXIC SUPPLIES AND APPLICATIONS

4626.1600 7-201.11 SEPARATION.*

Poisonous or toxic materials shall 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; 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.

4626.1605 7-202.11 RESTRICTION.*

A. Only those poisonous or toxic materials that are required for the operation and maintenance of a food establishment, including those for cleaning and sanitizing equipment and utensils and controlling insects and rodents, shall be allowed in a food establishment.^N

B. Item A does not apply to packaged poisonous or toxic materials that are for retail sale.

4626.1610 7-202.12 CONDITIONS OF USE.*

Poisonous or toxic materials shall be:

A. used according to:

(1) Minnesota Statutes, chapter 18B, and section 31.101, subdivision 3;

(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;

(3) the conditions of certification for use of pest control materials as required in chapter 1505 and Minnesota Statutes, chapter 18B;

B. applied so that:

(1) a hazard to employees or other persons is not constituted as prescribed on the label; 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. For a restricted use pesticide, this is achieved by:

(a) removing the items;

(b) covering the items with impermeable covers; or

(c) cleaning and sanitizing equipment and utensils after the application; and

C. for restricted-use pesticide, applied only by a certified applicator as defined in the Federal Insecticide, Fungicide, and Rodenticide Act, United States Code, title 7, section 136, paragraph (e), and Minnesota Statutes, chapter 18B.

4626.1615 7-203.11 POISONOUS OR TOXIC MATERIAL CONTAINERS.*

A container previously used to store poisonous or toxic materials shall not be used to store, transport, or dispense food.

4626.1620 7-204.11 SANITIZERS; CRITERIA.*

Chemical sanitizers and other chemical antimicrobials applied to food-contact surfaces shall meet the requirements specified in Code of Federal Regulations, title 21, section 178.1010.

4626.1625 7-204.12 CHEMICALS FOR WASHING FRUITS AND VEGETABLES; CRITERIA.*

Chemicals used to wash or peel raw, whole fruits and vegetables shall meet the requirements specified in Code of Federal Regulations, title 21, section 173.315.

4626.1630 7-204.13 BOILER WATER ADDITIVES; CRITERIA.*

Chemicals used as boiler water additives shall meet the requirements specified in Code of Federal Regulations, title 21, section 173.310.

4626.1635 7-204.14 DRYING AGENTS; CRITERIA.*

Drying agents used in conjunction with sanitization shall not conflict with Minnesota Statutes, section 31.101, subdivision 8.

4626.1640 7-205.11 INCIDENTAL FOOD CONTACT; CRITERIA.*

Lubricants shall meet the requirements specified in Code of Federal Regulations, title 21, 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.

4626.1645 7-206.11 RESTRICTED USE PESTICIDES; CRITERIA.*

Restricted use pesticides specified in part 4626.1610, item C, shall meet the requirements specified in Code of Federal Regulations, title 40, section 152.1.

4626.1650 7-206.12 RODENT BAIT STATIONS.*

Rodent bait shall be contained in a covered, tamper-resistant bait station.

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Proposed Rules

4626.1655 7-206.13 TRACKING POWDERS; PEST CONTROL AND MONITORING.*

A. A tracking powder pesticide shall not be used in a food establishment.

B. If used, talcum, flour, or another nontoxic tracking powder shall not contaminate food, equipment, utensils, linens, and single-service and single-use articles.^N

4626.1660 7-207.11 RESTRICTION AND STORAGE.*

A. Only those medicines that are necessary for the health of employees shall be allowed in a food establishment. This part does not apply to medicines that are stored or displayed for retail sale.

B. Medicine that is in a food establishment for an employee's use shall 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.

4626.1665 7-207.12 REFRIGERATED MEDICINES; STORAGE.*

Medicines belonging to employees or children in a day care center that require refrigeration and are stored in a food refrigerator shall 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; and

B. located so they are inaccessible to children.

4626.1670 7-208.11 STORAGE.*

First aid supplies that are in a food establishment for employee use shall be:

A. labeled as specified in part 4626.1590; 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.

4626.1675 7-209.11 PERSONAL CARE ITEMS; STORAGE.

Except as specified in parts 4626.1665 and 4626.1670, employees shall store personal care items as specified in part 4626.1560, item B.

TOXIC RETAIL SALE

4626.1680 7-301.11 POISONOUS OR TOXIC MATERIALS; SEPARATION.*

Poisonous or toxic materials shall 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; 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.

CODE APPLICABILITY

4626.1685 8-101.10 PUBLIC HEALTH PROTECTION.

A. The regulatory authority shall apply the Code to promote its underlying purposes of safeguarding public health and ensuring that food is not adulterated, misbranded, or falsely advertised when offered to the consumer.

B. In enforcing the Code, the regulatory authority shall assess existing facilities or equipment that were in use before the effective date of the Code based on the following considerations:

(1) whether the facilities or equipment are in good repair and capable of being maintained in a sanitary condition;

(2) whether food-contact surfaces comply with parts 4626.0450 to 4626.0495; and

(3) whether the capacities of cooling, heating, and holding equipment are sufficient to comply with part 4626.0675.

4626.1690 8-103.10 VARIANCE REQUEST; PROCEDURES.*

Pursuant to Minnesota Statutes, section 14.05, subdivision 4, a party may ask the regulatory authority to grant a variance from the provisions of the Code according to parts 4626.1690 to 4626.1715.

A. A variance shall not be requested nor shall one be granted from:

(1) part 4626.0020, subpart 35;

(2) parts 4626.0040 to 4626.0060;

- (3) parts 4626.0065 to 4626.0100;
- (4) parts 4626.0105 to 4626.0120;
- (5) part 4626.1565;
- (6) parts 4626.1590 and 4626.1595; and
- (7) parts 4626.1600 to 4626.1675.

B. The applicant for a variance shall be the party to whom the rule applies.

C. The party requesting the variance shall submit the request in writing to the regulatory authority with the appropriate fee, if required. A request shall contain:

- (1) the specified language in the rule or rules from which the variance is requested;
- (2) the reasons why the rule cannot be met;
- (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;
- (4) the length of time for which the variance is requested;
- (5) a statement that the party applying for the variance will comply with the terms of the variance, if granted; and
- (6) other relevant information the regulatory authority determines necessary to properly evaluate the request for the variance.

4626.1695 CRITERIA FOR DECISION.*

The regulatory authority may 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.

4626.1700 8-103.12 CONDITIONS; HACCP; NOTIFICATION OF DECISION.*

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; and
- (2) maintain and provide to the regulatory authority, on request, the records specified in part 4626.1735, item A, subitems (3) and (4), that demonstrate that the following are routinely employed:
 - (a) procedures for monitoring critical control points;
 - (b) monitoring of the critical control points;
 - (c) verification of the effectiveness of an operation or process; and
 - (d) necessary corrective actions if there is failure at a critical control point.

C. The regulatory authority shall notify the party in writing of the regulatory authority's decision to grant or deny the variance.

(1) If a variance is granted, the notification shall specify the period of time for which the variance shall 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.

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4626.1705 8-103.13 EFFECT OF ALTERNATIVE MEASURES OR CONDITIONS.

- A. Alternative measures or conditions attached to a variance have the force and effect of law.
- B. If a party violates alternative measures or conditions attached to a variance, the party is subject to the enforcement actions and penalties provided in law or rule.
- C. A party 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.

4626.1710 RENEWAL OF VARIANCE.*

- A. A request for the renewal of a variance shall be submitted to the regulatory authority in writing 30 days before its expiration date.
- B. Renewal requests shall contain the information specified in part 4626.1690.
- C. The regulatory authority shall renew a variance if the party continues to satisfy the criteria specified 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.

4626.1715 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 party may appeal the denial, revocation, or refusal to renew a variance by requesting, in writing, a contested case hearing under the Administrative Procedures Act, *Minnesota Statutes*, chapter 14, within 30 days of receipt of the notice of denial, revocation, or refusal to renew the variance.

PLAN SUBMISSION AND APPROVAL

4626.1720 8-201.11 REVIEW OF PLANS.

- A. A license applicant or licensee shall submit properly prepared plans and specifications and the required plan review fee, to the regulatory authority for plan review and approval before beginning:
 - (1) the construction of a food establishment;
 - (2) the conversion of an existing structure for use as a food establishment; 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 the Code.
- B. Plans, specifications, a license application form, and the fee specified in part 1547.0110, subpart 2, and *Minnesota Statutes*, chapter 31 or 157, shall be submitted to the regulatory authority at least 30 days before beginning construction, extensive remodeling, or conversion of a food establishment.
- 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 the 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 shall be changed to comply or be deleted from the project.

4626.1725 8-201.12 CONTENTS OF PLANS AND SPECIFICATIONS.

- A. The plans and specifications for a food establishment shall include:
 - (1) the intended menu;
 - (2) the anticipated volume of food to be stored, prepared, and sold or served;
 - (3) the proposed layout, mechanical schematics, construction materials, and finish schedules;
 - (4) the proposed equipment types, manufacturers, model numbers, locations, dimensions, performance capacities, and installation specifications;
 - (5) a complete set of elevations and drawings for all custom fabricated equipment;
 - (6) a functional flow plan indicating how food will be handled; and

(7) other information that may be required by the regulatory authority for the proper review of the proposed construction, conversion, or modification.

B. Used equipment shall be equivalent to the standards specified in parts 4626.0450 to 4626.0975 and approved by the regulatory authority before use.

4626.1730 8-201.13 WHEN A HACCP PLAN IS REQUIRED.

Subpart 1. **Types of activities that require a HACCP plan.** The following activities require a license applicant or licensee to prepare a HACCP plan:

- A. cooking raw animal foods under part 4626.0340, item C, subitem (2);
- B. specialized processing under part 4626.0415;
- C. operating and maintaining molluscan shellfish tanks under part 4626.0610, item B;
- D. removing tags or labels from shellstock under part 4626.0220, item B, subitem (2); and
- E. reduced oxygen packaging under part 4626.0420.

Subp. 2. **Timing of HACCP plan requirements.**

A. As of July 1, 1999, food establishments engaged in activities requiring a HACCP plan under subpart 1 must have a HACCP plan available on-site for review and verification by the regulatory authority.

B. For new food establishments or those extensively remodeled after July 1, 1999, a HACCP plan shall be submitted to the regulatory authority before the start of operation for approval in conjunction with the plan review required in part 4626.1720.

Subp. 3. **Compliance with HACCP plan.** A licensee shall:

- A. comply with a properly prepared and approved, if applicable under subpart 2, item B, HACCP plan; and
- B. maintain and provide to the regulatory authority, on request, the records specified in part 4626.1735, item A, subitems (3) and (4), that demonstrate that the following are routinely employed:
 - (1) procedures for monitoring critical control points;
 - (2) monitoring of the critical control points;
 - (3) verification of the effectiveness of an operation or process; and
 - (4) necessary corrective actions if there is failure at a critical control point.

4626.1735 8-201.14 CONTENTS OF HACCP PLAN.

A. For a food establishment that is required in part 4626.1730, subpart 1, items A to D, to have a HACCP plan, the plan and specifications shall include:

- (1) a categorization of the types of potentially hazardous foods that are specified in the menu, including soups and sauces, salads, meat roasts or other bulk, solid foods, or other foods that are specified by the regulatory authority;
- (2) a flow diagram by specific food or category type identifying critical control points and providing information on the following:
 - (a) ingredients, materials, and equipment used in the preparation of a food; and
 - (b) formulations or recipes that delineate methods and procedural control measures that address the food safety concerns involved;
- (3) a statement of standard operating procedures for the plan under consideration including clearly identifying:
 - (a) each critical control point;
 - (b) the critical limits for each critical control point;
 - (c) the method and frequency for monitoring and controlling each critical control point by the food employee designated by the person in charge;

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(d) 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;

(e) action to be taken by the person in charge if the critical limits for each critical control point are not met; and

(f) records to be maintained by the person in charge to demonstrate that the HACCP plan is properly operated and managed; and

(4) additional scientific data or other information, as required by the regulatory authority, supporting the determination that food safety is not compromised by the proposal.

B. For a food establishment that is required in part 4626.1730, subpart 1, item E, to have a HACCP plan, the plan must be prepared as specified under part 4626.0420.

4626.1740 8-202.10 TRADE SECRETS.

The regulatory authority shall treat as confidential, in accordance with *Minnesota Statutes*, section 31.02, clause (l), 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.

4626.1745 8-203.10 PREOPERATIONAL INSPECTIONS.

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 the plans and is in compliance with the Code and other applicable law.

4626.1750 NOTICE OF OPENING.

The food establishment shall provide notice of opening to the regulatory authority at least 14 calendar days before the opening date.

LICENSE TO OPERATE

4626.1755 8-301.11 PREREQUISITE FOR OPERATION.

A person shall not operate a food establishment without a valid license to operate issued by the regulatory authority.

4626.1760 8-302.11 APPLICATION.

An applicant shall submit an application for a license for a food establishment according to *Minnesota Statutes*, chapter 28A or 157.

4626.1765 8-302.12 FORM OF SUBMISSION.

A person desiring to operate a food establishment shall submit to the regulatory authority a written application for a license on a form provided by the regulatory authority.

4626.1770 8-302.13 QUALIFICATIONS AND RESPONSIBILITIES OF APPLICANTS.

To qualify for a license, an applicant shall:

A. be an owner of the establishment or an officer of the legal ownership;

B. comply with the requirements of the Code; and

C. pay the applicable license fees at the time the application is submitted.

4626.1775 8-302.14 CONTENTS OF APPLICATION.

The application shall be on a form prescribed by the regulatory authority that seeks only information the regulatory authority reasonably considers necessary to identify the applicant and determine if the applicant meets the statutory and regulatory requirements for a license.

4626.1780 8-304.20 LICENSE NOT TRANSFERABLE.

A. A license for a food establishment is not transferable.

B. The discontinuance of an operation by the licensee at the address covered by the license voids the license.

C. A void license shall be surrendered to the regulatory authority immediately by anyone in possession of it.

INSPECTION AND CORRECTION OF VIOLATIONS

4626.1785 8-401.10 INSPECTION.

