

Minnesota Attorney General: Administrative Rules Proceedings

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Version 3
August 20, 2018

DEPARTMENT: Office of the Attorney General

STATE OF MINNESOTA

OFFICE MEMORANDUM

DATE: November 30, 1990

TO: CAROL MILLIGAN
Planning Division
Department of Agriculture

FROM: CHRISTIE ELLER CBE
Assistant Attorney General

PHONE: 296-9421

SUBJECT: **In the Matter of the Proposed Permanent Rules Relating to Sanitation Requirements for Vending Machine Operations and In the Matter of the Adopted Permanent Rules Relating to Food Vending Machines**

The above-referenced rule has been approved as to its legality by the Attorney General on November 30, 1990.

Enclosed is your copy of the approved rule. This office has already filed two copies with the Secretary of State, who will forward one copy to the Revisor of Statutes. The fourth is being retained by this division of the Attorney General's Office for its records.

Also enclosed are any petitions, requests, submissions or comments along with any extra copies of documents which you submitted to the Attorney General.

Your next step is to arrange for publication of the Notice of Adoption in the State Register. In a day or two, you should receive from the Revisor's Office three copies of the notice of adoption of your rule. You should submit two copies of the Notice of Adoption to the State Register for publication. A permanent rule without a hearing does not become effective until five days after a notice of adoption is published in the State Register in accordance with Minn. Stat. § 14.27. An emergency rule becomes effective five working days after approval by the Attorney General; however, the agency must publish a notice in the State Register in accordance with Minn. Stat. § 14.34.

If you have any questions in this regard, please contact me.

CBE:cy.ag3
Enclosures
cc: William Brown, Chief Judge
MaryAnn Hruby
Paul Strandberg

RULE REVIEW CHECKLIST

File No. 1718
DATE RECEIVED 11-16-90
REVIEW DATE 11-26-90
DUE DATE 11-30-90
(DIS)APPROVED
WITHDRAWN

Docket No. 05 0009 0986
ADOPTED W/O HEARING
EMERGENCY RULE
TO REVISOR ON 11/20/90
REVISOR (DIS)APPROVED
FILED W/SEC. OF STATE 11/30/90
RETURNED TO AGENCY 11/30/90

✓ Rule as adopted (4 copies)

Notice to Solicit Outside Information/Opinion (if applicable)
Date published in State Register
Comments

Petition for Adoption of a Rule

Board's Authorizing Resolution
Date adopted

✓ Proposed Rule
✓ Revisor's Certificate

✓ Notice of Intent to Adopt Rule
31.11 Statutory Authority
N/A Small Business Statement
N/A Expenditure of public money statement
Sept 11, 1990 Signature

✓ Statement of Need and Reasonableness (if applicable)
✓ Small Business Statement
Fees - § 16A.128

✓ Affidavit of Mailing Notice of Intent to Adopt Rule
October 3, 1990 Dated (30)/25 days before adoption
Notice attached indicates it is attached
Copy of rule or summary attached

✓ Publication in State Register
October 8, 1990 Date (30)/25 days before adoption

✓ 180-day deadline from:
* see notes Effective date of law requiring rule (14.12) (both rules) amendments don't apply
✓ end of comment period (§ 14.26) (rules without hearing)
effective date of statutory authority (§ 14.29) (emergency rules)

Resolution Adopting
Date adopted

✓ Findings of Fact, Conclusions & Order Adopting
November 8, 1990 Date

Written Requests, Submissions or Comments

Declaration of Attorney
Paul Strandler Name of SAAG representing agency

Notice of Submission to Attorney General (if applicable)

Affidavit of Mailing Notice to Attorney General (if applicable)

RULE REVIEW CHECKLIST
RESUBMITTED RULE

File No. 1718 Docket No. 05 0009 0986

RESUBMISSION DATE 11-16-90
DATE DUE 11/30/90

ADOPTED W/O HEARING _____
EMERGENCY RULE _____

APPROVED _____
DISAPPROVED _____
WITHDRAWM _____

REVISOR APPROVED _____
REVISOR DISAPPROVED _____
FILED W/SEC. STATE _____
RETURNED TO AGENCY _____

____ **Does the revision raise significant new legal issues?**

____ Review date

✓ Rule as adopted (4 copies) – Changes were made on the rule pursuant to Findings

✓ Supplemental Findings of Fact, Conclusions & Order Adopting

____ Board's Supplemental Resolution Adopting

____ Notice of submission to Attorney General

____ Affidavit of Mailing Notice to Attorney General

Department of Agriculture

Adopted Permanent Rules Relating to Sanitation Requirements for Vending Machine Operations

Rules as Adopted

REPEALER. Minnesota Rules, parts 4635.0300; 4635.0400; 4635.0500; 4635.0600; 4635.0700; 4635.0800; 4635.0900; and 4635.1000 are repealed.

STATE OF MINNESOTA
DEPARTMENT OF STATE
FILED

NOV 3 0 1990

Joan Anderson Growe

Secretary of State

12:00 pm

APPROVED AS TO FORM AND LEGALITY

Nov 30 1990

HUBERT H. HUMPHREY, III
ATTORNEY GENERAL

BY Christie B Elles
ASSISTANT ATTORNEY GENERAL

Department of Agriculture

Adopted Permanent Rules Relating to Food Vending Machines

Rules as Adopted

1550.5000 DEFINITIONS.

Subpart 1. **Scope.** For the purpose of parts 1550.5000 to 1550.5130, the terms in this part have the meanings given them.

Subp. 2. **Bulk food.** "Bulk food" means a food that when dispensed to the customer is not packaged, wrapped, or otherwise enclosed.

Subp. 3. **Commissary.** "Commissary" means a catering establishment, restaurant, or other place in which food, containers, or supplies are kept, handled, prepared, packaged, or stored for use in vending machines. The term does not apply to an area or conveyance at a vending machine location used for the temporary storage of packaged food or beverages.

Subp. 4. **Corrosion-resistant materials.** "Corrosion-resistant materials" means materials that maintain their original sanitary surface characteristics under prolonged influence of the food to be contacted, the normal use of cleaning compounds and bactericidal solutions, and other conditions of the use environment.

Subp. 5. **Easily cleanable.** "Easily cleanable" means that surfaces are readily accessible and made of a material and finish and fabricated so that residues may be effectively removed by normal cleaning methods.

Subp. 6. **Employee.** "Employee" means an operator or other person who:

A. handles a food, beverage, or ingredient to be dispensed through vending machines;

B. comes into contact with food contact surfaces of containers, equipment, utensils, or packaging materials used in connection with vending machine operations; or

C. services or maintains a vending machine.

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Subp. 7. **Food.** "Food" means a raw, cooked, or processed edible substance, beverage, or ingredient used or intended for use or for sale, in whole or in part, for human consumption.

Subp. 8. **Food contact surface.** "Food contact surface" means a surface of a vending machine, appurtenance, or container that comes into direct contact with a food, beverage, or ingredient.

Subp. 9. **Hermetically-sealed container.** "Hermetically-sealed container" means a container that is designed and intended to be secure against the entry of microorganisms and to maintain the commercial sterility of its contents after processing.

Subp. 10. **Hot liquid, food, or beverage.** "Hot liquid, food, or beverage" means a liquid, food, or beverage at a temperature at the time of service to the consumer of at least 150 degrees Fahrenheit (66 degrees centigrade).

Subp. 11. **Law.** "Law" includes applicable federal, state, and local statutes, ordinances, rules, and regulations.

Subp. 12. **License.** "License" means the document issued by the Department of Agriculture or a home rule charter or statutory city or a county that is authorized by the department to impose a license fee and inspect food vending machines. A home rule charter or statutory city or a county that does not inspect food vending machines may not impose a food vending inspection or license fee.

Subp. 13. **Machine location.** "Machine location" means the room, enclosure, space, or area where one or more vending machines are installed and operated.

Subp. 14. **Packaged.** "Packaged" means contained in a case, carton, can, box, wrapping, barrel, tub, bottle, phial, or other receptacle or covering.

Subp. 15. **Person.** "Person" means an individual, partnership, corporation, company, firm, institution, trustee, association, or other public or private entity.

Subp. 16. **Potable water.** "Potable water" means water of a quality and from a source of supply and system operated,

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located, and constructed in accordance with Department of Health rules relating to public water supplies, water wells, and plumbing installations.

Subp. ~~16.~~ 17. **Potentially hazardous foods.** "Potentially hazardous foods" means food that consists, in whole or in part, of milk, milk products, eggs, meat, poultry, fish, shellfish, edible crustacea, or other ingredients, including synthetic ingredients, that is in a form capable of supporting rapid and progressive growth of infectious or toxigenic microorganisms. The term does not include foods that have a pH level of 4.6 or below or a water activity (a_w) value of 0.85 or less at 77 degrees Fahrenheit (25 degrees centigrade) and foods in hermetically-sealed containers processed to prevent spoilage.

Subp. ~~17.~~ 18. **Readily accessible.** "Readily accessible" means exposed or capable of being exposed for cleaning and inspection without the use of tools.

Subp. ~~18.~~ 19. **Regulatory authority.** "Regulatory authority" means the Department of Agriculture or the authorized home rule charter or statutory city or county responsible for licensing and inspection of vending machines.

Subp. ~~19.~~ 20. **Safe materials.** "Safe materials" means materials that may not reasonably be expected to result, directly or indirectly, in their becoming a component or otherwise affecting the characteristics of food. The term includes food additives or color additives as defined in section 201(s) or (t) of the federal Food, Drug, and Cosmetic Act only if they are used in conformity with regulations established under section 409 or 706 of that act. The term includes other materials only if, as used, they are not food additives or color additives as defined in section 201(s) or (t) of the federal Food, Drug, and Cosmetic Act and are used in conformity with applicable regulations of the United States Food and Drug Administration.

Subp. ~~20.~~ 21. **Sanitizing.** "Sanitizing" means effective bactericidal treatment of clean food contact surfaces of utensils and equipment by an approved process that is effective

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in destroying microorganisms, including pathogens, without adversely affecting the product or the safety of the consumer.

Subp. ~~21.~~ 22. **Single-service article.** "Single-service article" means a cup, container, lid or closure, plate, knife, fork, spoon, stirrer or paddle, straw, napkin, wrapping material, toothpick, or similar article made wholly or in part from paper, paperboard, molded pulp, foil, wood, plastic, synthetic, or other readily destructible materials, and intended by the manufacturers and generally recognized by the public as to be discarded after only one usage.

Subp. ~~22.~~ 23. **Vending machine.** "Vending machine" means a self-service device offered for public use that, upon insertion of a coin, coins, token, credit card, or other payment device, dispenses single or multiple servings of food or beverage, either in bulk or in package, without the necessity of replenishing the device between each vending operation.

1550.5010 VENDING MACHINE SANITATION REQUIREMENTS.

Subpart 1. **Standards.** Food intended for sale through vending machines must be obtained from sources complying with all laws relating to food and food labeling. The products must be in a wholesome condition and must be processed, prepared, handled, and stored to prevent contamination and adulteration. All food-contact surfaces of containers and equipment must be protected from contamination. Lamps located over exposed food storage or display must be shielded, coated, or otherwise shatter-resistant. This subpart has been satisfied when the requirements in subparts 2 to 7 are met.

Subp. 2. **Food manufacturing.** Food offered for sale through vending machines must be manufactured, processed, and prepared in commissaries or establishments that comply with applicable laws relating to food and food labeling.

Subp. 3. **Food.** Food offered for sale through vending machines must be wholesome and properly labeled.

Subp. 4. **Packaged food.** Food in package form must be packaged in sanitary containers and must be handled,

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transported, and vended in a sanitary manner.

Subp. 5. **Potentially hazardous food.** Potentially hazardous food offered for sale through vending machines must be dispensed to the consumer in a single-service original container or wrapper into which it was placed at the commissary or at the manufacturing or processing plant. Potentially hazardous food in bulk form must not be dispensed from vending machines.

Subp. 6. **Potentially hazardous food temperature requirements.** Potentially hazardous food within a vending machine must be maintained at a temperature of 40 degrees Fahrenheit (five degrees centigrade), or below, or 150 degrees Fahrenheit (66 degrees centigrade), or above. Vending machines dispensing potentially hazardous food must be provided with controls that will maintain the required temperatures at all times, except during the filling or servicing of the machine and for the maximum recovery period of 30 minutes following completion of these operations. The controls must also place the machine in an inoperative condition until serviced by the operator during a power failure or other condition that may permit the food storage compartment to attain a temperature over 40 degrees Fahrenheit (five degrees centigrade), or below, or 150 degrees Fahrenheit (66 degrees centigrade), or above, whichever is applicable. Vending machines dispensing potentially hazardous foods must be provided with a numerically-scaled indicating thermometer accurate to ±3 degrees Fahrenheit (±1 degree centigrade), indicating the air temperature of the food storage compartment. The thermometer must be readable without opening the machine.

Subp. 7. **Milk and milk products.** Fluid milk and fluid milk products offered for sale through vending machines must comply with the Grade A standards established by law and must be dispensed only in individual original containers.

Fluid milk and fluid milk products and fluid nondairy products must not be dispensed in vending machines as additional ingredients in hot liquid beverages or other foods.

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1550.5020 CLEANING OF VENDING MACHINE.

Parts of vending machines that come into direct contact with food must be thoroughly cleaned and sanitized using methods approved by law. The frequency of cleaning and sanitizing treatment depends on the type of product being dispensed. A record of cleaning and sanitizing treatment must be maintained by the operator in each machine and must be current for at least 30 days. This subpart has been satisfied if the requirements in items A to C have been met.

A. All equipment at the vending location must be kept clean. Food contact surfaces must be cleaned, rinsed, and sanitized using methods that are effective in removing food residues and destroying microorganisms, including pathogens, without adversely affecting the product or the safety of the consumer.

B. The cavities and door seals of microwave ovens must be cleaned with nonabrasive cleaners as often as necessary to be maintained free of encrusted grease deposits and other soil. All doors, seals, hinges, and latch fasteners must be maintained tight and adjusted according to manufacturer's procedures. Microwave ovens must comply with applicable safety standards of the United States Food and Drug Administration's Bureau of Radiological Health.

C. Food contact surfaces of all equipment and utensils must be maintained free from contamination.

1550.5030 EQUIPMENT FOR CLEANING VENDING MACHINES.

In lieu of a permanent fixed installation of sink facilities, the person may provide portable equipment that can be moved from one location to another. The equipment must consist of detergents, sanitizers, brushes, pails, and other utility devices necessary for effective cleaning and sanitizing disinfection. Separate containers must be used for washing and rinsing operations.

1550.5040 SINGLE-SERVICE ARTICLES.

Single-service articles used for bulk food and beverages

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must be purchased in sanitary cartons or packages that protect the articles from contamination, stored in a clean, dry place until used, and handled in a sanitary manner. The articles must be stored in the original carton or package until introduced into the container magazine or dispenser of the vending machine. Single-service articles stored within the vending machine must be protected from manual contact, dust, insects, rodents, and other contamination. Single-service articles such as utensils, straws, toothpicks, or similar articles must be prewrapped and maintained out of the food when included as part of the packaged vended food.

1550.5050 CONDIMENTS.

Condiments must be in single-service containers and maintained out of the food when included as part of the packaged vended food.

1550.5060 VENDING MACHINE LOCATION.

Subpart 1. **Standards.** A vending machine must be located to minimize the potential for contamination of the food, must be easily cleanable, and must be kept clean. Food, food containers, and equipment stored near the machine or in a separate room at the location must be stored at least six inches (152 millimeters) above the floor and not exposed to moisture and the storage area must be kept clean. This subpart has been satisfied if the requirements in items A and B are met.

A. Each vending machine must be located in a room, area, or space that will maintain the machine in a clean condition and protect the machine from overhead leakage of drains and pipes. Vending machines must be located so that the space around and under the machine can be readily cleaned and maintained free of insect and rodent harborage.

B. The floors under vending machines must be reasonably smooth, cleanable, and capable of withstanding repeated washing and scrubbing. The immediate area surrounding a vending machine must be maintained in a clean condition.

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1550.5070 EXTERIOR MACHINE CONSTRUCTION AND MAINTENANCE.

The exterior of a vending machine must be readily cleanable to prevent the entrance of insects and rodents and must be kept clean. Service connections to the machine must protect against unintentional or accidental interruption of service. This part has been satisfied if the requirements in items A to F are met.

A. The vending machine must be of sturdy construction with the exterior designed, fabricated, and finished to facilitate its cleanliness and prevent the entrance of insects and rodents.

B. Door and panel access openings to the product and container storage spaces of the machine must be tight-fitting to prevent the entrance of dust, moisture, insects, and rodents.

C. All necessary ventilation louvers on openings into vending machines must be effectively screened against insects and rodents. Screening material must not be less than 16 mesh to the inch or equivalent.

D. New vending machines with a condenser unit as an integral part of the machine must be sealed from the product and container storage spaces.

E. Unless the vending machine is sealed to the floor to prevent seepage or can be manually moved with ease, one or more of the following provisions must be used to facilitate cleaning operations:

(1) the machine must be mounted on legs six or more inches in height;

(2) the machine must be mounted on casters or rollers; or

(3) the machine must be mounted on gliders that permit it to be easily moved.

F. All service connections through an exterior wall of the machine, such as water, gas, electrical, and refrigeration connections, must be grommeted or sealed to prevent the entrance of insects and rodents. Connections to utilities must discourage unauthorized or unintentional disconnection.

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1550.5080 INTERIOR CONSTRUCTION AND MAINTENANCE.

All interior surfaces and component parts of the vending machine must be designed and constructed to permit easy cleaning and must be kept clean. All food contact surfaces of the machine must be smooth, nontoxic, corrosion-resistant, and nonabsorbent and must be capable of withstanding repeated cleaning and sanitizing by normal procedures. Food contact surfaces must be protected against contamination. This part has been satisfied if the requirements in items A to G are met.

A. Nonfood contact surfaces of the interior of vending machines must be designed and constructed to permit easy cleaning and to facilitate maintenance operations. Inaccessible surfaces or areas must be minimized.

B. Food contact surfaces of vending machines must be smooth, in good repair, and free of breaks, corrosion, open seams, cracks, and chipping. Food contact surfaces must be designed to prevent routine contact between food and V-type threaded surfaces. All joints and welds in food contact surfaces must be smooth with rounded internal angles and corners to facilitate cleaning.

C. All food contact surfaces of vending machines including containers, pipes, valves, and fittings, must be constructed of nontoxic, corrosion-resistant, and relatively nonabsorbent materials and must be kept clean. All containers, valves, fittings, chutes, and faucets in contact with food must be readily removable and fabricated to be easily disassembled; and when disassembled, all surfaces must be visible for inspection and cleaning. If a machine is designed so that food contact pipes or tubing are not readily removable, in-place cleaning of pipes and pipe fittings is permitted if they are arranged so that cleaning and sanitizing solutions can be circulated throughout the fixed system and the solutions will contact all interior surfaces. The system must be self-draining, and the cleaning procedures must result in thorough cleaning of the equipment.

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D. The openings into all nonpressurized containers used for the storage of food and single-service articles in vending machines must be provided with covers to prevent contamination of the interior of the containers. Covers must be designed to provide a flange that overlaps the opening and must be sloped to provide drainage from the cover surface. Port openings through the cover must be flanged upward at least three-eighths inch and must be provided with a cover that overlaps the flange. Condensation-deflecting or drip-deflecting aprons must be provided on all piping, thermometers, equipment, rotary shafts, and other functional parts extending into the container, unless joints are watertight. Aprons must be of safe material for those openings that are in continuous use. Gaskets, if used, must be nontoxic, relatively stable, and relatively nonabsorbent, and must have a smooth surface. Gasket retaining grooves must be readily cleanable.

E. The delivery tube, chute, and orifice of bulk food and bulk beverage vending machines must be protected from manual contact, dust, insects, rodents, and other contamination. The design must divert condensation and other moisture from the normal filling position of the container receiving the food or beverage. The vending stage of a vending machine must be provided with a tight-fitting, self-closing door or cover that is kept closed, except when the machine is in the process of delivering a food or beverage.

F. The product storage compartment within a vending machine dispensing packaged liquid products must be self-draining or must be provided with a drain outlet that permits complete draining of the compartment. The drains must be easily cleanable.

G. Opening devices that contact food or the food contact surface of the containers must be constructed of smooth, nontoxic, corrosion-resistant, and relatively nonabsorbent materials. Unless the opening device is a single-service type, it must be readily removable for cleaning and must be kept clean. Parts of multiuse opening devices coming into contact

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with the food or food contact surface of containers must be reasonably protected from manual contact, dust, insects, rodents, and other contamination. The parts must be readily removable for cleaning and must be kept clean.

1550.5090 WATER SUPPLY.

Water used in a vending machine must be from ~~an approved~~ a source in accordance with chapter 4720 and must be of a safe and sanitary quality. This part has been satisfied if the requirements in items A to E are met.

A. Water used in a vending machine must be potable water and from ~~an approved~~ a source in accordance with chapter 4720. Water used as a product ingredient must be piped into the vending machine under pressure, and all connections and fittings must be installed in accordance with law. Containers for the storage of water must be designed and maintained as food contact surfaces. Bottled water use is not excluded.

B. Water filters or other water conditioning devices used as part of vending machines must be of a type that can be disassembled for periodic cleaning or replacement of the active element. Replacement elements must be handled in a sanitary manner. The date of the latest replacement must be on the water device.

C. Vending machines dispensing carbonated beverages that are connected to a water supply system must be equipped with a built-in positive airgap or an approved double check type backflow preventer with intermediate atmospheric vent, or other approved devices that will provide positive protection against the entrance of carbon dioxide or carbonated water into the water supply system.

D. Check valves used for the protection of the water supply system must have a screen of not less than 100 mesh to the inch installed in the water supply line immediately upstream from the check valves in a location that permits servicing or replacement.

E. Vending machines dispensing carbonated beverages

Approved by Revisor _____

that are connected to a water supply system with the water contact surfaces from the check valves or other protective device downstream, including the device itself, must be made of safe materials to prevent the production of toxic substances that may result from interaction with carbon dioxide or carbonated water.

1550.5100 WASTE DISPOSAL.

Waste must be maintained in suitable containers and properly disposed of to prevent a nuisance. This part has been satisfied if the requirements in items A to C are met.

A. Trash and waste material must be ~~frequently~~ removed from the machine location as frequently as necessary to prevent nuisance and unsightliness and must be disposed of in a manner approved by law.

B. Self-closing, leakproof, readily cleanable, clearly labeled and designated waste containers must be provided near each machine for disposal of used single-service items. Waste containers must not be located within the machine, except for those machines dispensing only packaged products with crown closures, where the closure receptacle may be located within the machine. Suitable racks or cases must be provided for multiuse containers or bottles.

C. Containers must be provided within vending machines dispensing liquid products in bulk for the collection of drip, spillage, overflow, or other liquid wastes. An automatic shutoff device must be provided that will make the vending machine inoperative before the container overflows. Containers for waste must be readily removable for cleaning, must be easily cleanable, and must be corrosion-resistant. Liquid wastes from drip, spillage, or overflow discharged into a sewerage system must have an air gap between the connection and the sewer. The sewerage system must be constructed, maintained, and operated according to law.

1550.5110 DELIVERY OF FOOD, EQUIPMENT, AND SUPPLIES TO MACHINE LOCATION.

Approved
by Revisor _____

APPROVED AS TO FORM AND LEGALITY

Nov 30 19 90

HUBERT H. HUMPHREY, III
ATTORNEY GENERAL

BY Christie L Eller
ASSISTANT ATTORNEY GENERAL

STATE OF MINNESOTA
DEPARTMENT OF STATE
FILED

NOV 30 1990

Joan Anderson Growe

Secretary of State

120 pm

Stat Authority 31.11

For the purpose of preventing fraud and deception in the manufacture, use, sale, and transportation of food or for the purpose of protecting and preserving the public health, it shall also be the duty of the commissioner to make and publish rules

180 deadline

* These are repealing the rules so I think they have met the 180 day deadline I also don't think they are mandatory

Department : AGRICULTURE

STATE OF MINNESOTA

Office Memorandum

Date : November 15, 1990

To : Patty Nolte
Attorney General's Office

From : Carol Milligan
Planning Division

Phone : 296-6906

Subject : **Review of Proposed Repeal of the Rule Governing Sanitation Requirements for Vending Machine Operations & Resubmission of the Rule Governing Food Vending Machines**

The Department of Agriculture repealed the above-mentioned rule pursuant to Minnesota statutes, sections 14.22-14.28. Enclosed with this memo are the documents which are required to be submitted to the Attorney General for review prior to final approval of the repeal. A list of the documents is attached for your convenience.

Also enclosed are the documents necessary to resubmit a new rule governing food vending machines. I have worked with Christie Eller on the submission and resubmission of these rules, so contact her or call me if you have any questions.

cc: Jim Nichols, Commissioner
Kathy Hahne, Deputy Commissioner
Paul Strandberg, Special Assistant Attorney General
Jerry Heil, Planning Division
Tom Masso, Food Inspection Division
Howard Anderson, Food Inspection Division

LIST OF ATTACHED DOCUMENTS

A. Rule as Proposed

B. Notice of Intent

C. Statement of Need

D. Affidavit of Mailing

E. Mailing List Certificate

F. *State Register* Photocopy

G. Rule as Adopted (four copies)

H. Findings of Fact

I. Declaration of Counsel

Department : Agriculture

STATE OF MINNESOTA
Office Memorandum

Date : September 20, 1990

To : Maryanne Hruby, Director
LCRAR

From : Carol Milligan CM
Planning Division

Phone : 296-6906

Subject : **Repeal of Rules Governing Food Vending Machines**

As required by Minnesota Statutes, sections 14.131 and 14.23, attached is the Statement of Need and Reasonableness for the above-captioned rule. The Notice of Intent to Repeal and the repealer will be published in the *State Register* on 10/8/90.

Attachment

STATE OF MINNESOTA

DEPARTMENT OF AGRICULTURE

In the Matter of the Proposed Repeal of the Rule of the State Department of Agriculture Governing Vending Machine Operations

FINDINGS OF FACT, CONCLUSIONS, AND ORDER ADOPTING RULE WITHOUT PUBLIC HEARING

(1) Notice of the Commissioner's intent to repeal the above-entitled rule was published in the *State Register* on October 8, 1990, and was sent by United States mail to all persons on the list maintained by the department pursuant to Minnesota Statutes, sections 14.14, subdivision 1a and 14.22 on October 3, 1990. (2) The statement of need and reasonableness was prepared before the notice of intent to adopt a rule without a public hearing was mailed to all persons on the rulemaking mailing list and published in the *State Register* and was available to the public.

(4) All persons were given the opportunity to submit comment on the rule repeal for 30 days after the notice of proposed rulemaking. (5) No requests for a public hearing on the rule repeal were received by the department.

(7) No submissions or comments on the rule repeal were received by the department. No requests for notice of submission to the attorney general were received by the department.