The regulatory authority shall inspect a food establishment according to:

A. *Minnesota Statutes*, chapters 28A, 30, 31, and 31A, 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, and 157.

4626.1790 8-402.11 ALLOWED AT REASONABLE TIMES AFTER DUE NOTICE.

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 shall allow the regulatory authority to determine if the food establishment is in compliance with the Code by allowing access to the establishment, allowing inspection, and providing information and 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.

4626.1795 8-404.11 EMERGENCY REPORTING.

A licensee shall notify the regulatory authority within 24 hours if an imminent health hazard may exist because of 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, or other emergency circumstance that may endanger public health.

4626.1800 FOOD SAMPLES.

The regulatory authority may collect, without cost, and examine samples of food as often as necessary for enforcement of the Code.

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 the 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 the Code and after inspection of the equipment and utensils by the regulatory authority.

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 the Code or that is being used in violation of the 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.

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.

MISCELLANEOUS HEALTH AND SAFETY

4626.1820 MINNESOTA CLEAN INDOOR AIR ACT.

A food establishment shall meet the requirements of the Minnesota Clean Indoor Air Act, Minnesota Statutes, sections 144.411 to 144.417, and rules adopted under those sections.

4626.1825 EMERGENCY FIRST AID FOR CHOKING.

A food establishment where food is consumed on the premises, except a temporary food establishment, food cart, retail food vehicle, portable structure, and special event food stand, shall post a chart illustrating the use of an emergency first aid procedure approved by the regulatory authority to relieve a patron with a restricted airway. The illustration shall be posted in the food preparation area where all employees may easily see it.

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TEMPORARY AND PORTABLE FOOD ESTABLISHMENTS

4626.1830 APPLICABILITY.

The Code applies to food carts, mass gatherings, retail food vehicles, portable structures or carts, special event food stands, special event food stands-limited, and temporary food establishments as qualified in parts 4626.1835 to 4626.1870.

4626.1835 GENERAL EXEMPTIONS.

A food cart, retail food vehicle, portable structure or cart, special event food stand, special event food stand-limited, or temporary food establishment is exempt from compliance with:

- A. part 4626.1075;
- B. part 4626.1080;
- C. part 4626.1435;
- D. part 4626.1460;
- E. part 4626.1480, item A;
- F. part 4626.1485; and
- G. part 4626.1560, item A.

4626.1840 MASS GATHERING EXEMPTIONS.

Food establishments at a mass gathering are exempt from compliance with:

- A. part 4626.1080;
- B. part 4626.1480, item A;
- C. part 4626.1485; and
- D. part 4626.1560, item A.

4626.1845 ADDITIONAL REQUIREMENTS.

A food cart, food establishment at a mass gathering, retail food vehicle, portable structure or cart, special event food stand, special event food stand-limited, or temporary food establishment shall comply with this part.

- A. Electrical service shall comply with chapter 1315.
- B. A fire extinguisher with a minimum 2A 10 B C rating shall be present if required by the fire marshal.
- C. Gas hook-up and service shall comply with chapter 1346.
- D. The work space shall permit unobstructed work activity.
- E. Equipment shall be located to permit easy cleaning.
- F. Facilities located indoors shall not be located on carpet.

4626.1850 FOOD CARTS.

The provisions of this part apply to food carts.

A. A food cart shall meet NSF International Standard No. 59 for Food Carts, which is incorporated by reference in part 4626.0505.

B. A food cart located outdoors shall be equipped with an easily cleanable, detachable awning or umbrella to prevent adulteration of food.

C. A food cart component that requires cleaning and maintenance shall be returned to an approved permanent food establishment each day of food cart operation for supply and cleaning.

D. Except for cleaning and supply, a food cart operation shall be accomplished entirely from a single self-contained unit.

E. A mechanical exhaust system complying with NSF International Standard No. 2, which is incorporated by reference in part 4626.0505, and part 4626.1475 shall be provided for a food cart used indoors when grease-laden cooking vapor, condensation, fumes, obnoxious or disagreeable odors, or smoke are generated in a cooking process. All food carts designed for cooking grease-laden foods shall be equipped with an approved fire protection system.

F. A food cart where food is prepared shall be equipped with a handwashing device supplied with hot and cold running water, soap, nail brush, and paper towels.

(1) Hot and cold water shall be supplied under pressure or by gravity with a mixing faucet.

(2) A water inlet shall be protected from contamination and designed to preclude attachment of a nonpotable service connection.

(3) A water tank shall comply with the provisions for an alternate water supply in parts 4626.1035 and 4626.1135 to 4626.1175.

G. Only single-service articles are permitted.

H. Where an approved three-compartment sink is not present, multiuse food preparation, service, and dispensing utensils shall be washed at a permanent food establishment each day of use.

I. A waste holding tank and waste removal shall comply with parts 4626.1180 to 4626.1220.

4626.1855 SPECIAL EVENT FOOD STANDS AND SPECIAL EVENT FOOD STANDS-LIMITED.

This part applies to special event food stands and special event food stands-limited.

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 commissioner of health 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 multiuse utensils and warewashing, 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 wares and utensils.

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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.

4626.1860 MOBILE FOOD ESTABLISHMENTS; SEASONAL TEMPORARY FOOD STANDS; SEASONAL PERMANENT FOOD STANDS.

This part applies to mobile food establishments, seasonal temporary food stands, and seasonal permanent food stands.

A. The entire operation shall be accomplished from a single self-contained unit, except for supply.

B. A mechanical exhaust system complying with NSF International Standard No. 2, which is incorporated by reference in part 4626.0505, and part 4626.1475 shall be provided when grease-laden cooking vapor, condensation, fumes, obnoxious or disagreeable odors, or smoke are generated in a cooking process.

C. Water shall be supplied under pressure with a mixing faucet.

D. A water inlet shall be protected from contamination and designed to preclude attachment of a nonpotable service connection.

E. A water tank shall comply with the provisions for an alternate water supply in parts 4626.1035 and 4626.1135 to 4626.1175 and NSF International Standard No. 59, sections 7.3 and 7.4, which is incorporated by reference in part 4626.0505.

F. A handwashing device supplied with 21 degrees C to 43.5 degrees C (70 degrees F to 110 degrees F) running water, soap, nail brush, and paper towels shall be provided where food is prepared.

G. Single-service disposable eating and drinking utensils shall be used unless warewashing facilities specified in parts 4626.0735 to 4626.0890 are provided and the sanitization procedures specified in parts 4626.0895 to 4626.0905 are used.

H. Warewashing facilities for multiuse utensils shall be available and shall consist of at least a three-compartment sink, either freestanding or installed in a counter.

I. Space shall be provided for air drying utensils.

J. Towel drying is prohibited.

K. The sanitization procedures specified in parts 4626.0895 to 4626.0905 shall be used.

L. For seasonal temporary or permanent food 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 C, F, and H 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.

M. A waste holding tank and waste removal shall comply with parts 4626.1180 to 4626.1220.

N. Mechanical refrigeration complying with part 4626.0505 shall be provided for potentially hazardous foods.

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

P. The facility shall provide protection during adverse weather by its construction or location. Food activities shall cease if protection fails.

4626.1865 MASS GATHERINGS.

Food establishments operated at a mass gathering shall meet the standards for the applicable food establishment specified in the Code.

4626.1870 RETAIL FOOD VEHICLES, PORTABLE STRUCTURES, OR CARTS.

This part applies to retail food vehicles, portable structures, or carts.

A. A retail food vehicle, portable structure, or cart is exempt from compliance with part 4626.0505, items B to I.

B. In conjunction with the notice of opening required in part 4626.1750, the applicant for a license to operate a retail food vehicle, portable structure, or cart shall provide to the regulatory authority information on the:

(1) sources of the food;

(2) type and volume of food to be sold or otherwise provided for human consumption;

(3) equipment used to sell or otherwise provide the food for human consumption; and

(4) time period and location of operation.

C. Drained ice, dry ice, or cold packs may be substituted for the mechanical refrigeration required in parts 4626.0375 and 4626.0395 if the cold temperatures in parts 4626.0340 to 4626.0365 are maintained. Mechanical refrigeration shall be provided for potentially hazardous foods held for four hours or more.

D. The vehicle, structure, or cart shall provide protection during adverse weather by its construction or location. Food activities shall cease if protection fails.

E. The regulatory authority may restrict the type of food sold or provided based on equipment limitations, adverse climatic conditions, or any other condition that poses a hazard to public health.

4658.0650 FOOD SUPPLIES.

[For text of subs 1 to 6, see M.R.]

Subp. 7. **Vending machines.** Storage and dispensing of food and beverages in vending machines must be in accordance with ~~parts 1550.5000 to 1550.5130~~ chapter 4626, and in accordance with any applicable local ordinances.

4658.3500 INCORPORATION BY REFERENCE; NEW CONSTRUCTION.

[For text of subpart 1, see M.R.]

Subp. 2. **Minnesota Rules.** The following documents are also available from the Print Communications Division, 117 University Avenue, Saint Paul, Minnesota 55155:

A. chapters 1300 to 1365, the Minnesota State Building Code;

B. chapter 4715, the Minnesota Plumbing Code; and

C. ~~parts 1550.5000 to 1550.5130, Vending Machines~~ chapter 4626, the Minnesota Food Code.

[For text of subs 3 to 6, see M.R.]

4665.2700 FOOD HANDLING PRACTICES.

Any food service provided in a supervised living facility shall be in accordance with ~~the provisions of the Minnesota commissioner of health rules, parts 4625.2500 to 4625.4901~~ chapter 4626 governing food and beverage service establishments. Wherever the food service in a supervised living facility is limited to serving ten residents or less, or where the main meals of the day are not prepared in the facility, certain variances from the requirements may be granted by the commissioner of health. These variances may include, but not be limited to, substitution of certain domestic type equipment for commercial type. When food is catered into a supervised living facility, it shall be obtained from a source acceptable to the commissioner of health and transported, handled, and served in accordance with provisions of applicable rules of the commissioner of health. It is recommended that the department's food handling guide entitled "Information for Food Service Personnel in Hospitals and Related Care Facilities" be made readily available for reference by all food service personnel.

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Proposed Rules

4717.7000 VARIANCE REQUEST.

Subpart 1. **Request.** A party may ask the commissioner of health to grant a variance from the following rules:

[For text of items A to D, see M.R.]

~~E. food and beverage establishments, parts 4625.2901 to 4625.7801, except parts 4625.2660; 4625.3601; 4625.3801, subpart 1; 4625.3901, subpart 3; 4625.4101, subpart 1; 4625.4301; 4625.4401; 4625.4601; 4625.5101, subpart 7; 4625.5601; 4625.5701; 4625.6101, subparts 3 and 7; 4625.6601; 4625.6701; 4625.7101, subpart 7; 4625.7601; and 4625.7701;~~

~~F. manufactured home parks and recreational camping areas, parts 4630.0400; 4630.0600, subparts 2 to 4; and 4630.0900 to 4630.1700;~~

~~G. F. children's camps, parts 4630.2300 to 4630.4700;~~

~~H. G. migrant labor camps, parts 4630.5000 to 4630.6500;~~

~~I. H. roller towels, part 4635.0200;~~

~~J. I. enclosed sports arenas, parts 4620.3900 to 4620.4800, except part 4620.4300;~~

~~K. J. water conditioning contractors and installers, parts 4715.5000 to 4715.6000;~~

~~L. K. public swimming pools, parts 4717.0100 to 4717.3900;~~

~~M. L. general requirements for construction of surface water and groundwater under the direct influence of surface water treatment facilities, parts 4720.3920 to 4720.3965;~~

~~N. M. water haulers, parts 4720.4000 to 4720.4600;~~

~~O. N. wellhead protection, parts 4720.5200 to 4720.5570;~~

~~P. O. wells and borings, parts 4725.0100 to 4725.7450;~~

~~Q. P. explorers and exploratory borings, parts 4727.0100 to 4727.1300; and~~

~~R. Q. ionizing radiation, parts 4730.0100 to 4730.3610, except parts 4730.0400 and 4730.0600.~~

[For text of subps 2 and 3, see M.R.]

9503.0085 SICK CARE PROGRAM.

[For text of subps 1 to 11, see M.R.]

Subp. 12. **Food preparation.** Food provided by the license holder and prepared at the center must be prepared in a room separate from rooms where sick care is provided and must be delivered to each sick care room in individual servings and in covered containers. Procedures for preparing, handling, and serving food and washing food, utensils, and equipment must comply with the requirements in ~~parts 4625.2401 to 4625.4701~~ chapter 4626.

[For text of subps 13 to 18, see M.R.]

9503.0145 FOOD AND WATER.

[For text of subps 1 and 2, see M.R.]

Subp. 3. **Sanitation.** Procedures for preparing, handling, and serving food, and washing food, utensils, and equipment must comply with the requirements for food and beverage establishments in ~~parts 4625.2401 to 4625.4701~~ chapter 4626. If the food is prepared off site by another facility or if food service is provided according to a contract with a food service provider, the facility or license holder must ensure that food is prepared in compliance with ~~parts 4625.2401 to 4625.4701~~ chapter 4626. The license holder must provide refrigeration for dairy products and other perishable foods, whether supplied by the license holder or supplied by the parent. The refrigeration must have a temperature of 40 degrees Fahrenheit or less. Tables and highchair trays used for meals must be washed with soap and water before and after each use.

[For text of subps 4 to 8, see M.R.]

9530.4120 LICENSING OF PROGRAMS.

[For text of subps 1 and 3, see M.R.]

Subp. 5. **Health facility licenses.** Rehabilitation programs must have the following licenses:

[For text of items A and B, see M.R.]

C. Category IV programs must have at least a supervised living facility class A or B, in accordance with parts 4665.0100 to 4665.9900, or a board and lodging license, in accordance with parts 4625.0100 to ~~4625.4901~~ 4625.2355 and 4626.0010 to 4626.1825, issued by the Minnesota Department of Health.

[For text of subp 6, see M.R.]

9545.1115 PHYSICAL PLANT.

Subpart 1. **Compliance with board and lodging requirements.** For the physical plant, food preparation, and nutrition requirements for facilities licensed under parts 9545.0905 to 9545.1125, the license holder must:

[For text of item A, see M.R.]