(8) The above-captioned rule repeal is needed and reasonable.

(9) NOW, THEREFORE, IT IS ORDERED that the rule identified as the repeal of the rule governing vending machine operations is adopted this 8th day of November, 1990, pursuant to authority vested in me by Minnesota Statutes, section 31.11.

Jim Nichols
Commissioner

NOW, THEREFORE, IT IS ORDERED that the rule identified as the rule governing food vending machines is adopted this 8th day of November, 1990, pursuant to authority vested in me by Minnesota Statutes, section 31.11.

Jim Nichols
Commissioner

Department of Agriculture

Food Inspection Division

In the Matter of the Proposed Repeal of the Rule of the State Department of Agriculture Governing Food Vending Machines	NOTICE OF INTENT TO ADOPT A RULE WITHOUT A PUBLIC HEARING

(1) Notice is hereby given that the Minnesota Department of Agriculture intends to repeal the above-entitled rule without a public hearing following the procedures set forth in the Administrative Procedures Act for adopting rules without a public hearing in Minnesota Statutes, sections 14.22-14.28. The statutory authority to repeal this rule is Minnesota Statutes, section 31.11.

(2) All persons have 30 days in which to submit comment in support of or in opposition to the proposed repeal or any part or subpart of the repeal. Comment is encouraged. (3) Each comment should identify the portion of the proposed repeal addressed, the reason for the comment, and any change proposed.

Any person may make a written request for a public hearing on the amendments within the 30-day comment period. (4) If 25 or more persons submit a written request for a public hearing within the 30-day comment period, a public hearing will be held unless a sufficient number withdraw their request in writing. (6) Any person requesting a public hearing should state their name and address, and is encouraged to identify the portion of the proposed repeal addressed, the reason for the request, and any proposed change. (7) If a public hearing is required, the department will proceed according to Minnesota Statutes, sections 14.131-14.20.

(5) Comments or written requests for a public hearing must be submitted to: Carol Milligan, Minnesota Department of Agriculture, 90 West Plato Boulevard, St. Paul, MN 55107, (612) 296-6906.

(8) The proposed repeal may be modified if the modifications are supported by the data and views submitted to the department and do not result in a substantial change in the proposed repeal as noticed.

(11) A copy of the proposed repeal is attached to this notice.

(12) A Statement of Need and Reasonableness that describes the need for and reasonableness of each provision of the proposed repeal and identifies the data and information relied upon to support the proposed amendments has been prepared and is available upon request from Ms. Milligan.

The department has determined that this repeal will have no impact on small business.

(9) If no hearing is required, upon adoption of the final rule, the rule and the required supporting documents will be submitted to Attorney General for review as to legality and form to the extent the form relates to legality. Any person may request notification of the date of submission to the Attorney General. Persons who wish to be advised of the submission of this material to the Attorney General, or who wish to receive a copy of the adopted repealer must submit a written request to Ms. Milligan.

STATE OF MINNESOTA

Sept 11 1998
Date

Jim Nichols
Jim Nichols, Commissioner
Department of Agriculture

STATE OF MINNESOTA
DEPARTMENT OF AGRICULTURE

IN THE MATTER OF THE PROPOSED REPEAL OF THE RULE OF THE DEPARTMENT OF AGRICULTURE GOVERNING FOOD VENDING MACHINES MINNESOTA RULES PARTS 4635.0300 TO 4635.1000	))))))	STATEMENT OF NEED AND REASONABLENESS

I. Introduction

The department proposes to repeal Minnesota Rule, parts 4635.0300 - 4635.1000, and replace it with a new rule governing food vending machines. Proposed rule, parts 1550.5000 - 1550.5130 governing food vending machines was submitted to the Attorney General for review and approval on July 20, 1990, but it was subsequently withdrawn on advice by the Attorney General to be resubmitted with the repeal of the current rule. This is being done to assure that there are not conflicting rules in force at the same time. The department intends to proceed in accordance with Minnesota Statutes, Sections 14.21 - 14.28 governing adoption of noncontroversial rules.

Prior to 1971, licenses to operate vending machines were issued jointly by the Departments of Health and Agriculture, and so the current rule was adopted by The Department of Health. With the creation of the Consolidated Food Licensing Law, Minnesota Statutes Chapter 28A, this responsibility was placed solely with the Department of Agriculture. Therefore, in accordance with Minnesota Statute, section 15.039, the rule was also transferred to the department at that time. The Department of Health agrees that the Department of Agriculture has the authority to repeal the current rule. (See attachment A)

In accordance with Minnesota Statutes, section 14.23, this Statement of Need and Reasonableness was completed prior to publication of the proposed repealer in the *State Register*.

II. Need For and Reasonableness of the Proposed Repeal

It is necessary and reasonable to repeal this rule to assure that vending machine licensees are not governed by conflicting rules. This rule was adopted during the early 1960's, and since that time technology and knowledge of food safety standards have changed dramatically. Repeal of the current rule and adoption of a new rule will allow the department to enforce current standards that help assure wholesome food for consumers.

III. Small Business Impact

The proposed repeal would have no impact on small business. The impact of the new proposed rule was covered in the Statement of Need and Reasonableness for that rule.

ENT. Health

Attachment A.

DATE: August [illegible] 1990

TO: Christie Eller, special assistant attorney general
Office of the Attorney General
Administrative Division

FROM: Sister Mary Madonna Ashton
Commissioner of Agriculture

PHONE: 623-5000

SUBJECT: Adoption and repeal of rules governing inspection and licensure of vending machines

In 1971, pursuant to Minnesota Statutes, section 28A.09, subdivision 1, paragraph (a), authority to inspect and license vending machines was placed under the jurisdiction of the Commissioner of Agriculture. The Department of Agriculture has solely undertaken this responsibility since 1971.

This responsibility has been reflected in interagency agreements between the Department of Health and the Department of Agriculture since that time. The attached interagency agreement approved in April 1990 confirms this.

In accordance with Minnesota Statutes, section 15.039, subdivision 3, any rulemaking to implement statutory responsibilities was also transferred to the Department of Agriculture.

The authority to adopt and repeal rules about the licensure and inspection of vending machines lies with the Department of Agriculture. I thus have no objection to the Department of Agriculture repealing parts 4635.0100, and 4635.0300 to 4635.1000 in conjunction with the adoption of proposed parts 1550.5000 to 1550.5130.

CC. Jim Nichols, Commissioner of Agriculture
Carol Milligan, Department of Agriculture
Charles Schneider, EFS section, MDH
Dr. Raymond Thron, Environmental Health Division, MDH
Paul Zerby, Office of Attorney General-Health Division
Jane Nelson, EH Division
Kathy Harrington, Office of the Revisor

In the Matter of the Proposed Repeal of the Rule of the State Department of Agriculture Governing Food Vending Machines

AFFIDAVIT OF MAILING THE NOTICE OF INTENT TO ADOPT A RULE WITHOUT A PUBLIC HEARING

STATE OF MINNESOTA)
) ss.
COUNTY OF RAMSEY)

Marie Skerbitz, being sworn, says:

That on the 3 day of October, 1990, at the City of St. Paul, County of Ramsey, State of Minnesota, I mailed the attached Notice of Intent to Adopt a Rule Without a Public Hearing by depositing in the State of Minnesota Central Mail System for United States mailing a copy thereof, with postage prepaid, to all persons and associations who have requested, pursuant to Minnesota Statutes, sections 14.14, subdivision 1a and 14.22 or 14.30, that their names be placed on the Minnesota Department of Agriculture rulemaking mailing list.

Marie Skerbitz
Mail Room Clerk

Subscribed and sworn to before me
this 3 day of October, 1990.

David Ball

DAVID A. BALL
NOTARY PUBLIC—MINNESOTA
RAMSEY COUNTY
MY COMMISSION EXPIRES 2-28-95

In the Matter of the Proposed Repeal of the Rule of the State Department of Agriculture Governing Food Vending Machines

CERTIFICATE OF MAILING LIST

STATE OF MINNESOTA)
) ss.
COUNTY OF RAMSEY)

Carol Milligan, being sworn, says:

I hereby certify that the list of persons and associations who have requested, pursuant to Minnesota Statutes, sections 14.14, subdivision 1a, and 14.22 or 14.30, that their names be placed on the Minnesota Department of Agriculture rulemaking mailing list is accurate, complete and current as of this 3rd day of October, 1990.

Carol Milligan
Carol Milligan
Management Analyst

Subscribed and sworn to before me
this 3 day of October, 1990.

David Ball

DAVID A. BALL
NOTARY PUBLIC—MINNESOTA
RAMSEY COUNTY
MY COMMISSION EXPIRES 2-28-95

Proposed Rules

Pursuant to Minn. Stat. §§ 14.22, an agency may propose to adopt, amend, suspend or repeal rules without first holding a public hearing, as long as the agency determines that the rules will be noncontroversial in nature. The agency must first publish a notice of intent to adopt rules without a public hearing, together with the proposed rules, in the *State Register*. The notice must advise the public:

1. that they have 30 days in which to submit comment on the proposed rules;
2. that no public hearing will be held unless 25 or more persons make a written request for a hearing within the 30-day comment period;
3. of the manner in which persons shall request a hearing on the proposed rules; and
4. that the rule may be modified if the modifications are supported by the data and views submitted.

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*.

Pursuant to Minn. Stat. §§ 14.29 and 14.30, agencies may propose emergency rules under certain circumstances. Proposed emergency rules are published in the *State Register* and, for at least 25 days thereafter, interested persons may submit data and views in writing to the proposing agency.

Department of Agriculture

Proposed Permanent Rules Relating to Sanitation Requirements for Vending Machine Operations

Notice of Intent to Adopt a Rule Without a Public Hearing

NOTICE IS HEREBY GIVEN that the Minnesota Department of Agriculture intends to repeal the above-entitled rule without a public hearing following the procedures set forth in the Administrative Procedures Act for adopting rules without a public hearing in *Minnesota Statutes*, sections 14.22-14.28. The statutory authority to repeal this rule is *Minnesota Statutes*, section 31.11.

All persons have 30 days in which to submit comment in support of or in opposition to the proposed repeal or any part or subpart of the repeal. Comment is encouraged. Each comment should identify the portion of the proposed repeal addressed, the reason for the comment, and any change proposed.

Any person may make a written request for a public hearing on the amendments within the 30-day comment period. If 25 or more persons submit a written request for a public hearing within the 30-day comment period, a public hearing will be held unless a sufficient number withdraw their request in writing. Any person requesting a public hearing should state their name and address, and is encouraged to identify the portion of the proposed repeal addressed, the reason for the request, and any proposed change. If a public hearing is required, the department will proceed according to *Minnesota Statutes*, sections 14.131-14.20.

Comments or written requests for a public hearing must be submitted to: Carol Milligan, Minnesota Department of Agriculture, 90 West Plato Boulevard, St. Paul, MN 55107, (612) 296-6906.

The proposed repeal may be modified if the modifications are supported by the data and views submitted to the department and do not result in a substantial change in the proposed repeal as noticed.

A copy of the proposed repeal is attached to this notice.

A STATEMENT OF NEED AND REASONABLENESS that describes the need for and reasonableness of each provision of the proposed repeal and identifies the data and information relied upon to support the proposed amendments has been prepared and is available upon request from Ms. Milligan.

The department has determined that this repeal will have no impact on small business.

If no hearing is required, upon adoption of the final rule, the rule and the required supporting documents will be submitted to Attorney General for review as to legality and form to the extent the form relates to legality. Any person may request notification of the date of submission to the Attorney General. Persons who wish to be advised of the submission of this material to the Attorney General, or who wish to receive a copy of the adopted repealer must submit a written request to Ms. Milligan.

Dated: 11 September 1990

STATE OF MINNESOTA
Jim Nichols, Commissioner
Department of Agriculture

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.

Rules as Proposed (all new material)

REPEALER. *Minnesota Rules*, parts 4635.0300; 4635.0400; 4635.0500; 4635.0600; 4635.0700; 4635.0800; 4635.0900; and 4635.1000 are repealed.

Department of Commerce

Proposed Permanent Rules Relating to Petrofund; Ineligible Costs

Notice of Intent to Adopt a Rule Without a Public Hearing

NOTICE IS HEREBY GIVEN that the State of Minnesota intends to adopt the above-entitled rule without a public hearing following the procedures set forth in the Administrative Procedure Act for adopting rules without a public hearing in *Minnesota Statutes*, sections 14.22 to 14.28. The statutory authority to adopt the rule is contained in *Minnesota Statutes*, 115C.07, subdivision 3.

All persons have 30 days in which to submit comment in support of or in opposition to the proposed rule or any part or subpart of the rule. Comment is encouraged. Each comment should identify the portion of the proposed rule addressed, the reason for the comment, and any change proposed.

Any person may make a written request for a public hearing on the rule within the 30-day comment period. If 25 or more persons submit a written request for a public hearing within the 30-day comment period, a public hearing will be held unless a sufficient number withdraw their request in writing. Any person requesting a public hearing should state his or her name and address, and is encouraged to identify the portion of the proposed rule addressed, the reason for the request, and any change proposed. If a public hearing is required, the agency will proceed pursuant to *Minnesota Statutes*, sections 14.131 to 14.20.

Comments or written requests for a public hearing must be submitted to:

Robin H. Hanson
Petroleum Tank Release Compensation Board
Department of Commerce
133 East 7th Street
St. Paul, MN 55101
(612) 297-4017

The proposed rule may be modified if the modifications are supported by data and views submitted to the agency and do not result in a substantial change in the proposed rule as noticed.