B. comply with ~~parts 4625.2401 to 4625.4701~~ chapter 4626 regarding food handling practices for food service;

[For text of items C and D, see M.R.]

9555.9710 SERVICE AND PROGRAM REQUIREMENTS.

Subpart 1. **Food service and nutrition.** A center shall meet the requirements in items A to H.

A. Procedures for preparing, handling, and serving food, and washing food, utensils, and equipment must comply with ~~parts 4625.2401 to 4625.4701~~ chapter 4626, Requirements for Food and Beverage Establishments, and with applicable local ordinances. If the food is prepared off-site by another facility or if food service is provided according to a center's contract with a food service provider, the facility or provider must comply with ~~parts 4625.2401 to 4625.4701~~ chapter 4626 and applicable local ordinances.

[For text of items B to H, see M.R.]

[For text of subs 2 to 7, see M.R.]

REPEALER. *Minnesota Rules*, parts 1547.0001; 1547.0002; 1547.0003; 1547.0004; 1547.0005; 1547.0006; 1547.0007; 1547.0008; 1547.0009; 1547.0010; 1547.0011; 1547.0012; 1547.0013; 1547.0014; 1547.0015; 1547.0016; 1547.0017; 1547.0018; 1547.0019; 1547.0020; 1547.0021; 1547.0022; 1547.0023; 1547.0024; 1547.0025; 1547.0026; 1547.0027; 1547.0028; 1547.0029; 1547.0030; 1547.0031; 1547.0032; 1547.0033; 1547.0034; 1547.0035; 1547.0036; 1547.0037; 1547.0038; 1547.0039; 1547.0040; 1547.0041; 1547.0042; 1547.0043; 1547.0044; 1547.0045; 1547.0046; 1547.0047; 1547.0048; 1547.0049; 1547.0050; 1547.0051; 1547.0052; 1547.0053; 1547.0054; 1547.0055; 1547.0056; 1547.0057; 1547.0058; 1547.0059; 1547.0060; 1547.0061; 1547.0062; 1547.0063; 1547.0064; 1547.0065; 1547.0066; 1547.0067; 1547.0068; 1547.0069; 1547.0070; 1547.0071; 1547.0072; 1547.0073; 1547.0074; 1547.0075; 1547.0076; 1547.0077; 1547.0078; 1547.0079; 1547.0080; 1547.0081; 1547.0082; 1547.0083; 1547.0084; 1547.0085; 1547.0086; 1547.0087; 1547.0088; 1547.0089; 1547.0090; 1547.0091; 1547.0092; 1547.0093; 1547.0094; 1547.0095; 1547.0096; 1547.0097; 1547.0098; 1547.0099; 1547.0100; 1547.0101; 1547.0102; 1547.0103; 1547.0104; 1547.0105; 1547.0106; 1547.0107; 1547.0108; 1547.0109; 1547.0110, subpart 1; 1547.0111; 1547.0112; 1550.5000; 1550.5010; 1550.5020; 1550.5030; 1550.5040; 1550.5050; 1550.5060; 1550.5070; 1550.5080; 1550.5090; 1550.5100; 1550.5110; 1550.5120; 1550.5130; 4625.2401; 4625.2501; 4625.2601; 4625.2655; 4625.2660; 4625.2701; 4625.2801; 4625.2901; 4625.3001; 4625.3101; 4625.3201; 4625.3301; 4625.3401; 4625.3501; 4625.3601; 4625.3701; 4625.3801; 4625.3901; 4625.4001; 4625.4101; 4625.4201; 4625.4301; 4625.4401; 4625.4501; 4625.4601; 4625.4701; 4625.4901; 4625.5001; 4625.5101; 4625.5201; 4625.5301; 4625.5401; 4625.5501; 4625.5601; 4625.5701; 4625.5801; 4625.5901; 4625.6001; 4625.6101; 4625.6201; 4625.6301; 4625.6401; 4625.6501; 4625.6601; 4625.6701; 4625.6801; 4625.6901; 4625.7001; 4625.7101; 4625.7201; 4625.7301; 4625.7401; 4625.7501; 4625.7601; 4625.7701; and 4625.7801, are repealed.

INCORPORATIONS BY REFERENCE

Part 1550.1490, item K: Baking Industry Sanitation Standards Committee, 1994 and subsequent editions, available through the Minitex interlibrary loan system.

Standard No. 1 Equipment for Handling and Storing Dry Ingredients; Standard No. 2 Dough Troughs; Standard No. 3 Mechanical Intermediate Proofers; Standard No. 4 Mechanical Washers; Standard No. 5 Cake Depositors, and Icing Machines; Standard No. 6 Horizontal and Vertical Mixers; Standard No. 7 Conveyors; Standard No. 8 Dividers, Rounders and Bun Machines; Standard No. 9 Bread Moulders; Standard No. 10 Prefabricated Enclosures and Air Conditioning Equipment for Fermentation, Proofing, Cooling and Retarding; Standard No. 11 Ingredient Water Coolers and Ice Makers (Atmospheric Type); Standard No. 12 Coating Equipment; Standard No. 13 Cutting and Slicing Equipment; Standard No. 14 Ovens; Standard No. 15 Caster Assemblies and Wheels; Standard No. 16 Doughnut Equipment; Standard No. 17 Pan Greasers; Standard No. 18 Continuous Mix Equipment; Standard No. 19 Spindle Mixers; Standard No. 20 Liquid Ferment Equipment; Standard No. 21 Dough Chutes, Dough Hoppers, Dough Trough Hoists and Automatic Dough Trough Dumps; Standard No. 22 Depanners and Delidders for Bakery Products; Standard No. 23 Weighing Systems; Standard No. 24 Racks, Pan Trucks and Dollies; Standard No. 25 Kettles and Accessory Equipment; Standard No. 26 Liquid Measuring Systems; Standard No. 27 Equipment Handling; Standard No. 29 Electric Motors

<p>KEY: PROPOSED RULES SECTION — <u>Underlining</u> indicates additions to existing rule language. Strike outs indicate deletions from existing rule language. If a proposed rule is totally new, it is designated "all new material." ADOPTED RULES SECTION — <u>Underlining</u> indicates additions to proposed rule language. Strike outs indicate deletions from proposed rule language.</p>
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Proposed Rules

and Accessory Equipment; Standard No. 30 Distribution Cabinets and Containers; Standard No. 31 Pie Make-up Equipment; Standard No. 32 Icing and Glazing Machines; Standard No. 33 Coolers for Bakery Foods; Standard No. 34 Portable Ingredient Containers; Standard No. 35 Baking Pans; Standard No. 37 Packaging and Package Handling Equipment; Standard No. 38 Particle Size Reduction Equipment; Standard No. 39 Dough Forming Equipment; Standard No. 40 Sandwiching Equipment for Cookies and Crackers; Standard No. 41 Pretzel Equipment; Standard No. 42 Sugar Wafer, Wafer, and Sugar Rolled Cone Batter Systems.

Part 4626.0150: United States Department of Health and Human Services, Public Health Service, Food and Drug Administration, National Shellfish Sanitation Program Manual of Operations, Part I Sanitation of Shellfish Growing Areas, and Part II Sanitation of the Harvesting, Processing and Distribution of Shellfish (1990 revision), available through the Minitex interlibrary loan system or the United States Food and Drug Administration, Shellfish Sanitation Branch, 200 "C" Street S.W., Washington D.C., 20204; and United States Department of Health and Human Services, Public Health Service, Food and Drug Administration, Interstate Certified Shellfish Shippers List (1987 and subsequent editions), available through the Minitex interlibrary loan system or from the United States Food and Drug Administration, Shellfish Sanitation Branch, 200 "C" Street S.W., Washington D.C., 20204.

Part 4626.0505: NSF International food service equipment standards; American National Standards Institute (ANSI) Z34.1.

Standard No. 2, Food Equipment, 1996 and subsequent editions; Standard No. 3, Commercial Spray-Type Dishwashing and Glasswashing Machines, 1996 and subsequent editions; Standard No. 4 Commercial Cooking, Rethermalization, and Powered Hot Food Holding and Transport Equipment, 1996 and subsequent editions; Standard No. 5, Water Heaters, Hot Water Supply Boilers, and Heat Recovery Equipment, 1992 and subsequent editions; Standard No. 6, Dispensing Freezers, 1996 and subsequent editions; Standard No. 7, Food Service Refrigerators and Storage Freezers, 1990 and subsequent editions; Standard No. 8, Commercial Powered Food Preparation Equipment, 1992 and subsequent editions; Standard No. 12, Automatic Ice Making Equipment, 1992 and subsequent editions; Standard No. 13, Refuse Compactors and Compactor Systems, 1992 and subsequent editions; Standard No. 18, Manual Food and Beverage Dispensing Equipment, 1996 and subsequent editions; Standard No. 20, Commercial Bulk Milk Dispensing Equipment, 1992 and subsequent editions; Standard No. 25, Vending Machines for Food and Beverages, 1990 and subsequent editions; Standard No. 26, Pot, Pan, and Utensil Commercial Spray-Type Washing Machines, 1990 and subsequent editions; Standard No. 29, Detergent and Chemical Feeders for Commercial Stray-Type Dishwashing Machines, 1992 and subsequent editions; Standard No. 35, Laminated Plastics for Surfacing Food Service Equipment, 1991 and subsequent editions; Standard No. 51, Plastic Materials and Components Used in Food Equipment, 1978 and subsequent editions; Standard No. 59, Food Carts, 1986 and subsequent editions; Criteria C-2, Special Equipment and Devices, 1983 and subsequent editions.

NSF International Standard No. 25; National Automatic Merchandising Association (NAMA) specified in NAMA Standard for the Sanitary Design and Construction of Food and Beverage Vending Machines, April 1990, and subsequent editions.

Part 4626.1040: NSF International standards:

Standard No. 42, Drinking Water Treatment Unit - Aesthetic Effects, 1988 and subsequent editions; Standard No. 44, Cation Exchange Water Softeners, 1987 and subsequent editions; Standard No. 53, Drinking Water Treatment Units - Health Effects, 1996 and subsequent editions; or Standard No. 58, Reverse Osmosis Drinking Water Systems, 1996 and subsequent editions, available through the Minitex interlibrary loan system.

Department of Natural Resources

Proposed Permanent Rules Relating to Taking Small Game

Notice of Hearing

Proposed Rule Governing Restrictions on Shooting at Grouse in the Vicinity of Motor Vehicles *Minnesota Rules*, part 6234.0100

Public Hearing. The Department of Natural Resources intends to adopt a rule after a public hearing following the procedures set forth in the Administrative Procedure Act, *Minnesota Statutes*, sections 14.131 to 14.20, and rules of the Office of Administrative Hearings, *Minnesota Rules*, parts 1400.2200 to 1400.2240. The agency will hold a public hearing on the above-entitled rule beginning on April 23, 1998 at the Theater in Davies Hall, Itasca Community College, 1851 East Highway Number 169, Grand Rapids, Minnesota, starting at 10:00 a.m., and reconvening on April 24, 1998 at the Theater in the Capitol View Conference Center, 670 West County Road B2 (corner of Rice Street and County Road B2), St. Paul, Minnesota, starting at 10:00 a.m., and continuing until the hearing is completed. Additional days of hearing will be scheduled if necessary. All interested or affected persons will have an opportunity to participate by submitting either oral or written data, statements, or arguments. Statements may be submitted without appearing at the hearing.

Administrative Law Judge. The hearing will be conducted by Administrative Law Judge Phyllis A. Reha, who can be reached at the Office of Administrative Hearings, 100 Washington Square, Suite 1700, Minneapolis, Minnesota 55401-2138, telephone (612) 341-7602 and fax (612) 349-2665. The rule hearing procedure is governed by *Minnesota Statutes*, sections 14.131 to 14.20, and by the rules of the Office of Administrative Hearings, *Minnesota Rules*, parts 1400.2200 to 1400.2240. Questions about the rule hearing procedure should be directed to the Administrative Law Judge.

Subject of Rule, Statutory Authority, and Agency Contact Person. The subject of the hearing will be the proposed rule governing restrictions on shooting at grouse in the vicinity of motor vehicles, *Minnesota Rules*, part 6234.0100, subpart 4. The proposed rule is authorized by *Minnesota Statutes*, section 97B.711, subdivision 3. A copy of the proposed rules is published in the *State Register* and attached to this notice as mailed.

The agency contact person is: Ed Boggess, Department of Natural Resources, 500 Lafayette Road, St. Paul, Minnesota 55155-4007, telephone (612) 297-2072. TTY users may call the Department of Natural Resources at 1-800-657-3939.

Statement of Need and Reasonableness. A statement of need and reasonableness is now available for review at the agency office and at the Office of Administrative Hearings. This statement contains a summary of the justification for the proposed rule, including a description of who will be affected by the proposed rule and an estimate of the probable cost of the proposed rule. The statement may be reviewed and copies obtained at the cost of reproduction from either the agency or the Office of Administrative Hearings.

Public Comment. You and all interested or affected persons, including representatives of associations and other interested groups, will have an opportunity to participate. You may present your views either orally at the hearing or in writing at any time before the close of the hearing record. All evidence presented should relate to the proposed rule. You may also submit written material to the Administrative Law Judge to be recorded in the hearing record for five working days after the public hearing ends. This five-day comment period may be extended for a longer period not to exceed 20 calendar days if ordered by the Administrative Law Judge at the hearing. Following the comment period, there is a five-working-day response period during which the agency and any interested person may respond in writing to any new information submitted. No additional evidence may be submitted during the five-day response period. All comments and responses submitted to the Administrative Law Judge must be received at the Office of Administrative Hearings no later than 4:30 p.m. on the due date. All comments or responses received will be available for review at the Office of Administrative Hearings.

The agency requests that any persons submitting written views or data to the Administrative Law Judge prior to the hearing or during the comment period also submit a copy of the written views or data to the agency contact person at the address stated above.

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

Modifications. The proposed rule may be modified as a result of the rule hearing process. Modifications must be supported by data and views presented during the rule hearing process, and the adopted rules may not be substantially different than the proposed rule. If the proposed rule affects you in any way, you are encouraged to participate.

Adoption Procedure After the Hearing. After the close of the hearing record, the Administrative Law Judge will issue a report on the proposed rule. You may ask to be notified of the date when the Administrative Law Judge's report will become available, and can make this request at the hearing or in writing to the Administrative Law Judge. You may also ask to be notified of the date on which the agency adopts the rule and files it with the Secretary of State, or ask to register with the agency to receive notice of future rule proceedings, and can make these requests at the hearing or in writing to the agency contact person stated above.

Lobbyist Registration. *Minnesota Statutes*, chapter 10A, requires each lobbyist to register with the Campaign Finance and Public Disclosure Board. Questions regarding this requirement may be directed to the Campaign Finance and Public Disclosure Board at: First Floor South, Centennial Building, 658 Cedar Street, St. Paul, Minnesota 55155, telephone (612) 296-5148 or 1-800-657-3889.

Order. I order that the rulemaking hearing be held at the dates, times, and locations listed above.

Dated: 9 March 1998

Rodney W. Sando
Commissioner of Natural Resources

<p>KEY: PROPOSED RULES SECTION — <u>Underlining</u> indicates additions to existing rule language. Strike outs indicate deletions from existing rule language. If a proposed rule is totally new, it is designated "all new material." ADOPTED RULES SECTION — <u>Underlining</u> indicates additions to proposed rule language. Strike outs indicate deletions from proposed rule language.</p>
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Proposed Rules

6234.0100 GENERAL RESTRICTIONS FOR TAKING SMALL GAME.

[For text of subps 1 to 3, see M.R.]

Subp. 4. Shooting at grouse prohibited near motor vehicle. A person in the vicinity of a motor vehicle may not discharge a firearm or an arrow from a bow at a grouse, or at a decoy of a grouse placed by an enforcement officer, unless the person is at least 20 yards from the vehicle and the vehicle's engine is shut off. This subpart does not apply to a person with a disability permit under *Minnesota Statutes*, section 97B.055, subdivision 3. "Motor vehicle" as used in this subpart has the meaning given in *Minnesota Statutes*, section 97A.015, subdivision 32.

Department of Revenue

Proposed Permanent Rules Relating to Gasoline and Special Fuel Tax; Refunds for Fuel Used in Power Take-off Units or Auxiliary Engines

Notice of Intent to Adopt Rules Without a Public Hearing

Proposed Rules Relating to Gasoline and Special Fuel Tax; Refunds for Fuel Used in Power Take-off Units; *Minnesota Rules*, part 8125.1301.

Introduction. The Department of Revenue intends to adopt rules without a public hearing following the procedures set forth in the Administrative Procedure Act, *Minnesota Statutes*, sections 14.22 to 14.28, and rules of the Office of Administrative Hearings, *Minnesota Rules*, parts 1400.2300 to 1400.2310. You have 30 days to submit written comments on the proposed rules and may also submit a written request that a hearing be held on the rules.

Agency Contact Person. Comments or questions on the rules and written requests for a public hearing on the rules must be submitted to the agency contact person. The agency contact person is: Larry Trimble, Director, at the Minnesota Department of Revenue, Petroleum Tax Division, 10 River Park Plaza, St. Paul, Minnesota 55146; phone: (612) 296-0889; fax: (612) 297-2099. TTY users may call the Department of Revenue at 297-2196. You may also e-mail Mr. Trimble at: larry.trimble@state.mn.us

Subject of Rules and Statutory Authority. The proposed rules are related to refunds to be issued for gasoline and special fuel tax paid on fuel used in power take-off units of motor vehicles. The statutory authority to adopt the rules is *Minnesota Statutes*, section 270.06, clause (14); section 296.27; and *Laws 1997*, chapter 231, article 7, section 5. A copy of the proposed rules is published in the *State Register* and attached to this notice as mailed.

The 1997 Legislature directed the Department of Revenue to adopt rules that determine the rates and percentages necessary to develop formulas for calculating and administering the refund. The classes of persons who will be affected by the proposed rules are individuals and companies who own and operate motor vehicles that have a power take-off unit (PTO) or auxiliary engine fueled from the same supply tank as the highway vehicle. All affected parties will be eligible to benefit from these proposed rules in that they will now be able to file a claim for refund for the fuel used in their PTO's. The drafting of the proposed rules was accomplished by meeting with and surveying interested parties, and by researching similar refund provisions in other states. The proposed rules contain different percentages for different types of vehicles, as well as optional ways to calculate the refund, including if a hubometer is used or if on-board computer data or other data is provided. The Department is confident that its proposed rules reflect the most equitable and the least costly and least intrusive method of calculating the refunds, to the ultimate benefit of the taxpayer.

Comments. You have until 4:30 p.m. on Wednesday, April 22, 1998, to submit written comment in support of or in opposition to the proposed rules and any part or subpart of the rules. Your comment must be in writing and received by the agency contact person by the due date. Comment is encouraged. Your comment should identify the portion of the proposed rules addressed and the reason for the comment. You are encouraged to propose any change desired. Any comments that you would like to make on the legality of the proposed rules must also be made during this comment period.

Request for a Hearing. In addition to submitting comments, you may also request that a hearing be held on the rules. Your request for a public hearing must be in writing and must be received by the agency contact person by 4:30 p.m. on Wednesday, April 22, 1998. Your written request for a public hearing must include your name and address. You must identify the portion of the proposed rules to which you object or state that you oppose the entire set of rules. Any request that does not comply with these requirements is not valid and cannot be counted by the agency for determining whether a public hearing must be held. You are also encouraged to state the reason for the request and any changes you want made to the proposed rules.

Withdrawal of Requests. If 25 or more persons submit a written request for a hearing, a public hearing will be held unless a sufficient number withdraw their requests in writing. If enough requests for hearing are withdrawn to reduce the number below 25, the agency must give written notice of this to all persons who requested a hearing, explain the actions the agency took to effect the with-

drawal, and ask for written comments on this action. If a public hearing is required, the agency will follow the procedures in *Minnesota Statutes*, sections 14.131 to 14.20.

Alternative Format. Upon request, this Notice can be made available in an alternative format, such as large print, Braille, or cassette tape. To make such a request, please contact the agency contact person at the address or telephone number listed above.

Modifications. The proposed rules may be modified as a result of public comment. The modifications must be supported by comments and information submitted to the agency, and the adopted rules may not be substantially different than these proposed rules. If the proposed rules affect you in any way, you are encouraged to participate in the rulemaking process.

Statement of Need and Reasonableness. A statement of need and reasonableness is now available from the agency contact person. This statement contains a summary of the justification for the proposed rules, including a description of who will be affected by the proposed rules and an estimate of the probable cost of the proposed rules. Copies of the statement may be obtained at the cost of reproduction from the agency.

Adoption and Review of Rules. If no hearing is required, the agency may adopt the rules after the end of the comment period. The rules and supporting documents will then be submitted to the Office of Administrative Hearings for review for legality. You may ask to be notified of the date the rules are submitted to the office. If you want to be so notified, or want to receive a copy of the adopted rules, or want to register with the agency to receive notice of future rule proceedings, submit your request to the agency contact person listed above.

Dated: 23 March 1998

James L. Girard
Commissioner of Revenue

8125.1301 REFUNDS FOR POWER TAKE-OFF UNITS OR AUXILIARY ENGINES.

Subpart 1. General rule. A person who purchases and uses any gasoline or special fuel, on which the Minnesota gasoline or special fuel tax has been paid, for the operation of a power take-off unit (PTO) or auxiliary engine fueled from the same supply tank as the highway vehicle, may obtain a refund of the tax paid on the fuel consumed by the PTO, as calculated under subpart 4 or 5. The taxpayer must file a claim for refund as outlined in subpart 2. Refunds may not be obtained for fuel consumed during idling time.

Subp. 2. Claim for refund. All claims for refund must be submitted on a form PDR-1 or other form as prescribed by the commissioner. Claims must be filed within one year of the date of purchase of the fuel; however, if a claimant chooses to file on an annual basis, whether calendar year or fiscal year, the claim must be received by the commissioner within 60 days of the end of the claimant's accounting year. Claims may be filed as often as monthly. All refund requests must have attached an original sales ticket, bulk fuel invoice, or a signed dealer affidavit. Claimants must maintain records as prescribed under subpart 3.

Subp. 3. Records to be maintained. The claimant must maintain the following records:

A. The original sales ticket must have a preprinted number, the dealer's name and address, date, number of gallons, type of fuel, price per gallon, a description of the vehicle in which the fuel was placed, the purchaser's (customer's) name and address, the dollar amount of the sale, and the rate of tax or a statement that Minnesota tax is included in the price.

B. If bulk fuel is purchased, the customer must keep dispersal records that indicate the date of disbursement, the number of gallons withdrawn, and a description of the vehicle in which the fuel was delivered.

C. Fuel logs must be maintained and must be made available to the Department of Revenue upon demand.

D. In lieu of original sales tickets, the department will accept alternative records, including computer-generated listings or other electronically generated listings, as long as they clearly provide the necessary information.

Subp. 4. Calculation of refund. The percentages in this subpart are allowed for the refund of tax paid on gasoline or special fuel used in operating a PTO or auxiliary engine, when records as outlined in subpart 3 are maintained. The amounts are specified as a percentage of the total taxable fuel used by the vehicle; in other words, the fuel actually placed into the supply tank of the motor vehicle on which the PTO is attached. The refund will be equal to the tax actually paid on that percentage of the fuel.

<p>KEY: PROPOSED RULES SECTION — <u>Underlining</u> indicates additions to existing rule language. Strike outs indicate deletions from existing rule language. If a proposed rule is totally new, it is designated "all new material." ADOPTED RULES SECTION — <u>Underlining</u> indicates additions to proposed rule language. Strike outs indicate deletions from proposed rule language.</p>
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Proposed Rules

The percentages are:

<u>Concrete pumping truck</u>	<u>75%</u>
<u>Corn shellers</u>	<u>70%</u>
<u>Sewer cleaning or jet vactor</u>	<u>35%</u>
<u>Ready mixed concrete truck</u>	<u>30%</u>
<u>Sanitation and garbage trucks, including transfer trailers, rolloff trucks, recycling trucks, and container delivery trucks; septic pumpers</u>	<u>25%</u>
<u>Self-loaders and chip hauling vans (timber or logging)</u>	<u>20%</u>
<u>Line truck with digger or aerial lift (utility trucks)</u>	<u>20%</u>
<u>Semi-wreckers</u>	<u>15%</u>
<u>Bulk feed truck</u>	<u>15%</u>
<u>Service truck with jack hammer, drill, or crane</u>	<u>15%</u>
<u>Oil and water well service trucks (pump hoists and drill rigs)</u>	<u>15%</u>
<u>Dump trailer trucks and dump trucks</u>	<u>15%</u>
<u>Seeder trucks</u>	<u>15%</u>
<u>Tank trucks</u>	<u>15%</u>
<u>Tank transport</u>	<u>15%</u>
<u>Fertilizer spreaders or bulk fertilizer tender trucks</u>	<u>15%</u>
<u>Feed grinders</u>	<u>15%</u>
<u>Truck with hydraulic winch</u>	<u>15%</u>
<u>Carpet cleaning van</u>	<u>10%</u>
<u>Wreckers</u>	<u>10%</u>
<u>Hot asphalt distribution trucks</u>	<u>10%</u>
<u>Car carrier with hydraulic winch</u>	<u>10%</u>
<u>All other qualifying vehicles</u>	<u>10%</u>

Subp. 5. Optional means of calculating refund; information needed for refund claim. A claimant may choose to forego taking the straight percentage under subpart 4 if accurate records and sufficient documentation are provided to the commissioner to substantiate the refund claim.

A. A claim for refund may include alternative information provided from a hubometer (hub meter) or similar device that accurately measures the road use mileage of a vehicle. This information is needed in order to separate the road miles from the PTO miles. The information provided must be sufficient to determine the actual number of miles for which the PTO is engaged while the vehicle is stationary. The refund will then be based on the actual amount of fuel used to run the PTO. This provision is only applicable if the claimant chooses not to take the straight percentage available under subpart 4, and if the claimant provides the commissioner with the documentation needed to substantiate the claim.

B. A claimant with a vehicle that contains an on-board computer, which enables the claimant to produce accurate printouts containing detailed information regarding the amount of fuel used to propel the PTO, may submit those printouts to the commissioner with a refund claim. In such a case, the applicable general percentage under subpart 4 will not be used and the computer information shall be used by the commissioner to independently calculate the refund.

C. A claimant may use an alternative method, other than those listed in item A or B, to calculate the refund, provided that the claimant furnishes the commissioner with the proposed formula to be used, or other manner of substantiation, and receives written prior approval from the commissioner to use the alternate method.

Subp. 6. Insufficient information or documentation. If the commissioner determines that the optional information provided under subpart 5 is not sufficient, the applicable general percentage under subpart 4 shall be used to calculate the refund.

Adopted Rules

A rule becomes effective after the requirements of *Minnesota Statutes* §§ 14.05-14.28 have been met and five working days after the rule is published in the *State Register*, unless a later date is required by statutes or specified in the rule.

If an adopted rule is identical to its proposed form as previously published, a notice of adoption and a citation to its previous *State Register* publication will be printed.

If an adopted rule differs from its proposed form, language which has been deleted will be printed with strikeouts and new language will be underlined. The rule's previous *State Register* publication will be cited.

Exempt Rules

An exempt rule adopted under *Minnesota Statutes* §§ 14.386 or 14.388 is effective upon its publication in the *State Register*.

Emergency Expedited Rules

Provisions for the Commissioner of Natural Resources to adopt emergency expedited Game and Fish Rules are specified in *Minnesota Statutes* §§ 84.027. The commissioner may adopt emergency expedited rules when conditions exist that do not allow the Commissioner to comply with the requirements for emergency rules. The Commissioner must submit the rule to the attorney general for review and must publish a notice of adoption that includes a copy of the rule and the emergency conditions. Emergency expedited rules are effective upon publication in the *State Register*, and may be effective up to seven days before publication under certain emergency conditions. Emergency expedited rules are effective for the period stated or up to 18 months.