A copy of the proposed rule is attached to this notice.

A STATEMENT OF NEED AND REASONABLENESS that describes the need for and reasonableness of each provision of the proposed rule and identifies the data and information relied upon to support the proposed rule has been prepared and is available from Robin Hanson upon request.

Pursuant to *Minnesota Statutes* section 14.115, subdivision 2, the impact on small business has been considered in the promulgation of the rules. Anyone wishing to present evidence or argument as to the rules' effect on small business may do so. The Department's position regarding the impact of the rules on small business is set forth in the Statement of Need and Reasonableness.

If no hearing is required, upon adoption of the rule, the rule and the required supporting documents will be submitted to the Attorney General for review as to legality and form to the extent the form relates to legality. Any person may request notification of the date of submission to the Attorney General. Persons who wish to be advised of the submission of this material to the Attorney General, or who wish to receive a copy of the adopted rule, must submit the written request to Robin Hanson.

Dated: 19 September 1990

Susan L. Bergh
Executive Director

Rules as Proposed

2890.0080 INELIGIBLE COSTS.

All costs associated with actions that do not minimize, eliminate, or clean up a release to protect the public health and welfare or the environment are ineligible costs. Ineligible costs include, but are not limited to, any costs related to the permanent repair or replacement of a tank, upgrading tanks, removal of tanks, loss of income, attorney's fees, permanent relocation of residents, decreased property values, reimbursement for the responsible person's own time spent in planning and administering a corrective action plan, aesthetic improvements, or any work performed that is not in compliance with safety codes including but not limited to Occupational Safety and Health Administration requirements, well codes, and fire codes. Other ineligible costs include corrective action costs which are covered under an insurance or other contract for initial and supplemental applications received by the board after December 31, 1990.

In the Matter of the Repeal of
the Rule of the State Department
Agriculture Governing Vending
Machine Operations

DECLARATION
OF COUNSEL

I, Paul Strandberg, Special Assistant Attorney General, do hereby declare that I have examined the above-captioned rule and the supporting rulemaking record, and that, based on my examination, the Administrative Procedure Act and Minnesota Rules, chapter 2010 have been followed. Any exceptions are listed below. For Attorney General billing purposes, the four-digit docket client code is 0986.

Paul Strandberg
Special Assistant Attorney General

Dated: 11/8/90

STATE OF MINNESOTA

DEPARTMENT OF AGRICULTURE

In the Matter of the Proposed Adoption of the Rule of the State Department of Agriculture Governing Food Vending Machines

SUPPLEMENTAL FINDINGS OF FACT, CONCLUSIONS, AND ORDER ADOPTING RULE WITHOUT PUBLIC HEARING

The above-entitled rule was withdrawn from rule review by the attorney general on August 6, 1990.

The rule was modified, and based on the comments and evidence in the record before the department, I find the following:

M.R. 1550.5090

This part was changed to clarify what is meant by "an approved source." To assure consistency in regulatory requirements, water sources for vending machines must be in compliance with rules already in place that govern public water supplies; Minnesota Rules Chapter 4720.

M.R. 1550.5100

Qualifiers were added to the term "frequently" to clarify the term and to assure that the rule is uniformly enforced. Preventing a nuisance and unsightliness are a necessary public health requirement, especially when dealing with food service operations.

M.R. 1550.5120

The language stricken in subpart 1 was vague and did not increase public protection or promote an understanding of personnel cleanliness standards. The language in the original subpart 2 clearly states what is expected of service employees.

None of the changes made to the rule since it was originally submitted to the Attorney General for approval constitute substantial change because each one simply clarifies a provision that was in the original rule. No new requirements were added to the rule.

The above-captioned rule is needed and reasonable.

NOW, THEREFORE, IT IS ORDERED that the rule identified as the rule governing food vending machines is adopted this 8th day of November, 1990, pursuant to authority vested in me by Minnesota Statutes, section 31.11.

Jim Nichols
Commissioner

DEPARTMENT : Health

STATE OF MINNESOTA

Office Memorandum

DATE : August 30, 1990

TO : Christie Eller, special assistant attorney general
Office of the Attorney General
Administrative Division

FROM : Sister Mary Madonna Ashton
Commissioner of Agriculture

PHONE : 623-5000

SUBJECT : Adoption and repeal of rules governing inspection and licensure of vending machines

In 1971, pursuant to Minnesota Statutes, section 28A.09, subdivision 1, paragraph (a), authority to inspect and license vending machines was placed under the jurisdiction of the Commissioner of Agriculture. The Department of Agriculture has solely undertaken this responsibility since 1971.

This responsibility has been reflected in interagency agreements between the Department of Health and the Department of Agriculture since that time. The attached interagency agreement approved in April 1990 confirms this.

In accordance with Minnesota Statutes, section 15.039, subdivision 3, any rulemaking to implement statutory responsibilities was also transferred to the Department of Agriculture.

The authority to adopt and repeal rules about the licensure and inspection of vending machines lies with the Department of Agriculture. I thus have no objection to the Department of Agriculture repealing parts 4635.0100, and 4635.0300 to 4635.1000 in conjunction with the adoption of proposed parts 1550.5000 to 1550.5130.

CC. Jim Nichols, Commissioner of Agriculture
Carol Milligan, Department of Agriculture
Charles Schneider, EFS section, MDH
Dr. Raymond Thron, Environmental Health Division, MDH
Paul Zerby, Office of Attorney General-Health Division
Jane Nelson, EH Division
Kathy Harrington, Office of the Revisor

MINNESOTA DEPARTMENT OF HEALTH

AND

MINNESOTA DEPARTMENT OF AGRICULTURE

In accordance with a common goal of assuring the public a safe, wholesome and properly represented food supply and in an effort to eliminate or minimize duplication of government services and in keeping with the legislative policy established in M.S., Section 157.14, and M.S., Section 28A.15, Subd. 5, the Minnesota Department of Health (hereafter MDH) and the Minnesota Department of Agriculture (hereafter MDA) agree to the following:

General Responsibilities

1. MDH will license and inspect food handlers whose principal mode of food business is licensed under M.S., Section 157.03 or 327.15, as a food service establishment and provide annually a list of the establishments licensed to MDA.

2. MDA will license and inspect food handlers whose principal mode of food business is licensed under M.S., Section 28A.01 - 28A.17, as a food retailer, wholesaler, broker or processor and provide annually a list of the establishments licensed to MDH.

Combined Establishments

1. Combination food establishments whose business is more than 50 percent retail food sales and which may include food prepared and served from a deli, small restaurants, snackbars, etc., will be licensed and inspected by the MDA. MDA will inspect the food service part of the establishment using MDH Statutes and Rules, and will also license and inspect the food sales part of the establishment as provided in M.S., Section 28A.04.

2. Combination food establishments whose business is more than 50 percent food service operations with some food sales will be licensed and inspected under M.S., Section 157.03, by MDH who will also inspect the food handling part of the establishment, using MDA Statutes and Rules.

3. Combination establishments or unique operations such as those listed below will be inspected and licensed according to their principal mode of food business.

    a. Restaurants and coffee shops which incidentally sell retail food items or which sell limited bakery products, baked on the premises, will be the responsibility of MDH.

    b. Employee cafeterias which are located in MDA licensed food manufacturing plants, bakeries, candy manufacturing plants, etc., will be the responsibility of MDA. Cafeterias that are leased or owned by an operator independent of the MDA licensed firm and those located in other non-food processing industries will be licensed and inspected by MDH.

    c. An establishment which is primarily a retail bakery or grocery store and incidentally sells coffee or other beverages, pastries, pizzas, sandwiches, etc., will be the responsibility of the MDA.

d. Establishments which sell food ready for consumption directly to consumers and not to retail stores, solely on a take-out basis, such as Chinese take-out establishments and pizza take-out establishments, including "We Make, You Bake" type pizza take-outs, will be the responsibility of the MDH.

e. Movie theaters, without meal service, are the responsibility of MDA even though the operation might include mixing and dispensing soft drinks. Movie theaters where hot dogs, hamburgers, etc., are prepared and sold will be the responsibility of MDH.

f. In accordance with M.S., Section 327.15, grocery stores, etc., usually licensed by MDA will be licensed and inspected by MDH when they are located at and owned by the operator of an MDH licensed recreational camping area (campground) or manufactured home park.

g. Establishments whose principal business is not food handling will be inspected and licensed, unless otherwise noted, according to their food operation as outlined in 1 and 2 under Combination Establishment.

County Fairs - Town Celebrations

1. County fairs, civic festivals, celebrations, and similar events will be inspected and licensed according to the guidelines noted below.

   License and Inspection Responsibilities:

   MDA

   a. Candy Floss
   b. Popcorn
   c. Caramel Corn
   d. Carameled Apples
   e. Candy Manufacturing
   f. Donut Manufacturing
   g. Fruit Concessions
   h. Ice Cream Bars (wrapped)
   i. Sno Cones
   j. Retail Food Sales (prepackaged milk, meats, peanuts, fruits, etc.)

   MDH

   a. Beverage Concessions (soft drinks and beer)
   b. Ice Cream Dipping
   c. Ice Milk
   d. Food Service Concessions (sandwiches and/or meals)
   e. Milk (poured or dispensed from original containers)

2. Only one license per stand will be issued based on the predominant type of food business.

3. In accordance with M.S., Section 38.162, MDH is authorizing MDA to issue permits to exempted food handlers who come under the jurisdiction of MDA, as noted in number one above. MDA will follow MDH policy and procedures and use MDH forms for this purpose.

Food Vending

MDA will license and inspect food vendor warehouses and commissary facilities. MDA will license and inspect food vending machines unless that authority has been delegated by MDA to local health agencies under M.S., Section 28A.09, Subd. 1(a).

Consumer Complaints

1. Complaints regarding possible foodborne illness, facility, sanitation, employee practices, labeling or product quality, in establishments licensed by MDA will be investigated by MDA. MDH will be notified of all alleged foodborne illness complaints.

2. Complaints regarding possible foodborne illness, facility sanitation and employee practices, labeling or product quality in food service operations licensed by MDH will be investigated by MDH.

Plan Review

MDA will review plans and specifications for MDA licensed retail food stores. MDA will apply MDH Statutes and Rules to the statewide review of food service operations in retail food stores licensed by MDA. MDH will continue to review plans for MDH licensed establishments unless that responsibility has been delegated by MDH to local health agencies. MDH will use MDA Statutes and Rules in their review of retail food operations in their licensed establishments.

Cooperation

1. MDH and MDA will provide necessary training at periodic intervals for the inspection personnel to assure uniform application of the respective codes. The agenda of training for new personnel in MDH and MDA will include instruction in the other Department's areas of expertise. At least once each year MDH and MDA will provide the other Department with updated refresher information presented at staff meetings or some other suitable means.

2. MDH and MDA will assist each other as resources permit in the investigation of foodborne illness outbreaks, food emergencies and with the recall of food products. MDH will notify MDA for data collection purposes when and how much recalled food product has been removed from sale.

3. MDH and MDA will coordinate their emergency situation response activities with other regulatory and law enforcement agencies when appropriate.

4. MDH and MDA will assist each other as resources permit in areas of mutual concern that are deemed necessary by the agencies and in addition will share appropriate information for the inspections performed. Under the terms of this agreement, MDH and MDA will notify each other when significant violations of the health or food laws are found.

Minnesota Clean Indoor Air Act

MDA will enforce in establishments licensed as Retail Food Handlers the provisions of M.S. 144.411 to 144.417 of the Minnesota Clean Indoor Air Act unless handled by a Community Health Services Agency. This includes but is not limited to grocery stores, bakeries, meat markets and any food service establishment included in the Retail Food Handlers license.

Duration and Termination

1. This agreement shall continue in force until terminated upon the mutual written consent of MDH and MDA or by either agency giving written notice to the other six (6) months prior to the end of the calendar year.

2. This agreement will be reviewed every two years and may be amended in writing as required by mutual agreement of the agencies.

3. This Cooperative Agreement will be in effect as of the date it has been executed by the following representatives whose signatures affirm their authority to sign, amend, or terminate the agreement on behalf of their respective agencies.

Sister Mary Madonna Ashton, Commissioner
Minnesota Department of Health

Sr Mary Madonna Ashton

Date 2.28.90

Jim Nichols, Commissioner
Minnesota Department of Agriculture

Jim Nichols

Date 3-7-90

As to form and execution by the ATTORNEY GENERAL:

By: Jack Ilwell
~~Minnesota Department of Health~~

Date 4-3-90

~~By:~~ _____
~~Minnesota Department of Agriculture~~

~~Date:~~ _____

COMMISSIONER OF ADMINISTRATION
Original sig...

APR 16 1990

By: _____
Authorized Signature
By Gerald T. ...

Date: _____

COMMISSIONER OF FINANCE
Encumbered
Department of Finance

Original Signed By
T. MARIER

By: _____

APR 18 1990

Date: _____

Post-It™ brand fax transmittal memo 7671 | # of pages ▸ 2

To Christie Eller	From Carol Milligan
Co. AG's Office	Co. Dept of Ag
Dept.	Phone # 296-6906
Fax # 297-2576	Fax #

pk saying should review w/ her AG but at minimum should add in citations on or health memo.

Christie - is this OK for the Repeal of the Vending Machine Rules. Let me know if there's a problem. Thanks. Carol.