Department of Commerce

Adopted Permanent Rules Governing Electronic Funds Transfer Terminals

The rules proposed and published at *State Register*, Volume 22, Number 7, pages 286-290, August 18, 1997 (22 SR 286), are adopted with the following modifications:

2675.8100 DEFINITIONS.

Subp. 3. **Card.** “Card” means the access device used to activate a terminal, including a credit card; or debit card; or stored value card. “Card” does not include an access device issued by a government agency solely for the purpose of electronic benefit transfer programs or stored value cards, except that a stored value card that also serves as an access device for electronic terminal transactions is considered to be a card to the extent it performs the functions of a credit card or debit card.

Subp. 5. **Control.** “Control” means the ownership of greater than 50 percent interest in the terminal or terminals; or any leasehold interest in the terminal or terminals; or the power to act as agent or card issuer authorized by those persons having ownership or leasehold interests in the terminal or terminals for purposes of the act and parts 2675.8100 to 2675.8190. No agency agreement effects transfer of control from an owner or leasehold interest unless the agreement is in writing and provides for assumption of all of the responsibilities and requirements of the act and parts 2675.8100 to 2675.8190 by the agent. If the agent is a financial institution, the agent is not required in the agreement to assume any responsibilities or requirements under the act or parts 2675.8100 to 2675.8190 which do not apply to terminals directly owned by financial institutions. If the agent is a national bank, federal savings association, or federal credit union, parts 2675.8100 to 2675.8190 apply to the extent permitted by federal law.

KEY: PROPOSED RULES SECTION — Underlining indicates additions to existing rule language. ~~Strike outs~~ indicate deletions from existing rule language. If a proposed rule is totally new, it is designated “all new material.” **ADOPTED RULES SECTION** — Underlining indicates additions to proposed rule language. ~~Strike outs~~ indicate deletions from proposed rule language.

Adopted Rules

Subp. 13. **Unauthorized withdrawal.** “Unauthorized withdrawal” is a withdrawal by a person other than the customer without actual authority to initiate the withdrawal, and from which the customer receives no benefit. The term does not include any withdrawal that is initiated:

A. by a person who was furnished with the card by the customer, unless the customer has notified the financial institution involved that the transfers by that person are no longer authorized;

B. with fraudulent intent by the customer or any person acting in concert with the customer; or

C. by the financial institution or its employee.

2675.8120 APPLICATION FOR AUTHORIZATION.

Any person, other than a state or federal savings association, savings bank or credit union, or state or national bank, seeking approval to establish and maintain a terminal or terminals at a specific location shall, not less than 45 days before the establishment of the terminal or terminals, file with the commissioner an application in a form provided by the commissioner entitled “Electronic Financial Terminal Authorization Application.” Such application shall include the following information:

G. a complete description of the physical and technical operation standards pertaining to the terminal, including information and specifications necessary to enable a financial institution that is eligible to share the terminal to obtain interface with the terminal, which description may be limited ~~by the commissioner~~ to the manufacturer, model number, and type of the terminal after a model of a terminal has been certified by the commissioner;

2675.8190 OTHER PERMISSIBLE ACTIVITIES, ELECTRONIC BENEFITS TRANSFER, CONSUMER CONVENIENCE SERVICES.

The limitation on the financial transactions authorized to be performed at a terminal does not prohibit using the terminal’s capability to:

B. deliver other consumer convenience services. These consumer convenience services include, but are not limited to, services that affect the payment for and dispense postage stamps, tickets, coupons, phone cards, or other media under agreements with affiliated or nonaffiliated businesses. ~~In determining the suitability of consumer convenience services, consideration shall be given to other applicable law, rule, or the effect on the safety and soundness of the terminal provider where a financial institution is under the supervision of the commissioner.~~

Department of Health

Adopted Permanent Rules Relating to Laboratory Accreditation Requirements

The rules proposed and published at *State Register*, Volume 22, Number 27, pages 1153-1161, January 5, 1998 (22 SR 1153), are adopted as proposed.

Secretary of State

Adopted Permanent Rules Relating to Presidential Primary Nominating Petitions

The rules proposed and published at *State Register*, Volume 22, Number 21, pages 918-922, November 24, 1997 (22 SR 918), are adopted with the following modifications:

8205.2000 FORM OF PROPOSED RECALL PETITION.

Subp. 2. **Completing the proposed recall petition.** ~~The information required in subpart 1, item B, subitem (1), must be completed by the person who signed the proposed petition. The person signing the petition shall complete the signature date, name, date of birth, and residence address lines on the petition.~~ A person physically unable to complete the proposed petition may ask another for assistance. An eligible voter may sign a proposed petition only once.

8205.2110 FORM OF RECALL PETITION.

Subp. 2. **Completing the recall petition.** ~~The information required in subpart 1, item B, subitem (1), must be completed by the person who signed the petition. The person signing the petition shall complete the signature date, name, date of birth, and residence address lines on the petition.~~ A person physically unable to sign the petition may ask another for assistance. An eligible voter may sign a recall petition only once.

8205.2120 VERIFYING THE RECALL PETITION.

Subpart 1. **Verifying the recall petition.** The secretary of state shall verify each recall petition by the following method.

C. The secretary of state shall use a random sampling technique to verify that the persons signing the petition are eligible voters.

(3) ~~The signatures secretary shall consecutively number every completed signature line on the petition. The signature lines on the petition that correspond to the random numbers generated constitute the sample for the verification process.~~

(4) The secretary of state shall verify that the address given by each signatory in the sample is in the district served by the state officer subject to the recall petition and that the birth date given by each signatory in the sample establishes that the signatory was at least 18 years old when the petition was signed. Signatures from persons determined by the secretary to be ~~invalid~~ ineligible to vote must not be counted.

(5) The secretary shall determine what percentage of the ~~signatures~~ signatories in the sample are ~~valid~~ eligible voters.

(6) The secretary shall multiply the total number of ~~signatures on the petition~~ signatories by the percentage of ~~valid signatures~~ signatories determined to be eligible voters in the sample to determine how many of the ~~signatures~~ signatories on the petition are deemed to be ~~valid~~ eligible voters.

(7) If the statistical sampling shows the number of ~~signatures~~ signatories deemed to be ~~valid on the petition~~ eligible voters is less than 100 percent of the required number and the 90-day time limit has expired during the verification process, the secretary shall dismiss the petition and notify the petitioners of the reasons for the dismissal.

(8) If the statistical sampling shows the number of ~~signatures~~ signatories deemed to be ~~valid on the petition~~ eligible voters is less than 100 percent of the required number but the 90-day time limit has not expired during the verification process, the secretary shall notify the petitioners:

D. If the secretary of state determines that the petition has been filed within the 90-day time limit, that the petition has been signed by the required number of signatories, and that the statistical sampling shows the number of ~~valid signatures~~ signatories who are eligible voters is 100 percent or greater of the required number, the secretary shall certify the petition and immediately send written notice to the governor, the petitioners, and the state officer subject to the petition.

KEY: PROPOSED RULES SECTION — Underlining indicates additions to existing rule language. ~~Strike outs~~ indicate deletions from existing rule language. If a proposed rule is totally new, it is designated "all new material." **ADOPTED RULES SECTION** — Underlining indicates additions to proposed rule language. ~~Strike outs~~ indicate deletions from proposed rule language.

Revenue Notices

The Department of Revenue began issuing revenue notices in July of 1991. Revenue notices are statements of policy made by the department that provide interpretation, detail, or supplementary information concerning a particular statute, rule, or departmental practice. The authority to issue revenue notices is found in *Minnesota Statutes* §270.0604.

Department of Revenue

Revenue Notice # 98-04: Sales and Use Tax - No Occasional Sales at Selling Events

For purposes of determining whether a person is making taxable retail sales, a flea market, fair, craft show, antique show, coin show, stamp show, comic book show, convention exhibit area, or similar selling event is considered to be a place of business. Any person who pays consideration of any kind to sell at such an event is considered to be in business and must collect sales tax on all retail sales of taxable items. Sales at such events cannot be considered occasional sales.

Example 1. A person inherits a train collection. They attend a train show and pay a fee to rent space at the show to sell the collection. The person must collect sales tax on all retail sales at the train show.

Example 2. A person has collected dolls and doll accessories for many years. They decide to attend a doll show to sell some of the collection. They must pay the operator a percentage of all sales as a fee for selling at the show. Sales of the collection are taxable.

Example 3. A person rents space at a flea market to sell items from an estate. They must collect sales tax on all taxable items sold at the flea market. Items such as furniture, books, jewelry, dishes, and appliances, are taxable. Sales of clothing are not taxable.

Example 4. A person rents a space at a craft fair to sell handmade jewelry. In addition to the sales made at the craft fair, orders are taken to make custom pieces for some customers. The custom jewelry is taxable when mailed or delivered to Minnesota customers; if the jewelry is shipped to customers outside Minnesota, no Minnesota tax is due.

Example 5. A church urges members to make craft items to sell at the church bazaar. No fee of any kind is charged to sell at the event. Several members make miscellaneous items to sell at the bazaar. These members did not buy their materials exempt from sales tax, and they do not normally make these, or similar items, to sell. The members selling the miscellaneous items at the bazaar are making occasional sales, and are not required to charge sales tax.

Example 6. A person regularly sells wooden shelves, bookcases, and other items at craft fairs, but occasionally they are also sold from the home. The person is in the business of making retail sales, and must collect sales tax on the sales whether the sale is made at a selling event or elsewhere.

Jennifer L. Engh
Assistant Commissioner for Tax Policy

Department of Revenue

Revenue Notice # 98-05: MinnesotaCare - Sale of Drugs By Hospitals and Health Care Providers

This Revenue Notice explains the application of the MinnesotaCare tax to payments received by a hospital, or by a health care provider ("provider"), for drugs that are sold or administered ("sold") to patients or consumers when a hospital or provider is part of the same legal entity as a pharmacy.

The MinnesotaCare tax is imposed on gross revenues received for patient services provided by a hospital or provider (a provider is a person whose health care occupation is regulated by the state, such as a physician). Patient services are defined in *Minnesota Statutes*, § 295.50, subdivision 9b, as "inpatient and outpatient services and other goods and services provided by hospitals, or health care providers." The list of patient services includes various "health care goods and services provided to a patient or consumer", including drugs. The tax is also imposed on gross revenues received by wholesale drug distributors from the sale of prescription (legend) drugs that are delivered in Minnesota. These wholesalers are allowed to pass on the expense of the tax to hospitals and providers that purchase the drugs. Hospitals and providers who pay the tax on receipts for patient services are allowed to deduct the cost of the legend drugs.

The MinnesotaCare law applies to drugs sold to patients or consumers in the following manner:

- All receipts from the sale of drugs by a hospital, including drugs sold by a pharmacy licensed as a hospital pharmacy under *Minnesota Rules*, chapter 6800, are patient services and, therefore, subject to the MinnesotaCare tax (unless excluded under one of the exemptions to the tax). This includes discharge drugs (take-home prescriptions) and drugs sold to employees.
- All receipts from the sale of drugs by a provider are subject to the MinnesotaCare tax (unless excluded under one of the exemptions to the tax).
- The receipts from the sale of drugs by a pharmacy licensed as a community pharmacy under *Minnesota Rules*, chapter 6800, are not subject to the MinnesotaCare tax even when the pharmacy is part of the same legal entity as a hospital or provider.

Jennifer L. Engh
Assistant Commissioner for Tax Policy

Official Notices

Pursuant to *Minnesota Statutes* §§ 14.101, an agency must first solicit comments from the public on the subject matter of a possible rulemaking proposal under active consideration within the agency by publishing a notice in the *State Register* at least 60 days before publication of a notice to adopt or a notice of hearing, and within 60 days of the effective date of any new statutory grant of required rulemaking.

The *State Register* also publishes other official notices of state agencies and non-state agencies, including notices of meetings and mat-

Department of Agriculture

Minnesota Rural Finance Authority

Notice of Public Hearing on the Issuance of an Agricultural Development Revenue Bond Under *Minnesota Statutes*, Chapter 41C, for 80 Acres of Bare Farmland in Ellington Township, Dodge County

NOTICE IS HEREBY GIVEN that a public hearing will be held on April 10, 1998, at 9 A.M. in Room 145 Department of Agriculture Building, 90 West Plato Boulevard, Saint Paul Minnesota, on a proposal that the Minnesota Rural Finance Authority (the Authority) issue its revenue bond under *Minnesota Statutes*, Chapter 41C, in order to finance the purchase of approximately 80 acres of bare farmland located in Section 12, Ellington Township, Dodge County, Minnesota on behalf of Scott R. and Lisa M. Androli, a married couple (the Borrowers). The maximum aggregate face amount of the proposed bond issue is \$75,700.00. The revenue bond will be a limited obligation of the Authority, payable solely from the revenue pledged to the payment thereof. No holder of such revenue bond will ever have the right to compel any exercise of the taxing power of the State of Minnesota to pay the bond or the interest thereon, nor to enforce payment against any property of the Authority or the State of Minnesota, except the revenues specifically pledged to the payment thereof. Before issuing the revenue bond, the Authority will enter into an agreement with the Borrower whereby the Borrower will be obligated to make payments at least sufficient at all times to pay the principal of and interest on such revenue bond when due. All persons interested may appear and be heard at the time and place set forth above, or may file written comments with the Executive Director of the Authority prior to the date of the hearing set forth above.

Dated: 4 March 1998

Jim Boerboom
RFA Director

Official Notices

Department of Agriculture

Minnesota Rural Finance Authority

Notice of Public Hearing on the Issuance of an Agricultural Development Revenue Bond Under *Minnesota Statutes*, Chapter 41C, for Construction of Two Swine Finishing Barns in Belmont Township, Jackson County

NOTICE IS HEREBY GIVEN that a public hearing will be held on April 10, 1998, at 9 A.M. in Room 145 Department of Agriculture Building, 90 West Plato Boulevard, Saint Paul Minnesota, on a proposal that the Minnesota Rural Finance Authority (the Authority) issue its revenue bond under *Minnesota Statutes*, Chapter 41C, in order to finance the construction of two swine finishing barns located in NE 1/4 Section 24, Belmont Township, Jackson County, Minnesota on behalf of Brian K. and Sandy L. Torgerson, a married couple (the Borrowers). The maximum aggregate face amount of the proposed bond issue is \$250,000.00. The revenue bond will be a limited obligation of the Authority, payable solely from the revenue pledged to the payment thereof. No holder of such revenue bond will ever have the right to compel any exercise of the taxing power of the State of Minnesota to pay the bond or the interest thereon, nor to enforce payment against any property of the Authority or the State of Minnesota, except the revenues specifically pledged to the payment thereof. Before issuing the revenue bond, the Authority will enter into an agreement with the Borrower whereby the Borrower will be obligated to make payments at least sufficient at all times to pay the principal of and interest on such revenue bond when due. All persons interested may appear and be heard at the time and place set forth above, or may file written comments with the Executive Director of the Authority prior to the date of the hearing set forth above.

Dated: 4 March 1998

Jim Boerboom
RFA Director

Department of Agriculture

Minnesota Rural Finance Authority

Notice of Public Hearing on the Issuance of an Agricultural Development Revenue Bond Under *Minnesota Statutes*, Chapter 41C, for Half Interest in Construction of a Finishing Barn in Sioux Valley Township, Jackson County

NOTICE IS HEREBY GIVEN that a public hearing will be held on April 10, 1998, at 9 A.M. in Room 145 Department of Agriculture Building, 90 West Plato Boulevard, Saint Paul Minnesota, on a proposal that the Minnesota Rural Finance Authority (the Authority) issue its revenue bond under *Minnesota Statutes*, Chapter 41C, in order to finance 1/2 interest in construction of a finishing barn located in Section 4, Sioux Valley Township, Jackson County, Minnesota on behalf of Mark D. Murphy, (the Borrower/s). The maximum aggregate face amount of the proposed bond issue is \$65,000.00. The revenue bond will be a limited obligation of the Authority, payable solely from the revenue pledged to the payment thereof. No holder of such revenue bond will ever have the right to compel any exercise of the taxing power of the State of Minnesota to pay the bond or the interest thereon, nor to enforce payment against any property of the Authority or the State of Minnesota, except the revenues specifically pledged to the payment thereof. Before issuing the revenue bond, the Authority will enter into an agreement with the Borrower whereby the Borrower will be obligated to make payments at least sufficient at all times to pay the principal of and interest on such revenue bond when due. All persons interested may appear and be heard at the time and place set forth above, or may file written comments with the Executive Director of the Authority prior to the date of the hearing set forth above.

Dated: 4 March 1998

Jim Boerboom
RFA Director

Department of Agriculture**Minnesota Rural Finance Authority****Notice of Public Hearing on the Issuance of an Agricultural Development Revenue Bond Under *Minnesota Statutes*, Chapter 41C, for Half Interest in Construction of a Finishing Barn in Sioux Valley Township, Jackson County**

NOTICE IS HEREBY GIVEN that a public hearing will be held on April 10, 1998, at 9 A.M. in Room 145 Department of Agriculture Building, 90 West Plato Boulevard, Saint Paul Minnesota, on a proposal that the Minnesota Rural Finance Authority (the Authority) issue its revenue bond under *Minnesota Statutes*, Chapter 41C, in order to finance 1/2 interest in construction of a finishing barn located in Section 4, Sioux Valley Township, Jackson County, Minnesota on behalf of Bradley Allen Murphy, (the Borrower/s). The maximum aggregate face amount of the proposed bond issue is \$65,000.00. The revenue bond will be a limited obligation of the Authority, payable solely from the revenue pledged to the payment thereof. No holder of such revenue bond will ever have the right to compel any exercise of the taxing power of the State of Minnesota to pay the bond or the interest thereon, nor to enforce payment against any property of the Authority or the State of Minnesota, except the revenues specifically pledged to the payment thereof. Before issuing the revenue bond, the Authority will enter into an agreement with the Borrower whereby the Borrower will be obligated to make payments at least sufficient at all times to pay the principal of and interest on such revenue bond when due. All persons interested may appear and be heard at the time and place set forth above, or may file written comments with the Executive Director of the Authority prior to the date of the hearing set forth above.

Dated: 4 March 1998

Jim Boerboom
RFA Director

Department of Agriculture**Minnesota Rural Finance Authority****Notice of Public Hearing on the Issuance of an Agricultural Development Revenue Bond Under *Minnesota Statutes*, Chapter 41C, for 80 Acres of Bare Farmland in Belmont Township, Jackson County**

NOTICE IS HEREBY GIVEN that a public hearing will be held on April 10, 1998, at 9 A.M. in Room 145 Department of Agriculture Building, 90 West Plato Boulevard, Saint Paul Minnesota, on a proposal that the Minnesota Rural Finance Authority (the Authority) issue its revenue bond under *Minnesota Statutes*, Chapter 41C, in order to finance the purchase of approximately 80 acres of bare farmland located in Section 1, Belmont Township, Jackson County, Minnesota on behalf of Jeffrey K. & Tracy R. Johnson, a married couple, (the Borrowers). The maximum aggregate face amount of the proposed bond issue is \$250,000.00. The revenue bond will be a limited obligation of the Authority, payable solely from the revenue pledged to the payment thereof. No holder of such revenue bond will ever have the right to compel any exercise of the taxing power of the State of Minnesota to pay the bond or the interest thereon, nor to enforce payment against any property of the Authority or the State of Minnesota, except the revenues specifically pledged to the payment thereof. Before issuing the revenue bond, the Authority will enter into an agreement with the Borrower whereby the Borrower will be obligated to make payments at least sufficient at all times to pay the principal of and interest on such revenue bond when due. All persons interested may appear and be heard at the time and place set forth above, or may file written comments with the Executive Director of the Authority prior to the date of the hearing set forth above.

Dated: 4 March 1998

Jim Boerboom
RFA Director

Official Notices

Board of Animal Health

Notice of Quarterly Meeting of the Board of Animal Health

The Board of Animal Health quarterly meeting will be Tuesday, April 14, 1998. The meeting will convene at 9:30 a.m. in conference room 2 in the Minnesota Department of Agriculture Building, 90 W. Plato Blvd., St. Paul, MN 55107.

Departments of Children, Families & Learning; Health and Human Services

Interagency Early Childhood Intervention Project

Notice of Public Comment on A Revision to the 1998-99 State Plan for Part H, IDEA: Natural Environments

NOTICE IS HEREBY GIVEN that the three state agencies, the Minnesota Departments of Children, Families and Learning; Health and Human Services seek public comment on a revision to the 1998-99 State Plan for Part H, IDEA regarding natural environments.

Representatives from the State Early Intervention Team (composed of staff from the Departments of Children, Families and Learning, Health and Human Services) will be present to receive oral or written testimony regarding this revision about natural environments to the Plan during the 3 IEIC Annual Plan regional meetings listed below:

The regional meetings are being held from 9:00 AM to 1:30 PM. The time for comment will begin at 1:30 PM.

April 7, 1998

Owatonna
•Ramada Inn
1212 Interstate 35
Phone: 507/455-0606

April 9, 1998

Bloomington
•Doubletree Grand Hotel @ Mall of America
7901 24th Ave. So.
Phone: 612/854-2244

April 15 1998

Bemidji
•Northern Inn
3600 Moberg Drive
Phone: 218/751-9500

Comments will also be received during the
ICC Meeting on Thursday, April 2nd at the
Sheraton Midway, St. Paul at 2:30 PM

Additional copies of the draft revision to the State Plan are available from Yolanda Sallis, Interagency Early Childhood Intervention Project, 305 Capitol Square Building, 550 Cedar St., St. Paul, MN 55101, (612) 297-7366. If you are unable to attend the regional meetings, written comments may be faxed to Jan Rubenstein, Interagency Early Childhood Intervention Project, Fax No: (612) 296-5076.

Minnesota Comprehensive Health Association

Notice of Meeting of the Communications Committee

NOTICE IS HEREBY GIVEN that a meeting of the Minnesota Comprehensive Health Association's (MCHA), Communications Committee will be held at 8:30 a.m. on Monday, March 30, 1998. The meeting will be at the MCHA executive office, 5775 Wayzata Blvd., Suite 910, St. Louis Park, MN.

For additional information, please call Lynn Gruber at (612) 593-9609.

Minnesota Comprehensive Health Association

Notice of Meeting of the Enrollee Appeal Committee

NOTICE IS HEREBY GIVEN that a meeting of the Minnesota Comprehensive Health Association's (MCHA) Enrollee Appeal Committee will be held on Friday, March 27, 1998, at Minnesota Comprehensive Health Association Executive Office, Suite 910, 5775 Wayzata Blvd., St. Louis Park, at 9:30 A.M.

This meeting may be closed to the public, if so requested by the appellant, pursuant to *Minnesota Statutes* 62E.10, subd. 4.

For additional information, please call Lynn Gruber at (612) 593-9609.

Gambling Control Board

Request for Comments on Planned Amendment to Rules Governing: *Minnesota Rules* 7861.0010 - Definitions, 7861.0080 - Pull-Tabs, and 7861.0110 - Raffles

Subject of Rules: The Minnesota Gambling Control Board requests comments on its planned amendment to rules governing:

- Definitions
- Pull-Tabs
- Raffles

The Board is considering rule amendments that would:

- explore the possibility of restructuring the rent limits for bar bingo, which would necessitate defining the term bar bingo; and
- allowing organizations to use merchandise prize certificates when conducting bingo, pull-tabs, tipboards, paddlewheels, and raffles.

Request for comments on the rules governing bingo, tipboards, and paddlewheels was published in the *State Register* on December 29, 1997.

The Board may consider additional rule amendments within the above-referenced chapters if issues are discovered during the course of rule development.

Persons Affected: The rule amendments would affect organizations that conduct bar bingo, pull-tabs, and raffles. If the Board does decide to proceed with rules limiting rent on bar bingo, owners of bars where bingo is conducted would be affected.

Statutory Authority: *Minnesota Statutes*, chapter 349.151, Subd. 4(a)(5) authorizes the Board to make rules authorized by chapter 349. *Minnesota Statutes* 349.18, Subd. 1(a) authorizes the Board to limit the amount of rent an organization may pay to a lessor for premises leased for lawful gambling. *Minnesota Statutes* 349.151, Subd. 4(a)(17) authorizes the Board to take all necessary steps to ensure the integrity of and public confidence in lawful gambling.

Public Comment: Interested persons or groups may submit comments or information on these planned rules in writing or orally until further notice is published in the *State Register* that the Board intends to adopt or withdraw the rules. The Board has appointed an Advisory Committee to comment on the planned rules. Notice of the membership of the Public Advisory Committee was published in the *State Register* on February 9, 1998.

Rule Drafts: The Board has not yet prepared a draft of the planned rule amendments.

Agency Contact Person: Written or oral comments, questions, requests to receive rule drafts, and requests for more information on these planned rules should be addressed to:

Sharon A. Beighley, Rules Coordinator
Minnesota Gambling Control Board
1711 West County Rd. B, #300S
Roseville, MN 55113
612-639-4035

TTY users may call the Board at 1-800-627-3529.

Official Notices

Alternative format: Upon request, this Request for Comments can be made available in alternative format, such as large print, Braille, or cassette tape. To make such a request, please contact the agency contact person at the address or telephone number listed above.

Note: Comments received in response to this Notice will not necessarily be included in the formal rulemaking record submitted to the Administrative Law Judge when a proceeding to adopt rules is started. The Board is required to submit to the judge only those written comments received in response to the rules after they are proposed.

Dated: 16 March 1998

Harry W. Baltzer, Executive Director
Minnesota Gambling Control Board

Department of Human Services

Request for Comments on Planned Repeal of Various Obsolete Rules

Subjects of Rules Repeal. The Department of Human Services requests comments on its planned repeal of rules that are obsolete. Rules become obsolete for such reasons as a statute or another rule supersedes the rule, or statutory authority for the rule is repealed, or the need originally addressed by the rule no longer exists or is met in an alternative way.

Specific rules being considered for repeal at this time are described below, along with the reasons for the proposed repeal. Any additional rules identified as obsolete will be described when the department publishes notice of intent to repeal obsolete rules on May 25, 1998 or later.

Parts 9500.2000 to 9500.2880, Administration of Aid to Families with Dependent Children, and Parts 9500.4000 to 9500.4340, Minnesota Family Investment Program, will be obsolete on July 1, 1998 because the rule parts are no longer needed in the transition to welfare reform. Welfare reform after July 1, 1998 will be implemented through the new statewide version of the Minnesota Family Investment Program (Statewide MFIP) enacted in statute (*Minnesota Statutes*, Chapter 256J) by the Minnesota legislature in 1997. The Aid to Families with Dependent Children program no longer exists; it has been replaced by Temporary Assistance to Needy Families (TANF).

Parts 9510.0010 to 9510.0480, Rates for Nursing Home Providers, are no longer used and no longer necessary because they have been superseded by DHS rule parts 9549.0010 to 9549.0080, Payment Rate Determination.

Parts 9510.0500 to 9510.0890, Rates for Providers of Residential Services for Mentally Retarded Persons, are also no longer used and no longer necessary because they have been superseded by DHS rule parts 9553.0010 to 9553.0080, Determination of Payment Rates for Intermediate Care Facilities for Persons with Mental Retardation.

Parts 9510.1000 to 9510.1110, Health Care Facility Reports, were promulgated in 1973 and superseded when *Minnesota Statutes*, section 256B.30, Health Care Facility Report, was updated in 1984 with detailed requirements which remain current.

Parts 9520.0010 to 9520.0230, Community Mental Health Services, are obsolete because differing funding mechanisms and different ways of administering county social services, including mental health services, have made these rule parts promulgated in 1976 irrelevant.

Persons Affected. No persons will be affected by repealing these rules because the repeals do not change the current status of any of the programs to which the rules are related. Programs themselves have either been replaced or are administered under a different rule or by statute.

Statutory Authority. Repealing rules is consistent with authority given the commissioner in *Minnesota Statutes*, section 256.01 and with the requirement in *Minnesota Statutes*, section 14.05, subdivision 5, that agencies identify and repeal rules that are obsolete.