STATE OF MINNESOTA
DEPARTMENT OF AGRICULTURE

IN THE MATTER OF THE PROPOSED REPEAL OF THE RULE OF THE DEPARTMENT OF AGRICULTURE GOVERNING FOOD VENDING MACHINES MINNESOTA RULES PARTS 4635.0300 to 4635.1000	))))))	STATEMENT OF NEED AND REASONABLENESS

I. Introduction

The department proposes to repeal Minnesota Rules, parts 4635.0300 - 4635.1000, and replace them with new rules governing food vending machines. Proposed rules, parts 1550.5000 - 1550.5130 governing food vending machines were submitted to the Attorney General for review and approval on July 20, 1990, but they were subsequently withdrawn on advice by the Attorney General to be resubmitted with the repeal of the current rules. This is being done to assure that there are not conflicting rules in force at the same time. The department intends to proceed in accordance with Minnesota Statutes, Sections 14.21 - 14.28 governing adoption of noncontroversial rules.

In accordance with Minnesota Statutes, section 14.23, this Statement of Need and Reasonableness was completed prior to publication of the proposed repeal in the *State Register*.

II. Need For and Reasonableness of the Proposed Repeal

It is necessary and reasonable to repeal these parts to assure that vending machine licensees are not governed by conflicting rules. This rule was adopted during the early 1960's, and since that time technology and knowledge of food safety standards have changed dramatically. Repeal of the current rule and adoption of new rules will allow the department to enforce current standards that help assure wholesome food for consumers.

III. Small Business Impact

The proposed repeal would have no impact on small business. The impact of the new rules was covered in the Statement of Need and Reasonableness for those rules.

CBE

RULE REVIEW CHECKLIST

File No. 1718 Docket No. 05.0809.0986

DATE RECEIVED 7-23-90 ADOPTED W/O HEARING ✓

REVIEW DATE 8-1-90 EMERGENCY RULE _____

DUE DATE 8-6-90 Sent to Revisor 7/24/90

REVISOR APPROVED 8-1-90

APPROVED _____ REVISOR DISAPPROVED _____

DISAPPROVED _____ FILED W/SEC. OF STATE _____

WITHDRAWN 8-6-90 RETURNED TO AGENCY _____

✓ Rule as adopted (4 copies)

_____ Notice to Solicit Outside Information/Opinion (if applicable)
- _____ Date published in State Register
- _____ Comments

_____ Petition for Adoption of a Rule (if applicable)

_____ Board's Authorizing Resolution
- _____ Date adopted

✓ Proposed Rule
- ✓ Revisor's Certificate

✓ Notice of Intent to Adopt Rule
- 31.11 Statutory Authority
- NA Small Business Statement
- NA Expenditure of public money statement
- 5-26-90 Signature

✓ Statement of Need and Reasonableness (if applicable)
- NA Small Business Statement
- _____ Fees - § 16A.128

✓ Affidavit of Mailing Notice of Intent to Adopt Rule
- June 14, 1990 Date (30)/25 days before adoption
- _____ Notice attached
- _____ Copy of rule or summary attached

✓ Publication in State Register
- June 18, 1990 Date (30)/25 days before adoption

_____ 180-day deadline from:
- _____ Effective date of law requiring rule (14.12) (both rules) uncertain if mandatory
- ✓ end of comment period (§ 14.26) (rules without hearing)
- _____ effective date of statutory authority (§ 14.29) (emergency rules)

_____ Resolution Adopting
- _____ Date adopted

✓ Findings of Fact, Conclusions & Order Adopting
- July 19, 1990 Date

_____ Written requests, submissions or comments

✓ Declaration of attorney
- Paul Strandberg Name of SAAG representing agency

_____ Notice of Submission to Atty. Gen. (if applicable)

_____ Aff. of Mailing Notice to Atty. Gen. (if applicable)

STATE OF MINNESOTA

DEPARTMENT OF AGRICULTURE

In the Matter of the Proposed Adoption of the Rule of the State Department of Agriculture Governing Food Vending Machines	ORDER OF WITHDRAWAL OF A RULE FROM REVIEW BY THE ATTORNEY GENERAL

The above-captioned rule is hereby withdrawn from review by the Attorney General this 6th day of August, 1990.

Kathyrn Hahne
Deputy Commissioner

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To Christie Elles	From Bill Oemichen
Co. Asst. Attorney General	Co. MDA
Dept AG. - Finance	Phone # 612-296-8170
Fax # 297-2576	Fax #

STATE OF MINNESOTA

DEPARTMENT OF AGRICULTURE

In the Matter of the Proposed Adoption of the Rule of the State Department of Agriculture Governing Food Vending Machines	ORDER OF WITHDRAWAL OF A RULE FROM REVIEW BY THE ATTORNEY GENERAL

The above-captioned rule is hereby withdrawn from review by the Attorney General this 6th day of August, 1990.

William L. Oemichen
Department Counsel

Post-It™ brand fax transmittal memo 7671 | # of pages ▸ 1

To Christie Elles	From Bill Oemichen
Co. asst. Attorney General	Co. MDA
Dept. AG. - Finance	Phone # 612-296-8170
Fax # 297-2576	Fax #

Q re stat auth.

Section 31.11

"... For the purpose of preventing fraud it shall be the duty of the commissioner to make and publish uniform rules not inconsistent with law. Until such rules are made and published, the rules heretofore made by the commissioner shall remain in full force and effect

new material - mandatory
it did not meet the deadline

7-26-90 left a message for Carol
Carol called. Carol said she didn't think 14.12 applied. This authority has been around for a long time. Said that the health dept use to regulate vending machines - I asked Carol when Ag. obtained the authority to regulate vending machines
Minn Stat. 28A.09 is authority for Ag to regulate vending machines. —
old law not new law
Carol said they have always used 31.11 - 1½ years ago new rules for retail stores - no problem (Grey area)

STATE OF MINNESOTA

DEPARTMENT OF AGRICULTURE

IN THE MATTER OF THE PROPOSED RULES OF THE DEPARTMENT OF AGRICULTURE GOVERNING FOOD VENDING MACHINES (MINNESOTA RULES PART 1555.5000 - 1555.5130)	)))))	STATEMENT OF NEED AND REASONABLENESS

I. INTRODUCTION

The subject of this rulemaking is the proposed adoption by the Minnesota Department of Agriculture (MDA) of a rule governing food vending machines. The rule is proposed for adoption pursuant to Minnesota Statutes, section 31.11 which authorizes the MDA to promulgate and amend rules for the efficient administration and enforcement of the Minnesota Food Law. As provided in Minnesota Statute, section 31.002, when practicable and consistent with state law, these rules must conform with those promulgated under federal law.

The department has determined that the proposed rule is noncontroversial in nature because it is supported by the industry as providing uniform statewide sanitary requirements for the operation of food vending machines which are essentially in conformity with federal regulations. Because of the noncontroversial nature of this rule, the department directed that the rulemaking proceedings be conducted in accordance with the statutory provisions governing the adoption of noncontroversial rules, Minnesota Statutes, sections 14.21 to 14.28. Accordingly, the rulemaking proceedings on the proposed rule are governed by that statute and no hearing will be conducted on the proposed amendment unless twenty-five or more persons submit to the department a written request for such a hearing.

In accordance with the requirements of Minnesota Statutes, section 14.23, this Statement of Need and Reasonableness was prepared and completed prior to the date that the proposed rule was published by the State Register.

II. GENERAL OVERVIEW

Vending machines in the late 1950's and into the 1960's were regulated by both the Minnesota Department of Health (MDH) and the Minnesota Department of Agriculture with duplicate licensing. During the early 1960's, MDH adopted rules governing vending machines, (parts 4635.0100 to 4635.1000.) Since MDA now has all statutory authority to inspect vending machines current rules are needed to regulate the safety of food sold from vending machines. Minnesota Statutes, Chapter 28A, Consolidated Food Licensing Law, states in part that every person who handles food shall obtain a license from the commissioner of agriculture. The law includes vendors of food.

These new proposed rules for food vending conforms with federal regulations where applicable and have the support of the industry.

III. NEED FOR AND REASONABLENESS OF THE PROPOSED RULES

1550.5000 Definitions

Definitions are necessary to define specific words used in rules and are a reasonable part of any rules.

1550.5010 Vending Machine Sanitation Requirements

This rule is needed to define minimum standards of sanitation for the operation of vending machines to assure to consumers that food purchased from vending machines are sold in a safe and wholesome condition while being held for sale. Temperature requirements are minimum and maximum safe temperatures which will inhibit the growth of food poisoning organisms. The rule is reasonable because the minimum requirements are spelled out and are attainable.

1550.5020 Cleaning of Vending Machine

This rule is needed to show that cleanliness is necessary to minimize insect and rodent attraction, to prevent contamination of food and equipment and to prevent nuisance situations. This rule is a reasonable assurance to preclude avoidable adulteration of vending equipment and food.

1550.5040 Single Service Articles

1550.5050 Condiments

These two rules are needed to provide the basic requirements for keeping single service articles free from contamination until the consumer receives them. All single service articles including packets containing condiments must be handled separate from food to prevent any further contamination. The rules are reasonable for their intended purpose.

1550.5060 Vending Machine Location

1550.5070 Exterior Machine Construction and Maintenance

1550.5080 Interior Construction and Maintenance

These rules are needed to define definite locations of vending machines and their proper maintenance for a sanitary operation in keeping with good public health practice. The Code of Federal Regulations, part 110, which covers the manufacture, packing or holding of human food which this department has adopted states in part, that all equipment and utensils should be suitable for their intended use, so designed of such materials to be cleanable, and installed and maintained to facilitate cleaning of the equipment and all other spaces. These rules only give minimum requirements which will maintain easily cleanable and sanitary equipment and, therefore, are reasonable.

1550.5090 Water Supply

1550.5100 Waste Disposal

Any person engaged in the business of food handling must have a suitable and adequate water supply and waste disposal as required by M.S., section 31.175 of the Minnesota Food Law. These rules define minimum requirements for water and waste lines to assure that plumbing is designed and installed as required by law. The rules are reasonable because they are intended to protect potable water systems, fixtures and equipment from cross-connections or back flow with contaminated water.

1550.5110 Delivery of Food, Equipment and Supplies to Machine Locations

Requirements for transport of food from a commissary to the vending locations are just as important in keeping food in a wholesome condition at proper temperatures as the requirements are for the vending machines themselves. The rule, therefore, is needed to point out that proper transport of food is necessary.

1550.5120 Personal Cleanliness

Minnesota Statutes, section 31.171, states that it is unlawful for any diseased person to work in or about any place where any fruit or any food products are packed, stored, prepared or sold. The Code of Federal Regulations in part 110 adopted by this department also states that no person with a disease or infective wounds shall work in a food plant. All persons in direct contact with food must wear clean outer garments and maintain a high degree of personal cleanliness to prevent potential contamination of food. This rule is, therefore, needed to stress the need for personal hygiene and is reasonable to the prevention of food contamination.

1550.5130 Existing Vending Machines

This rule is needed to grandfather existing machines which are capable of maintaining temperatures, in good repair, able to maintain the wholesomeness of food and capable of being maintained in a sanitary condition. The rule is reasonable for its intended purpose.

IV. SMALL BUSINESS IMPACT OF THE PROPOSED RULE

As prescribed by Minnesota Statutes, section 14.115, subdivisions 1 and 2, the department has considered the degree of impact the proposed rules will have on small businesses and the alternative methods for lessening that impact.

The department has determined that vendors which are small businesses will be minimally affected by these rules because many of the provisions are being enforced under the sanitary food laws found in Minnesota Statutes, Chapter 31.

Also, the rules allow existing vending machines in use before the effective date of this chapter that do not fully meet the design and fabrication requirements to continue in use so long as they remain in good repair, able to maintain proper temperatures to protect the food and are capable of being maintained in a clean and sanitary condition. The adoption of these proposed rules will provide statewide uniform rules for all vendors in Minnesota and are uniform with existing federal regulations.

Since the requirements set by these rules are minimum requirements to protect the public health and interest, any alternative method to reduce further impact would be contrary to the objectives set by Minnesota Statute, section 31.11 which requires the department to publish uniform rules, not inconsistent with law, to protect and preserve the public health.

Department : Agriculture

STATE OF MINNESOTA
Office Memorandum

Date : May 29, 1990

To : Maryanne Hruby, Director
LCRAR

From : Carol Milligan
Planning Division

Phone : 296-6906

Subject : **Rules Governing Food Vending Machines**

As required by Minnesota Statutes, sections 14.131 and 14.23, attached is the Statement of Need and Reasonableness for the above-captioned rule. The Notice of Intent to Adopt and the rule will be published in the *State Register* on 6/18/90.

Attachment

Department : AGRICULTURE

STATE OF MINNESOTA

Office Memorandum

Date : July 20, 1990

To : Patty Nolte
Attorney General's Office

From : Carol Milligan
Planning Division

Phone : 296-6906

Subject : **Review of Proposed Rule Governing Food Vending Machines**

The Department of Agriculture adopted the above-mentioned rule pursuant to Minnesota statutes, sections 14.22-14.28. Enclosed with this memo are the documents which are required to be submitted to the Attorney General for review prior to final approval of the rule. A list of the documents is attached for your convenience.

Please contact me if you have any questions.

cc: Jim Nichols, Commissioner
Paul Strandberg, Special Assistant Attorney General
Gerald Heil, Planning Division
Howard Anderson, Food Inspection Division

LIST OF ATTACHED DOCUMENTS

A. Rule as Proposed

B. Notice of Intent

C. Statement of Need

D. Affidavit of Mailing

E. Mailing List Certificate

F. *State Register* Photocopy

G. Rule as Adopted (four copies)

H. Findings of Fact

I. Declaration of Counsel

Department of Agriculture

Food Inspection Division

In the Matter of the Proposed Adoption of the Rule of the State Department of Agriculture Governing Food Vending Machines

NOTICE OF INTENT TO ADOPT A RULE WITHOUT A PUBLIC HEARING

(1) Notice is hereby given that the Minnesota Department of Agriculture intends to adopt the above-entitled rule without a public hearing following the procedures set forth in the Administrative Procedures Act for adopting rules without a public hearing in Minnesota Statutes, sections 14.22-14.28. The statutory authority to adopt this rule is Minnesota Statutes, section 31.11.