Public Comment. Interested persons or groups may submit comments or information on the planned repeals in writing or orally until further notice is published in the *State Register* that the department intends to complete or withdraw the planned repeals. The department does not anticipate that a draft of the repealers will be available before the repealers are published. Written or oral comments, questions, and requests for more information on these planned repeals should be addressed to:

Alice Weck
Department of Human Services
444 Lafayette Road
St. Paul, MN 55155-3816
Phone: 612-297-4302

Comments submitted in response to this notice will not be included in the formal rulemaking record when a proceeding to repeal the rules is started.

David S. Doth
Commissioner

Metropolitan Airports Commission

Notice of Public Hearing Regarding Adoption of a Revision of Its Cart Ordinance (Ordinance #68)

NOTICE IS HEREBY GIVEN that on the 8th day of April, 1998 at 1:00 p.m. in the Lindbergh Terminal Building at Minneapolis-St. Paul International Airport, Room 3040, the Metropolitan Airports Commission will hold a public hearing to receive testimony relative to the adoption of:

REVISION OF ORDINANCE NO. 68 (CART ORDINANCE)

An Ordinance to promote and conserve public safety, health, peace, convenience, and welfare by regulating the use of the public properties owned by or under the supervision and control of the Metropolitan Airports Commission, including the regulation of electric Carts or other Carts, and drivers and Owners thereof in or about the Charles A. Lindbergh and Hubert H. Humphrey Terminals; and prescribing the penalties for violation thereof, and repealing Ordinance 68.

The Ordinance regulates electric Carts or other Carts at the Charles A. Lindbergh and Hubert H. Humphrey Terminals.

Copies of the draft Ordinance may be obtained by contacting:

Kira Doeblen
Metropolitan Airports Commission
6040 - 28th Avenue South
Minneapolis, MN 55450
(612) 726-8197

Dated: 23 March 1998

Jeffrey W. Hamiel, Executive Director
Metropolitan Airports Commission

Metropolitan Council

Environmental Services

Public Hearing on Draft Facilities Plan for the Centerville Interceptor Improvements - Project No. 9708 Centerville City Hall, 1880 Main Street, Centerville, MN 55038 April 29, 1998 - 7:00 p.m.

The Metropolitan Council will hold a public hearing on the facility planning study for Centerville Interceptor Improvements. This study examines and determines the most cost-effective way to provide sewer service to the northeast metropolitan area. The study evaluates alternatives to replace the aging Centerville Lift Station and its forcemain and provides an overall review of the interceptor system. Facilities were evaluated for their reliability and ability to convey wastewater flow through the year 2040.

Copies of the Facility Plan are available for review at Metropolitan Council Environmental Services Office of Customer Relations and Environmental Education, at 230 East Fifth Street, St. Paul, MN 55101; the White Bear Lake Library, 4698 Clark Avenue, White Bear Lake, MN, 55110; and at the Forest Lake Library, 220 North Lake Street, Forest Lake, MN 55025.

All interested persons are encouraged to attend the hearings and provide comments.

Comments, which must be received by 5:00 p.m. Thursday, May 14, 1998, may also be submitted as follows:

- Send written comments to: Pauline Langsdorf at Metropolitan Council Environmental Services, 230 East Fifth Street, St. Paul, MN 55101
- FAX comments to Pauline Langsdorf at (612) 602-1003
- Record comments on the council's Public Comment Line at 602-1500
- E-mail comments to data.center@metc.state.mn.us
- Send TTY comments to 291-0904

Upon request the Council will provide reasonable accommodations to persons with disabilities. Requests must be received prior to April 15, 1998.

Additional information can be obtained from Metropolitan Council Environmental Services Office of Customer Relations and Environmental Education at 602-1805.

Professional, Technical & Consulting Contracts

Minnesota Property Insurance Placement Facility (Minnesota FAIR Plan)

Applications Sought for Receptionist-Operations Assistant, Accounting/Bookkeeper, Field Representative

Insurance: "WE'RE GROWING"

Minnesota Property Insurance Placement Facility's (MN FAIR Plan) is now hiring. We will interview applicants for the following positions:

Receptionist-Operations Assistant: Duties are to answer phones, greet & assist clients, mail, filing, order supplies, assist in the daily operation of the Company. Prepare and mail binders, renewal and new business invoices, assist with quotes for new business. General knowledge of office equipment is desirable. Computer and previous office experience a plus.

Accounting/Bookkeeper: Compile periodic financial reports, work as liaison with financial auditors, maintain all accounting reports, handle A/P & A/R, policy cancellations, commissions, administer escheats, prepare and file necessary taxes for the State of Minnesota. Serve as the backup for the Company's Administrative Assistant. Accounting experience is desirable. A working knowledge of Platinum software is a definite plus.

Field Representative: Evaluate and appraise property risks within the 7 county metro area. Individual would work from "home" base. Must be a self starter and capable of working independently with a minimum of supervision.

Minnesota Property Insurance Placement Facility offers a pleasant and professional work environment in downtown Minneapolis. Benefits include: business-casual attire; 37 1/2 hour work week, health insurance, pension, 401K and paid parking for office staff. Our competitive salary, for all positions, is based on qualifications. To join our team, send or fax your resume to:

L. Thompson, Human Resources
Minnesota Property Insurance Placement Facility
1201 Marquette Avenue Suite 310
Minneapolis, MN 55403
FAX: (612) 338-4543

NO phone calls, please. Minnesota Property Insurance Placement Facility is an EOE

Professional, Technical & Consulting Contracts

Department of Administration procedures require that notice of any consultant services contract or professional and technical services contract which has an estimated cost of over \$10,000 be printed in the *State Register*. These procedures also require that the following information be included in the notice: name of contact person, agency name and address, description of project and tasks, and final submission date of completed contract proposal.

In accordance with *Minnesota Rules* Part 1230.1910, certified Targeted Group Businesses and individuals submitting proposals as prime contractors shall receive the equivalent of up to 6% preference in the evaluation of their proposal. For information regarding certification, call the Materials Management Helpline (612) 296-2600 or [TTY (612) 297-5353 and ask for 296-2600].

Department of Administration

State Designer Selection Board

Request for Proposals for the Department of Corrections, Expansion of the Departmental Infirmary and Mental Health Units and Upgrade the Existing Clinic, Infirmary and Mental Health Facilities, MCF-Oak Park Heights

IN AN ATTEMPT TO FACILITATE COMMUNICATION, THE STATE DESIGNER SELECTION BOARD HAS MADE SOME CHANGES IN THEIR STANDARD RFP LANGUAGE. PLEASE READ CAREFULLY THE SECTIONS THAT ARE IN BOLD TYPE AS THEY CONTAIN REVISIONS TO THE RFP.

To Minnesota Registered Design Professionals:

The State Designer Selection Board has been requested to select consultants for a project. Design firms who wish to be considered for these projects must deliver proposals on or before 4:00 p.m., Monday, April 6, 1998, to:

Audrey Clasemann, Executive Secretary
State Designer Selection Board
Department of Administration
50 Sherburne Avenue, Room G-10
St. Paul, Minnesota 55155-3000
(612) 296-4656

The proposals must conform to the following:

1. **Seven (7) copies of the proposal will be required plus one additional unbound copy in black and white for micro fiche purposes only.**
2. All data must be on 8 1/2" x 11" sheets, soft bound. No more than 20 printed faces will be allowed (see the following bullet points for clarification).
 - Any letters directed to the Board shall be bound into the proposal and all pages will be counted as printed face(s). It is not necessary to do a cover letter to the Executive Secretary.
 - Blank dividers (with printed tab headings only) are not counted as faces.
 - Front and back covers of proposals are not counted as faces.
 - None of the statutory, mandatory, or optional information, except as required in 3) below, shall appear on the dividers or covers.
3. The front cover of the proposal must be clearly labeled with the project number, as listed in 7) below, together with the designer's firm name, address, telephone number, fax number, and the name of the contact person. The back cover shall remain blank.
4. Brief Proposal Summary:

All proposals shall begin with a summary which includes only the following items:

- a. Name of firm and its legal status;
- b. Names of the persons responsible for the management, design, and production of each major element of the work, including consultants, as well as Minnesota registration numbers for all (e.g., architects, civil/electrical/mechanical/structural engineers, landscape architects, land surveyors, and geotechnical);
- c. The proposal shall contain a statement indicating that the consultants listed have been contacted and have agreed to be a part of the design team;
- d. A commitment to enter the work promptly, if selected, by engaging the consultants and assigning the persons named in 4.b above, along with adequate staff to meet the requirements of work;
- e. A list of State and University of Minnesota current and past projects and studies awarded to the prime firms(s) submitting this proposal during the four years immediately preceding the date of this request for proposal. For the purposes of this list, "awarded" shall mean you have been selected for a given project regardless of the status of the contract.

The prime firm(s) shall list and total all fees associated with these projects and studies whether or not the fees have been received or are anticipated. In addition, the prime firm(s) shall indicate the amount of fees listed which were paid directly to engineers or other specialty consultants employed on the projects and studies listed pursuant to the above.

NOTE: Please call the Executive Secretary at (612) 296-4656 and leave your address or fax number to receive a copy of the acceptable format for providing this information.

- f. **Minnesota Statutes, Section 363.073, subd. 1, in part, requires: "No department or agency of the state shall accept any bid or proposal for a contract or agreement unless the firm or business has an affirmative action plan submitted to the commissioner of human rights for approval. No department or agency of the state shall execute any contract or agreement for goods or services in excess of \$100,000 with any business having more than 40 full-time employees, either within or outside this state, on a single working day during the previous 12 months, unless the firm or business has an affirmative action plan for the employment of minority persons, women, and the disabled that has been approved by the commissioner of human rights. Receipt of a certificate of compliance issued by the commissioner shall signify that a firm or business has an affirmative action plan that has been approved by the commissioner." Therefore, the proposal shall include one of the following:**

Professional, Technical & Consulting Contracts

- 1) A copy of your firm's current certificate of compliance issued by the Commissioner of Human Rights; or
 - 2) A statement certifying that the firm has a current certificate of compliance issued by the Commissioner of Human Rights; or
 - 3) A statement certifying that the firm has applied for Affirmative Action Plan Approval to the Commissioner of Human Rights and the date when such application was received by the Commissioner of Human Rights.
 - 4) A statement certifying that the firm has not had a cumulative total of more than 40 full-time employees at any time during the previous 12 months, anywhere in the United States. Any questions regarding this topic may be directed to the Department of Human Rights, (612) 296-5663 Phone & (612) 296-9042 Fax.
5. Additional Mandatory Proposal Contents:
- a. A section containing graphic material (e.g., photos, plans, drawings, etc.) as evidence of the firm's qualifications for the work. The graphic material must be identified. It must be work in which the personnel listed in 4 b) above have had significant participation and their roles must be clearly described. It must be noted if the personnel were, at the time of the work, employed by other than their present firms.
 - b. Expanded resumes showing qualification of individuals, listed in 4.b) above, administering or producing the major elements of the work, including consultants. Identify roles that such persons played in projects which are relevant to the project at hand.
 - c. A discussion of the firm's understanding of and approach to the project.
 - d. A listing of relevant past projects.
6. Design firms wishing to have their proposals returned after the Board's review must follow one of the following procedures:
- a. Enclose a *self-addressed stamped* postal card with the proposals. Design firms will be notified when material is ready to be picked up. Design firms will have two weeks to pick up their proposals, after which time the proposals will be discarded; or
 - b. Enclose a *self-addressed stamped* mailing envelope with the proposals. When the Board has completed its review, proposals will be returned using this envelope.

In accordance with existing statutes, the Board will retain one copy of each proposal submitted.

Any questions concerning the Board's procedures or their schedule for the projects herein described may be referred to the Executive Secretary at (612) 296-4656.

7. PROJECT 3-98

Department of Corrections

MCF—Oak Park Heights

Expansion of the Departmental Infirmary and Mental Health Units and Upgrade the Existing Clinic, Infirmary and Mental Health Facilities Oak Park Heights, Minnesota

1. PROJECT DESCRIPTION:

The Department of Corrections is planning to expand the departmental infirmary and mental health units and upgrade the existing clinic, infirmary and mental health facilities at MCF-Oak Park Heights, a Custody Level 6 facility. The purpose of this project is to help reduce/contain costs and to provide sufficient capacity to meet the current and future medical needs of the Department. The predesign phase of this project has been completed and will be available for review at the Division of State Building Construction, G-10 Administration Building, 50 Sherburne Avenue, St. Paul, Minnesota.

- Convert the existing 52-bed special housing unit to a 45-bed departmental mental health unit.
- Expand the existing 13-bed infirmary into a 39-bed departmental-wide infirmary, using space vacated by the relocation of the mental health unit.
- Upgrade existing medical clinic to serve as a departmental outpatient clinic facility.
- Total of 50,817 square feet of expansion and upgrade is planned.
- Perimeter security upgrade in the form of security fence and gate in front of the existing intake vehicle garage.

2. REQUIRED CONSULTANT SERVICES:

The project requires full design services including architectural, mechanical, electrical, structural and civil engineering, acoustical design, project scheduling, cost estimating, bidding, and construction administration services. The consultant shall work with the facility on security issues.

3. DESIGNER REQUIREMENTS:

Prior experience in Corrections is preferred but not required.

4. CONSTRUCTION BUDGET/FEES:

The current construction budget is estimated to be approximately \$1,784,000. The project costs, including all fees, permits, departmental furnishings, and equipment purchases, have been fixed at \$2,613,000. Design fees available for this project, including travel and reimbursables, are approximately \$173,000.

5. PROJECT SCHEDULE:

The schematic design phase shall begin as soon as the consultant basic services agreement has been executive and shall be finished by July 31, 1998. Design Development shall be completed by September 30, 1998. The Construction Document phase shall begin near the end of October 1998 upon receipt of legislative approval, and be completed by the end of 1998. The project will be bid during January 1999. Construction will start around March 1, 1999, and is expected to take about seven months.

6. INFORMATIONAL MEETING/SITE VISIT:

An informational meeting will be held on Tuesday, March 31, 1998, at 9:30 a.m. in the Administration Building at MCF-Oak Park Heights, 5329 Osgood Avenue, Stillwater, Minnesota. Preregistration and a photo ID will be required for entry. To preregister, call Brian Pawlak, (612) 779-1950, and give your name and the firm's name. No cameras, cell phones, or tobacco products will be allowed in the facility. You will be required to walk through the metal detector. Additional programming and predesign information will be made available to the firms chosen for the short list only.

7. PROJECT CONTACT:

Questions concerning the project should be referred to:

Mr. Joseph R. Miller
Capitol Resource Administrator
Department of Corrections
1450 Energy Park Drive, Suite 200
St. Paul, MN 55108-5219
Phone: (612) 642-0247
Fax: (612) 603-0150

Ms. Kath Ouska, Project Manager
Division of State Building Construction
Department of Administration
G-10 Administration Building
50 Sherburne Avenue
St. Paul, MN 55155
Phone: (612) 296-4644
Fax: (612) 296-7650

This project will not proceed unless funding is appropriated during the 1998 Legislative Session (May 1998).

8. STATE DESIGNER BOARD SCHEDULE:

Project Site Visit:	Tuesday, March 31, 1998, at 9:30 a.m.
Project Proposals Due:	Monday, April 6, 1998, by 4:00 p.m.
Project Short List:	Tuesday, April 21, 1998, at 9:00 a.m.
Project Interviews & Award:	Tuesday, May 5, 1998, at 9:00 a.m., G-10 Administration Building

Douglas Wolfangle, P.E., Chair
State Designer Selection Board

JOINT NOTICE:

Department of Administration

Department of Transportation

Addendum to Request for Proposals for Design and Development of the Duluth Area Transportation Operations Center, the St. Cloud Area Transportation Center, and the Southwest and West Central Minnesota Transit Link System

NOTICE IS HEREBY GIVEN that an addendum was issued on Friday 13 March 1998 to the RFP (Request for Proposal) published in the *State Register*, Volume 22, Number 34, page 1457 (22 S.R.1457) Monday 23 February 1998.

The proposal opening date of April 3, 1998 at 3:00 p.m. has not changed. Contact the Department of Administration's Materials Management Division (MMD), Attn: Don Olson for a copy at FAX (612) 297-3996.

Department of Children, Families and Learning

Office of Community Services

Request for Proposals to Evaluate and Assist Abused Children Intervention Programs

The Department of Children, Families and Learning requests proposals to evaluate abused children intervention programs and to assist Abused Children Program grantee organizations statewide in the development and implementation of effective evaluation.

Project Cost: The department has estimated that the cost of this project should not exceed \$40,000.

Proposals Due By: April 30, 1998.

Estimated Project Period: May 25, 1998 through June 30, 1999.

To request a copy of the full Request for Proposal contact:

Nancy Brown Glenn
Office of Community Services,
Department of Children, Families and Learning
550 Cedar Street
St. Paul, MN 55101
612/297-7311

This request for proposal does not obligate the state to complete the project, and the state reserves the right to cancel the solicitation if it is considered to be in its best interest.

In compliance with *Minnesota Statutes* 16B.167, notice of this contracting opportunity will be published at state agencies. The responses of any state employee will be evaluated along with other responses to this Request for Proposal.

North Hennepin Community College

Request for Proposal (RFP) for Food Service at North Hennepin Community College

Introduction: North Hennepin Community College, Brooklyn Park, is soliciting bids for the management of its Food Service, beginning July 1, 1998.

Proposal Due Date: Vendor proposals are due no later than March 30, 1998. Proposals must be submitted to Kitty Hennemann, Director of Student Life, North Hennepin Community College, 7411 85th Ave N., Brooklyn Park, MN 55445. Specifications can be obtained by calling 424-0803.

Site Inspection and Briefing: North Hennepin Community College will host a briefing session and site inspection March 16, 1998, from 7:30 p.m. to 9:00 p.m. for interested bidders. Call Kitty Hennemann at 424-0803 to schedule an appointment.

Proposal Issue Date: February 23, 1998.

Department of Employee Relations

Minnesota's Long-Term Care Insurance Initiative

Notice of Request for Information for Long-Term Care Insurance

The Minnesota Department of Employee Relations (DOER), on behalf of Minnesota's Long-Term Care Insurance Initiative, is requesting information from qualified vendors to assist in developing an optional long-term care insurance program for public employees, retirees, and selected family members.

The purpose of the request is:

1. To identify potential insurers/vendors
2. To gather information regarding financing capabilities
3. To identify current plan design offerings
4. To assess current capabilities and experience with group products

To fulfill this purpose, DOER is requesting information concerning:

1. Companies
2. Staff and systems support
3. Plan design
4. Premiums and contracts
5. Underwriting
6. Administration, communications and marketing

A Request for Information containing further details may be obtained by contacting:

Address: Paul Strebe, LTCI Project Coordinator
Minnesota Department of Employee Relations
658 Cedar St.
St. Paul, MN 55155
Phone: 612/282-2438
Fax: 612/297-5471
E-mail: paul.strebe@state.mn.us

Department of Natural Resources

Minerals Division

Request for Proposals for Photogrammetric Mapping Services

The Department of Natural Resources, Minerals Division, is seeking photogrammetric mapping services to obtain geo-referenced digital terrain models (DTMs), digital contour lines, black and white aerial photography, and possibly, geo-referenced digital orthophotos for the land surface of the Mesabi Iron Range. The photographic base requested shall cover approximately 830 square miles. The DTMs requested shall cover approximately 250 square miles and, once generated, shall be merged with existing DTMs that cover an additional 155-175 square miles. DTM and contour coverages produced pursuant to this solicitation shall accurately depict terrain such that 90 percent of elevation postings are within 1/2 contour interval (2.5 feet), 100 percent of elevation postings are within 1 contour interval (5 feet), and overall Root Mean Square Error (RMSE) is within 1/2 contour interval (2.5 feet). Contractor shall supply the control needed to meet these precision and accuracy requirements. Proposals are due no later than 4:00PM, April 6, 1998.

Details are contained in a complete Request for Proposals which may be obtained by contacting:

David Dahl
Project Coordinator
DNR - Minerals
1525 3rd Avenue East
Hibbing, MN 55746
218/262-7322 (Voice)
218/262-7328 (FAX)
e-mail: dave.dahl@dnr.state.mn.us

Proposals are due no later than 4:00 p.m., April 6, 1998.

Professional, Technical & Consulting Contracts

Public Employees Retirement Association

Request for Proposals (RFP) for Actuarial Consultant Services

Public Employees Retirement Association of Minnesota (PERA) is soliciting proposals from qualified actuarial firms interested in serving as consulting actuary for the period beginning July 1, 1998 and ending June 30, 2000. The resulting contract may be extended beyond the initial two-year term in one-year increments at a price mutually agreed upon by both parties; however, the number of one-year extensions may not exceed three. Additional services to the contract may be negotiated separately by both parties in writing at a mutually agreed upon price. Primary duties will include providing various consultation and advisory services to the PERA Board of Trustees and Executive Director and performing annual actuarial valuations and reviews of quadrennial experience studies and projection valuations of the PERA-administered retirement plans. The actuarial valuations will supplement those prepared by the actuary retained by the Legislative Commission on Pensions and Retirement.

Qualified actuaries must be regularly engaged in the business of providing actuarial services and have at least 15 years experience with major public employee pension funds or designation as a fellow in the society of actuaries.

Details are contained in a Request for Proposal which may be obtained by calling or writing:

Sally Kupferschmidt, Executive Secretary
PERA
Suite 200 - Skyway Level
514 St. Peter Street
St. Paul, MN 55102
Telephone: (612) 296-7489
Fax: (612) 297-2547

The total estimated contract cost including compensation for all services rendered for the first two years of the contract, travel, communications, computer charges and other costs, should not exceed \$200,000. The deadline for proposal submission is 4:00 p.m. on Monday, April 20, 1998.

Pollution Control Agency

Request for Proposals for Freeway Sanitary Landfill Final Closure Design and Construction Oversight

NOTICE IS HEREBY GIVEN that the Minnesota Pollution Control Agency, Closed Landfill Cleanup Program is seeking proposals from qualified consultants to design and oversee the construction of a landfill final cover system, including a landfill gas control system. The term of the contract will be from May 1998 through June 2001.

A complete Request for Proposal (RFP) package describing the required content of proposals as well as a model contract have been prepared. Requests for the complete RFP packet should be directed to:

Donald B. Abrams
Minnesota Pollution Control Agency
Solid Waste Section
520 Lafayette Road
St. Paul, Minnesota 55155
(612) 296-9543 (Voice)
(612) 296-9707 (Fax)

Proposals must be time stamped by the MPCA not later than 2:00 P.M. on April 21, 1998. Late submittals will not be accepted.

Pollution Control Agency

Request for Proposals for Multiple Award Contract to do Design and Construction Oversight At Closed Landfills in the Closed Landfill Program

NOTICE IS HEREBY GIVEN that the Minnesota Pollution Control Agency (MPCA) is seeking proposals from contractors qualified to perform investigations, design, construction oversight and Contract bidding at closed landfills. The MPCA desires to contract with these qualified contractors for services during fiscal year 1999 through fiscal year 2001. No actual work or payment is guaranteed pursuant to the contract.

The term of the contract will be three years with an execution date anticipated for July 1, 1998. The MPCA may contract with multiple contractors and the MPCA reserves the right to limit the number of parties to the contract.

A complete Request for Proposal (RFP) describing the requirements necessary for the contract has been prepared. Requests for the complete RFP document should be directed to:

Ronald R. Schwartz
Minnesota Pollution Control Agency
Solid Waste Section
520 Lafayette Road
St. Paul, Minnesota 55155
(612) 297-2915 (Voice)
(612) 296-9707 (Fax)

Proposers should submit in writing a list of questions they would like addressed. Questions must be faxed or mailed to Ronald R. Schwartz and received by 4:00 p.m. on April 9, 1998.

The deadline for receipt of completed proposals is 2:00 p.m. on April 27, 1998. Proposals should be submitted to the attention of the above MPCA contact person. Late submittals will not be accepted.

Peder A. Larson
Commissioner

Department of Trade and Economic Development

Minnesota Office of Tourism

Request for Proposals for Design and Pre-Press Production of Travel Guide

The Minnesota Office of Tourism (MOT), a division of the state Department of Trade and Economic Development, is seeking proposals for the page layout, ad preparation and pre-press production of the 1999 *Explore Minnesota Travel Guide* to be published by MOT. The graphic design of the current, 1998 edition will be followed in the new, 1999 edition, so design services in this contract will not include a new design for this publication. The services will be provided under a contract for a period of approximately seven months, anticipated to be from June 1-December 31, 1998. The vendor must provide these services in a high quality, efficient and cost-effective manner. The guide will be approximately 120-128 pages, including cover, 8.5 X 11 inches. MOT will provide the editorial content of the guide and all photography, and will sell ad space to tourism promotion organizations and businesses. To obtain a complete copy of the RFP contact:

Minnesota Office of Tourism
500 Metro Square
121 7th Place East
St. Paul, MN 55101-2146
Phone: 612/296-5028
E-mail: joan.hummel @state.mn.us

The proposal deadline is 4:00 p.m., Friday, April 10, 1998. Proposals received after the deadline will not be considered.

The State reserves the right to withdraw this request at any time and to waive irregularities and formalities in the award of one or more contracts. The State likewise is not obligated to award in accordance with any one proposal and may negotiate with vendors to secure the services of one or more vendors that appear to best meet the State's needs.

Non-State Public Bids, Contracts & Grants

The *State Register* also serves as a central marketplace for contracts let out on bid by the public sector. The *Register* meets state and federal guidelines for statewide circulation of public notices. Any tax-supported institution or government jurisdiction may advertise contracts and requests for proposals from the private sector.

It is recommended that contracts and RFPs include the following: 1) name of contact person; 2) institution name, address, and telephone number; 3) brief description of project and tasks; 4) cost estimate; and 5) final submission date of completed contract proposal. Allow at least three weeks from publication date (four weeks from date article is submitted for publication). Surveys show that subscribers are interested in hearing about contracts for estimates as low as \$1,000. Contact the editor for further details.

University of Minnesota

Notice of Bid Information Service (BIS) Available for All Potential Vendors

The University of Minnesota offers 24 hour/day, 7 day/week access to all Requests for Bids/Proposals through its fax back Bid Information Service (BIS). Subscriptions to BIS are \$75/per fiscal year (not prorated). Call 612-625-5534 for information or visit our web site at <http://purchserv.finop.umn.edu>. Choose BID information Service.

Requests for Bids/Proposals are available to the public at no charge each business day from 8:00 a.m. - 4:30 p.m. in Purchasing Services lobby, Suite 560, 1300 S. 2nd Street, Mpls, MN 55454.

University of Minnesota

1998 Prequalification of General Contractors to Perform Services at the University of Minnesota Twin Cities Campus

The University of Minnesota Facilities Management Department is accepting submittals from General Contractors who are interested in seeking prequalification for the University's 1998 Comprehensive Construction Contracting Services Program for large construction projects (over \$2,000,000 total project cost).

The University is NOT soliciting or accepting submittals for prequalification for small construction projects (under \$2,000,000) in 1998.

Only annual contractors who have successfully prequalified under this program may bid or propose on construction projects at the University of Minnesota's Twin Cities Campus.

All interested parties are required to submit information using the forms provided in the University of Minnesota's Comprehensive Construction Contracting Services Program Prequalification Document Package. Successful prequalification will be determined by the information provided in the contractor's completed submittal of this document package.

Prequalification Document Packages can be picked up in person at the following location:

University of Minnesota
Room 400 Donhowe Building, Reception Desk
319 15th Avenue Southeast
Minneapolis, MN 55455

Prequalification Packages will be available as a hard copy (paper), or on a 3 1/2" IBM compatible floppy disk in the WordPerfect for Windows and Microsoft Word formats.

Questions can be directed to:

Kevin McCourt
Phone: (612) 626-8973
E-Mail: mccourtk@fm.facm.umn.edu (E-Mail is preferred.)

The deadline for submittals is 3:00 p.m. Friday May 8, 1998.