(2) All persons have 30 days in which to submit comment in support of or in opposition to (3) the proposed rule or any part or subpart of the rule. Comment is encouraged. Each comment should identify the portion of the proposed rule addressed, the reason for the comment, and any change proposed.

Any person may (4) make a written request for a public hearing on the rule within the 30-day comment period. If 25 or more persons submit a written request for a public hearing within the 30-day comment period, a public hearing will be held unless a sufficient number (6) withdraw their request in writing. Any person requesting a public hearing should state their name and address, and is encouraged to identify the portion of the proposed rule addressed, the reason for the request, and any proposed change. (7) If a public hearing is required, the department will proceed according to Minnesota Statutes, sections 14.131-14.20.

(5) Comments or written requests for a public hearing must be submitted to: Carol Milligan, Minnesota Department of Agriculture, 90 West Plato Boulevard, St. Paul, MN 55107, (612) 296-6906.

(6) The proposed rule may be modified if the modifications are supported by the data and views submitted to the department and do not result in a substantial change in the proposed rule as noticed.

(11) A copy of the proposed rule is attached to this notice.

(12) A Statement of Need and Reasonableness that describes the need for and reasonableness of each provision of the proposed rule and identifies the data and information relied upon to support the proposed rule has been prepared and is available upon request from Ms. Milligan.

(11) The department has determined that small business will be minimally affected by this rule because many of the provisions are now being enforced under the sanitary food laws of Minnesota Statutes, Chapter 31. Also, the rule allows vending machines currently in operation that do not fully meet the design and fabrication requirements of the rule to continue in use as long as they remain in good repair, maintain proper temperatures, and are capable of being maintained in a sanitary condition.

(9) If no hearing is required, upon adoption of the final rule, the rule and the required supporting documents will be submitted to Attorney General for review as to legality and form to the extent the form relates to legality. Any person may request notification of the date of submission to the Attorney General. Persons who wish to be advised of the submission of this material to the Attorney General, or who wish to receive a copy of the adopted rule must submit a written request to Ms. Milligan.

STATE OF MINNESOTA

5-26-90
Date

Jim Nichols, Commissioner
Department of Agriculture

Department of Agriculture

Proposed Permanent Rules Relating to Food Vending Machines

Rules as Proposed (all new material)

1550.5000 DEFINITIONS.

Subpart 1. **Scope.** For the purpose of parts 1550.5000 to 1550.5130, the terms in this part have the meanings given them.

Subp. 2. **Bulk food.** "Bulk food" means a food that when dispensed to the customer is not packaged, wrapped, or otherwise enclosed.

Subp. 3. **Commissary.** "Commissary" means a catering establishment, restaurant, or other place in which food, containers, or supplies are kept, handled, prepared, packaged, or stored for use in vending machines. The term does not apply to an area or conveyance at a vending machine location used for the temporary storage of packaged food or beverages.

Subp. 4. **Corrosion-resistant materials.** "Corrosion-resistant materials" means materials that maintain their original sanitary surface characteristics under prolonged influence of the food to be contacted, the normal use of cleaning compounds and bactericidal solutions, and other conditions of the use environment.

Subp. 5. **Easily cleanable.** "Easily cleanable" means that surfaces are readily accessible and made of a material and finish and fabricated so that residues may be effectively removed by normal cleaning methods.

Subp. 6. **Employee.** "Employee" means an operator or other person who:

A. handles a food, beverage, or ingredient to be dispensed through vending machines;

B. comes into contact with food contact surfaces of containers, equipment, utensils, or packaging materials used in connection with vending machine operations; or

C. services or maintains a vending machine.

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Subp. 7. **Food.** "Food" means a raw, cooked, or processed edible substance, beverage, or ingredient used or intended for use or for sale, in whole or in part, for human consumption.

Subp. 8. **Food contact surface.** "Food contact surface" means a surface of a vending machine, appurtenance, or container that comes into direct contact with a food, beverage, or ingredient.

Subp. 9. **Hermetically-sealed container.** "Hermetically-sealed container" means a container that is designed and intended to be secure against the entry of microorganisms and to maintain the commercial sterility of its contents after processing.

Subp. 10. **Hot liquid, food, or beverage.** "Hot liquid, food, or beverage" means a liquid, food, or beverage at a temperature at the time of service to the consumer of at least 150 degrees Fahrenheit (66 degrees centigrade).

Subp. 11. **Law.** "Law" includes applicable federal, state, and local statutes, ordinances, rules, and regulations.

Subp. 12. **License.** "License" means the document issued by the Department of Agriculture or a home rule charter or statutory city or a county that is authorized by the department to impose a license fee and inspect food vending machines. A home rule charter or statutory city or a county that does not inspect food vending machines may not impose a food vending inspection or license fee.

Subp. 13. **Machine location.** "Machine location" means the room, enclosure, space, or area where one or more vending machines are installed and operated.

Subp. 14. **Packaged.** "Packaged" means contained in a case, carton, can, box, wrapping, barrel, tub, bottle, phial, or other receptacle or covering.

Subp. 15. **Person.** "Person" means an individual, partnership, corporation, company, firm, institution, trustee, association, or other public or private entity.

Subp. 16. **Potentially hazardous foods.** "Potentially hazardous foods" means food that consists, in whole or in part,

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of milk, milk products, eggs, meat, poultry, fish, shellfish, edible crustacea, or other ingredients, including synthetic ingredients, that is in a form capable of supporting rapid and progressive growth of infectious or toxigenic microorganisms. The term does not include foods that have a pH level of 4.6 or below or a water activity (a_w) value of 0.85 or less at 77 degrees Fahrenheit (25 degrees centigrade) and foods in hermetically-sealed containers processed to prevent spoilage.

Subp. 17. **Readily accessible.** "Readily accessible" means exposed or capable of being exposed for cleaning and inspection without the use of tools.

Subp. 18. **Regulatory authority.** "Regulatory authority" means the Department of Agriculture or the authorized home rule charter or statutory city or county responsible for licensing and inspection of vending machines.

Subp. 19. **Safe materials.** "Safe materials" means materials that may not reasonably be expected to result, directly or indirectly, in their becoming a component or otherwise affecting the characteristics of food. The term includes food additives or color additives as defined in section 201(s) or (t) of the federal Food, Drug, and Cosmetic Act only if they are used in conformity with regulations established under section 409 or 706 of that act. The term includes other materials only if, as used, they are not food additives or color additives as defined in section 201(s) or (t) of the federal Food, Drug, and Cosmetic Act and are used in conformity with applicable regulations of the United States Food and Drug Administration.

Subp. 20. **Sanitizing.** "Sanitizing" means effective bactericidal treatment of clean food contact surfaces of utensils and equipment by an approved process that is effective in destroying microorganisms, including pathogens, without adversely affecting the product or the safety of the consumer.

Subp. 21. **Single-service article.** "Single-service article" means a cup, container, lid or closure, plate, knife, fork, spoon, stirrer or paddle, straw, napkin, wrapping material,

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toothpick, or similar article made wholly or in part from paper, paperboard, molded pulp, foil, wood, plastic, synthetic, or other readily destructible materials, and intended by the manufacturers and generally recognized by the public as to be discarded after only one usage.

Subp. 22. **Vending machine.** "Vending machine" means a self-service device offered for public use that, upon insertion of a coin, coins, token, credit card, or other payment device, dispenses single or multiple servings of food or beverage, either in bulk or in package, without the necessity of replenishing the device between each vending operation.

1550.5010 VENDING MACHINE SANITATION REQUIREMENTS.

Subpart 1. **Standards.** Food intended for sale through vending machines must be obtained from sources complying with all laws relating to food and food labeling. The products must be in a wholesome condition and must be processed, prepared, handled, and stored to prevent contamination and adulteration. All food-contact surfaces of containers and equipment must be protected from contamination. Lamps located over exposed food storage or display must be shielded, coated, or otherwise shatter-resistant. This subpart has been satisfied when the requirements in subparts 2 to 7 are met.

Subp. 2. **Food manufacturing.** Food offered for sale through vending machines must be manufactured, processed, and prepared in commissaries or establishments that comply with applicable laws relating to food and food labeling.

Subp. 3. **Food.** Food offered for sale through vending machines must be wholesome and properly labeled.

Subp. 4. **Packaged food.** Food in package form must be packaged in sanitary containers and must be handled, transported, and vended in a sanitary manner.

Subp. 5. **Potentially hazardous food.** Potentially hazardous food offered for sale through vending machines must be dispensed to the consumer in a single-service original container or wrapper into which it was placed at the commissary or at the

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manufacturing or processing plant. Potentially hazardous food in bulk form must not be dispensed from vending machines.

Subp. 6. **Potentially hazardous food temperature requirements.** Potentially hazardous food within a vending machine must be maintained at a temperature of 40 degrees Fahrenheit (five degrees centigrade), or below, or 150 degrees Fahrenheit (66 degrees centigrade), or above. Vending machines dispensing potentially hazardous food must be provided with controls that will maintain the required temperatures at all times, except during the filling or servicing of the machine and for the maximum recovery period of 30 minutes following completion of these operations. The controls must also place the machine in an inoperative condition until serviced by the operator during a power failure or other condition that may permit the food storage compartment to attain a temperature over 40 degrees Fahrenheit (five degrees centigrade), or below, or 150 degrees Fahrenheit (66 degrees centigrade), or above, whichever is applicable. Vending machines dispensing potentially hazardous foods must be provided with a numerically-scaled indicating thermometer accurate to ±3 degrees Fahrenheit (±1 degree centigrade), indicating the air temperature of the food storage compartment. The thermometer must be readable without opening the machine.

Subp. 7. **Milk and milk products.** Fluid milk and fluid milk products offered for sale through vending machines must comply with the Grade A standards established by law and must be dispensed only in individual original containers.

Fluid milk and fluid milk products and fluid nondairy products must not be dispensed in vending machines as additional ingredients in hot liquid beverages or other foods.

1550.5020 CLEANING OF VENDING MACHINE.

Parts of vending machines that come into direct contact with food must be thoroughly cleaned and sanitized using methods approved by law. The frequency of cleaning and sanitizing treatment depends on the type of product being dispensed. A

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record of cleaning and sanitizing treatment must be maintained by the operator in each machine and must be current for at least 30 days. This subpart has been satisfied if the requirements in items A to C have been met.

A. All equipment at the vending location must be kept clean. Food contact surfaces must be cleaned, rinsed, and sanitized using methods that are effective in removing food residues and destroying microorganisms, including pathogens, without adversely affecting the product or the safety of the consumer.

B. The cavities and door seals of microwave ovens must be cleaned with nonabrasive cleaners as often as necessary to be maintained free of encrusted grease deposits and other soil. All doors, seals, hinges, and latch fasteners must be maintained tight and adjusted according to manufacturer's procedures. Microwave ovens must comply with applicable safety standards of the United States Food and Drug Administration's Bureau of Radiological Health.

C. Food contact surfaces of all equipment and utensils must be maintained free from contamination.

1550.5030 EQUIPMENT FOR CLEANING VENDING MACHINES.

In lieu of a permanent fixed installation of sink facilities, the person may provide portable equipment that can be moved from one location to another. The equipment must consist of detergents, sanitizers, brushes, pails, and other utility devices necessary for effective cleaning and sanitizing disinfection. Separate containers must be used for washing and rinsing operations.

1550.5040 SINGLE-SERVICE ARTICLES.

Single-service articles used for bulk food and beverages must be purchased in sanitary cartons or packages that protect the articles from contamination, stored in a clean, dry place until used, and handled in a sanitary manner. The articles must be stored in the original carton or package until introduced into the container magazine or dispenser of the vending

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machine. Single-service articles stored within the vending machine must be protected from manual contact, dust, insects, rodents, and other contamination. Single-service articles such as utensils, straws, toothpicks, or similar articles must be prewrapped and maintained out of the food when included as part of the packaged vended food.

1550.5050 CONDIMENTS.

Condiments must be in single-service containers and maintained out of the food when included as part of the packaged vended food.

1550.5060 VENDING MACHINE LOCATION.

Subpart 1. **Standards.** A vending machine must be located to minimize the potential for contamination of the food, must be easily cleanable, and must be kept clean. Food, food containers, and equipment stored near the machine or in a separate room at the location must be stored at least six inches (152 millimeters) above the floor and not exposed to moisture and the storage area must be kept clean. This subpart has been satisfied if the requirements in items A and B are met.

A. Each vending machine must be located in a room, area, or space that will maintain the machine in a clean condition and protect the machine from overhead leakage of drains and pipes. Vending machines must be located so that the space around and under the machine can be readily cleaned and maintained free of insect and rodent harborage.

B. The floors under vending machines must be reasonably smooth, cleanable, and capable of withstanding repeated washing and scrubbing. The immediate area surrounding a vending machine must be maintained in a clean condition.

1550.5070 EXTERIOR MACHINE CONSTRUCTION AND MAINTENANCE.

The exterior of a vending machine must be readily cleanable to prevent the entrance of insects and rodents and must be kept clean. Service connections to the machine must protect against unintentional or accidental interruption of service. This part

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has been satisfied if the requirements in items A to F are met.

A. The vending machine must be of sturdy construction with the exterior designed, fabricated, and finished to facilitate its cleanliness and prevent the entrance of insects and rodents.

B. Door and panel access openings to the product and container storage spaces of the machine must be tight-fitting to prevent the entrance of dust, moisture, insects, and rodents.

C. All necessary ventilation louvers on openings into vending machines must be effectively screened against insects and rodents. Screening material must not be less than 16 mesh to the inch or equivalent.

D. New vending machines with a condenser unit as an integral part of the machine must be sealed from the product and container storage spaces.

E. Unless the vending machine is sealed to the floor to prevent seepage or can be manually moved with ease, one or more of the following provisions must be used to facilitate cleaning operations:

(1) the machine must be mounted on legs six or more inches in height;

(2) the machine must be mounted on casters or rollers; or

(3) the machine must be mounted on gliders that permit it to be easily moved.

F. All service connections through an exterior wall of the machine, such as water, gas, electrical, and refrigeration connections, must be grommeted or sealed to prevent the entrance of insects and rodents. Connections to utilities must discourage unauthorized or unintentional disconnection.

1550.5080 INTERIOR CONSTRUCTION AND MAINTENANCE.

All interior surfaces and component parts of the vending machine must be designed and constructed to permit easy cleaning and must be kept clean. All food contact surfaces of the

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machine must be smooth, nontoxic, corrosion-resistant, and nonabsorbent and must be capable of withstanding repeated cleaning and sanitizing by normal procedures. Food contact surfaces must be protected against contamination. This part has been satisfied if the requirements in items A to G are met.

A. Nonfood contact surfaces of the interior of vending machines must be designed and constructed to permit easy cleaning and to facilitate maintenance operations. Inaccessible surfaces or areas must be minimized.

B. Food contact surfaces of vending machines must be smooth, in good repair, and free of breaks, corrosion, open seams, cracks, and chipping. Food contact surfaces must be designed to prevent routine contact between food and V-type threaded surfaces. All joints and welds in food contact surfaces must be smooth with rounded internal angles and corners to facilitate cleaning.

C. All food contact surfaces of vending machines including containers, pipes, valves, and fittings, must be constructed of nontoxic, corrosion-resistant, and relatively nonabsorbent materials and must be kept clean. All containers, valves, fittings, chutes, and faucets in contact with food must be readily removable and fabricated to be easily disassembled; and when disassembled, all surfaces must be visible for inspection and cleaning. If a machine is designed so that food contact pipes or tubing are not readily removable, in-place cleaning of pipes and pipe fittings is permitted if they are arranged so that cleaning and sanitizing solutions can be circulated throughout the fixed system and the solutions will contact all interior surfaces. The system must be self-draining, and the cleaning procedures must result in thorough cleaning of the equipment.

D. The openings into all nonpressurized containers used for the storage of food and single-service articles in vending machines must be provided with covers to prevent contamination of the interior of the containers. Covers must be designed to provide a flange that overlaps the opening and must

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be sloped to provide drainage from the cover surface. Port openings through the cover must be flanged upward at least three-eighths inch and must be provided with a cover that overlaps the flange. Condensation-deflecting or drip-deflecting aprons must be provided on all piping, thermometers, equipment, rotary shafts, and other functional parts extending into the container, unless joints are watertight. Aprons must be of safe material for those openings that are in continuous use. Gaskets, if used, must be nontoxic, relatively stable, and relatively nonabsorbent, and must have a smooth surface. Gasket retaining grooves must be readily cleanable.

E. The delivery tube, chute, and orifice of bulk food and bulk beverage vending machines must be protected from manual contact, dust, insects, rodents, and other contamination. The design must divert condensation and other moisture from the normal filling position of the container receiving the food or beverage. The vending stage of a vending machine must be provided with a tight-fitting, self-closing door or cover that is kept closed, except when the machine is in the process of delivering a food or beverage.

F. The product storage compartment within a vending machine dispensing packaged liquid products must be self-draining or must be provided with a drain outlet that permits complete draining of the compartment. The drains must be easily cleanable.

G. Opening devices that contact food or the food contact surface of the containers must be constructed of smooth, nontoxic, corrosion-resistant, and relatively nonabsorbent materials. Unless the opening device is a single-service type, it must be readily removable for cleaning and must be kept clean. Parts of multiuse opening devices coming into contact with the food or food contact surface of containers must be reasonably protected from manual contact, dust, insects, rodents, and other contamination. The parts must be readily removable for cleaning and must be kept clean.

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1550.5090 WATER SUPPLY.

Water used in a vending machine must be from an approved source and must be of a safe and sanitary quality. This part has been satisfied if the requirements in items A to E are met.

A. Water used in a vending machine must be potable and from an approved source. Water used as a product ingredient must be piped into the vending machine under pressure, and all connections and fittings must be installed in accordance with law. Containers for the storage of water must be designed and maintained as food contact surfaces. Bottled water use is not excluded.

B. Water filters or other water conditioning devices used as part of vending machines must be of a type that can be disassembled for periodic cleaning or replacement of the active element. Replacement elements must be handled in a sanitary manner. The date of the latest replacement must be on the water device.

C. Vending machines dispensing carbonated beverages that are connected to a water supply system must be equipped with a built-in positive airgap or an approved double check type backflow preventer with intermediate atmospheric vent, or other approved devices that will provide positive protection against the entrance of carbon dioxide or carbonated water into the water supply system.

D. Check valves used for the protection of the water supply system must have a screen of not less than 100 mesh to the inch installed in the water supply line immediately upstream from the check valves in a location that permits servicing or replacement.

E. Vending machines dispensing carbonated beverages that are connected to a water supply system with the water contact surfaces from the check valves or other protective device downstream, including the device itself, must be made of safe materials to prevent the production of toxic substances that may result from interaction with carbon dioxide or carbonated water.

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1550.5100 WASTE DISPOSAL.

Waste must be maintained in suitable containers and properly disposed of to prevent a nuisance. This part has been satisfied if the requirements in items A to C are met.

A. Trash and waste material must be frequently removed from the machine location and must be disposed of in a manner approved by law.

B. Self-closing, leakproof, readily cleanable, clearly labeled and designated waste containers must be provided near each machine for disposal of used single-service items. Waste containers must not be located within the machine, except for those machines dispensing only packaged products with crown closures, where the closure receptacle may be located within the machine. Suitable racks or cases must be provided for multiuse containers or bottles.

C. Containers must be provided within vending machines dispensing liquid products in bulk for the collection of drip, spillage, overflow, or other liquid wastes. An automatic shutoff device must be provided that will make the vending machine inoperative before the container overflows. Containers for waste must be readily removable for cleaning, must be easily cleanable, and must be corrosion-resistant. Liquid wastes from drip, spillage, or overflow discharged into a sewerage system must have an air gap between the connection and the sewer. The sewerage system must be constructed, maintained, and operated according to law.

1550.5110 DELIVERY OF FOOD, EQUIPMENT, AND SUPPLIES TO MACHINE LOCATION.

Food and food contact surfaces of containers, equipment, and supplies must be protected from contamination while in transit from the commissary to the machine location or its storage area. Potentially hazardous foods while in transit from a commissary must be maintained at a temperature of 40 degrees Fahrenheit (five degrees centigrade), or below, or 150 degrees Fahrenheit (66 degrees centigrade), or above. This part has

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been satisfied if the requirements in items A and B are met.

A. Food, single-service articles, and food contact surfaces in transit to vending machine locations must be protected from dirt, dust, insects, rodents, and other contamination.

B. Potentially hazardous food in transit from the commissary to vending machine locations must be maintained at a temperature of 40 degrees Fahrenheit (five degrees centigrade), or below, or 150 degrees Fahrenheit (66 degrees centigrade), or above.

1550.5120 PERSONNEL CLEANLINESS.

Subpart 1. **Handling of food or food contact surfaces.** Employees must maintain a high degree of personal cleanliness and must conform to good hygienic practices while engaged in handling food or food contact surfaces of utensils or equipment.

Subp. 2. **Servicing.** Employees must thoroughly wash their hands and exposed portions of their arms before engaging in vending machine servicing operations and after smoking, eating, or using the toilet. Employees must wear clean outer garments, must not use tobacco in any form, and must keep their fingernails clean and trimmed during servicing operations.

Subp. 3. **Employee health.** No employee, while infected with a disease in a communicable form that can be transmitted by foods or who is a carrier of organisms that cause such a disease or while affected with a boil, an infected wound, or an acute respiratory infection, may work with food in any capacity in which there is a likelihood of that person contaminating food or food contact surfaces with pathogenic organisms or transmitting disease to other persons.

1550.5130 EXISTING VENDING MACHINES.

Vending machines in use before the effective date of parts 1550.5000 to 1550.5130 that do not fully meet the design and fabrication requirements of parts 1550.5000 to 1550.5130 are acceptable if they are in good repair, capable of being maintained in a sanitary condition, and in compliance with part

Approved by Revisor _____

1 1550.5000, subpart 19.

Approved
by Revisor _____

Office of the Revisor of Statutes

Administrative Rules

TITLE: Proposed Permanent Rules Relating to Food Vending Machines

AGENCY: Department of Agriculture

MINNESOTA RULES: Chapter 1550

The attached rules are approved for publication in the State Register

Craig E. Lindeke
Senior Assistant Revisor

Department of Agriculture

Adopted Permanent Rules Relating to Food Vending Machines

Rules as Adopted

1550.5000 DEFINITIONS.

Subpart 1. **Scope.** For the purpose of parts 1550.5000 to 1550.5130, the terms in this part have the meanings given them.

Subp. 2. **Bulk food.** "Bulk food" means a food that when dispensed to the customer is not packaged, wrapped, or otherwise enclosed.

Subp. 3. **Commissary.** "Commissary" means a catering establishment, restaurant, or other place in which food, containers, or supplies are kept, handled, prepared, packaged, or stored for use in vending machines. The term does not apply to an area or conveyance at a vending machine location used for the temporary storage of packaged food or beverages.

Subp. 4. **Corrosion-resistant materials.** "Corrosion-resistant materials" means materials that maintain their original sanitary surface characteristics under prolonged influence of the food to be contacted, the normal use of cleaning compounds and bactericidal solutions, and other conditions of the use environment.

Subp. 5. **Easily cleanable.** "Easily cleanable" means that surfaces are readily accessible and made of a material and finish and fabricated so that residues may be effectively removed by normal cleaning methods.

Subp. 6. **Employee.** "Employee" means an operator or other person who:

A. handles a food, beverage, or ingredient to be dispensed through vending machines;

B. comes into contact with food contact surfaces of containers, equipment, utensils, or packaging materials used in connection with vending machine operations; or

C. services or maintains a vending machine.

Subp. 7. **Food.** "Food" means a raw, cooked, or processed edible substance, beverage, or ingredient used or intended for use or for sale, in whole or in part, for human consumption.

Subp. 8. **Food contact surface.** "Food contact surface" means a surface of a vending machine, appurtenance, or container that comes into direct contact with a food, beverage, or ingredient.

Subp. 9. **Hermetically-sealed container.** "Hermetically-sealed container" means a container that is designed and intended to be secure against the entry of microorganisms and to maintain the commercial sterility of its contents after processing.

Subp. 10. **Hot liquid, food, or beverage.** "Hot liquid, food, or beverage" means a liquid, food, or beverage at a temperature at the time of service to the consumer of at least 150 degrees Fahrenheit (66 degrees centigrade).

Subp. 11. **Law.** "Law" includes applicable federal, state, and local statutes, ordinances, rules, and regulations.

Subp. 12. **License.** "License" means the document issued by the Department of Agriculture or a home rule charter or statutory city or a county that is authorized by the department to impose a license fee and inspect food vending machines. A home rule charter or statutory city or a county that does not inspect food vending machines may not impose a food vending inspection or license fee.

Subp. 13. **Machine location.** "Machine location" means the room, enclosure, space, or area where one or more vending machines are installed and operated.

Subp. 14. **Packaged.** "Packaged" means contained in a case, carton, can, box, wrapping, barrel, tub, bottle, phial, or other receptacle or covering.

Subp. 15. **Person.** "Person" means an individual, partnership, corporation, company, firm, institution, trustee, association, or other public or private entity.

Subp. 16. **Potentially hazardous foods.** "Potentially hazardous foods" means food that consists, in whole or in part,

of milk, milk products, eggs, meat, poultry, fish, shellfish, edible crustacea, or other ingredients, including synthetic ingredients, that is in a form capable of supporting rapid and progressive growth of infectious or toxigenic microorganisms. The term does not include foods that have a pH level of 4.6 or below or a water activity (a_w) value of 0.85 or less at 77 degrees Fahrenheit (25 degrees centigrade) and foods in hermetically-sealed containers processed to prevent spoilage.

Subp. 17. **Readily accessible.** "Readily accessible" means exposed or capable of being exposed for cleaning and inspection without the use of tools.

Subp. 18. **Regulatory authority.** "Regulatory authority" means the Department of Agriculture or the authorized home rule charter or statutory city or county responsible for licensing and inspection of vending machines.

Subp. 19. **Safe materials.** "Safe materials" means materials that may not reasonably be expected to result, directly or indirectly, in their becoming a component or otherwise affecting the characteristics of food. The term includes food additives or color additives as defined in section 201(s) or (t) of the federal Food, Drug, and Cosmetic Act only if they are used in conformity with regulations established under section 409 or 706 of that act. The term includes other materials only if, as used, they are not food additives or color additives as defined in section 201(s) or (t) of the federal Food, Drug, and Cosmetic Act and are used in conformity with applicable regulations of the United States Food and Drug Administration.

Subp. 20. **Sanitizing.** "Sanitizing" means effective bactericidal treatment of clean food contact surfaces of utensils and equipment by an approved process that is effective in destroying microorganisms, including pathogens, without adversely affecting the product or the safety of the consumer.

Subp. 21. **Single-service article.** "Single-service article" means a cup, container, lid or closure, plate, knife, fork, spoon, stirrer or paddle, straw, napkin, wrapping material,

toothpick, or similar article made wholly or in part from paper, paperboard, molded pulp, foil, wood, plastic, synthetic, or other readily destructible materials, and intended by the manufacturers and generally recognized by the public as to be discarded after only one usage.

Subp. 22. **Vending machine.** "Vending machine" means a self-service device offered for public use that, upon insertion of a coin, coins, token, credit card, or other payment device, dispenses single or multiple servings of food or beverage, either in bulk or in package, without the necessity of replenishing the device between each vending operation.

1550.5010 VENDING MACHINE SANITATION REQUIREMENTS.

Subpart 1. **Standards.** Food intended for sale through vending machines must be obtained from sources complying with all laws relating to food and food labeling. The products must be in a wholesome condition and must be processed, prepared, handled, and stored to prevent contamination and adulteration. All food-contact surfaces of containers and equipment must be protected from contamination. Lamps located over exposed food storage or display must be shielded, coated, or otherwise shatter-resistant. This subpart has been satisfied when the requirements in subparts 2 to 7 are met.

Subp. 2. **Food manufacturing.** Food offered for sale through vending machines must be manufactured, processed, and prepared in commissaries or establishments that comply with applicable laws relating to food and food labeling.

Subp. 3. **Food.** Food offered for sale through vending machines must be wholesome and properly labeled.

Subp. 4. **Packaged food.** Food in package form must be packaged in sanitary containers and must be handled, transported, and vended in a sanitary manner.

Subp. 5. **Potentially hazardous food.** Potentially hazardous food offered for sale through vending machines must be dispensed to the consumer in a single-service original container or wrapper into which it was placed at the commissary or at the

manufacturing or processing plant. Potentially hazardous food in bulk form must not be dispensed from vending machines.

Subp. 6. **Potentially hazardous food temperature requirements.** Potentially hazardous food within a vending machine must be maintained at a temperature of 40 degrees Fahrenheit (five degrees centigrade), or below, or 150 degrees Fahrenheit (66 degrees centigrade), or above. Vending machines dispensing potentially hazardous food must be provided with controls that will maintain the required temperatures at all times, except during the filling or servicing of the machine and for the maximum recovery period of 30 minutes following completion of these operations. The controls must also place the machine in an inoperative condition until serviced by the operator during a power failure or other condition that may permit the food storage compartment to attain a temperature over 40 degrees Fahrenheit (five degrees centigrade), or below, or 150 degrees Fahrenheit (66 degrees centigrade), or above, whichever is applicable. Vending machines dispensing potentially hazardous foods must be provided with a numerically-scaled indicating thermometer accurate to ±3 degrees Fahrenheit (±1 degree centigrade), indicating the air temperature of the food storage compartment. The thermometer must be readable without opening the machine.

Subp. 7. **Milk and milk products.** Fluid milk and fluid milk products offered for sale through vending machines must comply with the Grade A standards established by law and must be dispensed only in individual original containers.

Fluid milk and fluid milk products and fluid nondairy products must not be dispensed in vending machines as additional ingredients in hot liquid beverages or other foods.

1550.5020 CLEANING OF VENDING MACHINE.

Parts of vending machines that come into direct contact with food must be thoroughly cleaned and sanitized using methods approved by law. The frequency of cleaning and sanitizing treatment depends on the type of product being dispensed. A

record of cleaning and sanitizing treatment must be maintained by the operator in each machine and must be current for at least 30 days. This subpart has been satisfied if the requirements in items A to C have been met.

A. All equipment at the vending location must be kept clean. Food contact surfaces must be cleaned, rinsed, and sanitized using methods that are effective in removing food residues and destroying microorganisms, including pathogens, without adversely affecting the product or the safety of the consumer.

B. The cavities and door seals of microwave ovens must be cleaned with nonabrasive cleaners as often as necessary to be maintained free of encrusted grease deposits and other soil. All doors, seals, hinges, and latch fasteners must be maintained tight and adjusted according to manufacturer's procedures. Microwave ovens must comply with applicable safety standards of the United States Food and Drug Administration's Bureau of Radiological Health.

C. Food contact surfaces of all equipment and utensils must be maintained free from contamination.

1550.5030 EQUIPMENT FOR CLEANING VENDING MACHINES.

In lieu of a permanent fixed installation of sink facilities, the person may provide portable equipment that can be moved from one location to another. The equipment must consist of detergents, sanitizers, brushes, pails, and other utility devices necessary for effective cleaning and sanitizing disinfection. Separate containers must be used for washing and rinsing operations.

1550.5040 SINGLE-SERVICE ARTICLES.

Single-service articles used for bulk food and beverages must be purchased in sanitary cartons or packages that protect the articles from contamination, stored in a clean, dry place until used, and handled in a sanitary manner. The articles must be stored in the original carton or package until introduced into the container magazine or dispenser of the vending

machine. Single-service articles stored within the vending machine must be protected from manual contact, dust, insects, rodents, and other contamination. Single-service articles such as utensils, straws, toothpicks, or similar articles must be prewrapped and maintained out of the food when included as part of the packaged vended food.

1550.5050 CONDIMENTS.

Condiments must be in single-service containers and maintained out of the food when included as part of the packaged vended food.

1550.5060 VENDING MACHINE LOCATION.

Subpart 1. **Standards.** A vending machine must be located to minimize the potential for contamination of the food, must be easily cleanable, and must be kept clean. Food, food containers, and equipment stored near the machine or in a separate room at the location must be stored at least six inches (152 millimeters) above the floor and not exposed to moisture and the storage area must be kept clean. This subpart has been satisfied if the requirements in items A and B are met.

A. Each vending machine must be located in a room, area, or space that will maintain the machine in a clean condition and protect the machine from overhead leakage of drains and pipes. Vending machines must be located so that the space around and under the machine can be readily cleaned and maintained free of insect and rodent harborage.

B. The floors under vending machines must be reasonably smooth, cleanable, and capable of withstanding repeated washing and scrubbing. The immediate area surrounding a vending machine must be maintained in a clean condition.

1550.5070 EXTERIOR MACHINE CONSTRUCTION AND MAINTENANCE.

The exterior of a vending machine must be readily cleanable to prevent the entrance of insects and rodents and must be kept clean. Service connections to the machine must protect against unintentional or accidental interruption of service. This part

has been satisfied if the requirements in items A to F are met.

A. The vending machine must be of sturdy construction with the exterior designed, fabricated, and finished to facilitate its cleanliness and prevent the entrance of insects and rodents.

B. Door and panel access openings to the product and container storage spaces of the machine must be tight-fitting to prevent the entrance of dust, moisture, insects, and rodents.

C. All necessary ventilation louvers on openings into vending machines must be effectively screened against insects and rodents. Screening material must not be less than 16 mesh to the inch or equivalent.

D. New vending machines with a condenser unit as an integral part of the machine must be sealed from the product and container storage spaces.

E. Unless the vending machine is sealed to the floor to prevent seepage or can be manually moved with ease, one or more of the following provisions must be used to facilitate cleaning operations:

(1) the machine must be mounted on legs six or more inches in height;

(2) the machine must be mounted on casters or rollers; or

(3) the machine must be mounted on gliders that permit it to be easily moved.

F. All service connections through an exterior wall of the machine, such as water, gas, electrical, and refrigeration connections, must be grommeted or sealed to prevent the entrance of insects and rodents. Connections to utilities must discourage unauthorized or unintentional disconnection.

1550.5080 INTERIOR CONSTRUCTION AND MAINTENANCE.

All interior surfaces and component parts of the vending machine must be designed and constructed to permit easy cleaning and must be kept clean. All food contact surfaces of the

machine must be smooth, nontoxic, corrosion-resistant, and nonabsorbent and must be capable of withstanding repeated cleaning and sanitizing by normal procedures. Food contact surfaces must be protected against contamination. This part has been satisfied if the requirements in items A to G are met.

A. Nonfood contact surfaces of the interior of vending machines must be designed and constructed to permit easy cleaning and to facilitate maintenance operations. Inaccessible surfaces or areas must be minimized.

B. Food contact surfaces of vending machines must be smooth, in good repair, and free of breaks, corrosion, open seams, cracks, and chipping. Food contact surfaces must be designed to prevent routine contact between food and V-type threaded surfaces. All joints and welds in food contact surfaces must be smooth with rounded internal angles and corners to facilitate cleaning.

C. All food contact surfaces of vending machines including containers, pipes, valves, and fittings, must be constructed of nontoxic, corrosion-resistant, and relatively nonabsorbent materials and must be kept clean. All containers, valves, fittings, chutes, and faucets in contact with food must be readily removable and fabricated to be easily disassembled; and when disassembled, all surfaces must be visible for inspection and cleaning. If a machine is designed so that food contact pipes or tubing are not readily removable, in-place cleaning of pipes and pipe fittings is permitted if they are arranged so that cleaning and sanitizing solutions can be circulated throughout the fixed system and the solutions will contact all interior surfaces. The system must be self-draining, and the cleaning procedures must result in thorough cleaning of the equipment.

D. The openings into all nonpressurized containers used for the storage of food and single-service articles in vending machines must be provided with covers to prevent contamination of the interior of the containers. Covers must be designed to provide a flange that overlaps the opening and must

be sloped to provide drainage from the cover surface. Port openings through the cover must be flanged upward at least three-eighths inch and must be provided with a cover that overlaps the flange. Condensation-deflecting or drip-deflecting aprons must be provided on all piping, thermometers, equipment, rotary shafts, and other functional parts extending into the container, unless joints are watertight. Aprons must be of safe material for those openings that are in continuous use. Gaskets, if used, must be nontoxic, relatively stable, and relatively nonabsorbent, and must have a smooth surface. Gasket retaining grooves must be readily cleanable.

E. The delivery tube, chute, and orifice of bulk food and bulk beverage vending machines must be protected from manual contact, dust, insects, rodents, and other contamination. The design must divert condensation and other moisture from the normal filling position of the container receiving the food or beverage. The vending stage of a vending machine must be provided with a tight-fitting, self-closing door or cover that is kept closed, except when the machine is in the process of delivering a food or beverage.

F. The product storage compartment within a vending machine dispensing packaged liquid products must be self-draining or must be provided with a drain outlet that permits complete draining of the compartment. The drains must be easily cleanable.

G. Opening devices that contact food or the food contact surface of the containers must be constructed of smooth, nontoxic, corrosion-resistant, and relatively nonabsorbent materials. Unless the opening device is a single-service type, it must be readily removable for cleaning and must be kept clean. Parts of multiuse opening devices coming into contact with the food or food contact surface of containers must be reasonably protected from manual contact, dust, insects, rodents, and other contamination. The parts must be readily removable for cleaning and must be kept clean.

1550.5090 WATER SUPPLY.

Water used in a vending machine must be from an approved source and must be of a safe and sanitary quality. This part has been satisfied if the requirements in items A to E are met.

A. Water used in a vending machine must be potable and from an approved source. Water used as a product ingredient must be piped into the vending machine under pressure, and all connections and fittings must be installed in accordance with law. Containers for the storage of water must be designed and maintained as food contact surfaces. Bottled water use is not excluded.

B. Water filters or other water conditioning devices used as part of vending machines must be of a type that can be disassembled for periodic cleaning or replacement of the active element. Replacement elements must be handled in a sanitary manner. The date of the latest replacement must be on the water device.

C. Vending machines dispensing carbonated beverages that are connected to a water supply system must be equipped with a built-in positive airgap or an approved double check type backflow preventer with intermediate atmospheric vent, or other approved devices that will provide positive protection against the entrance of carbon dioxide or carbonated water into the water supply system.

D. Check valves used for the protection of the water supply system must have a screen of not less than 100 mesh to the inch installed in the water supply line immediately upstream from the check valves in a location that permits servicing or replacement.

E. Vending machines dispensing carbonated beverages that are connected to a water supply system with the water contact surfaces from the check valves or other protective device downstream, including the device itself, must be made of safe materials to prevent the production of toxic substances that may result from interaction with carbon dioxide or carbonated water.

1550.5100 WASTE DISPOSAL.

Waste must be maintained in suitable containers and properly disposed of to prevent a nuisance. This part has been satisfied if the requirements in items A to C are met.

A. Trash and waste material must be frequently removed from the machine location and must be disposed of in a manner approved by law.

B. Self-closing, leakproof, readily cleanable, clearly labeled and designated waste containers must be provided near each machine for disposal of used single-service items. Waste containers must not be located within the machine, except for those machines dispensing only packaged products with crown closures, where the closure receptacle may be located within the machine. Suitable racks or cases must be provided for multiuse containers or bottles.

C. Containers must be provided within vending machines dispensing liquid products in bulk for the collection of drip, spillage, overflow, or other liquid wastes. An automatic shutoff device must be provided that will make the vending machine inoperative before the container overflows. Containers for waste must be readily removable for cleaning, must be easily cleanable, and must be corrosion-resistant. Liquid wastes from drip, spillage, or overflow discharged into a sewerage system must have an air gap between the connection and the sewer. The sewerage system must be constructed, maintained, and operated according to law.

1550.5110 DELIVERY OF FOOD, EQUIPMENT, AND SUPPLIES TO MACHINE LOCATION.

Food and food contact surfaces of containers, equipment, and supplies must be protected from contamination while in transit from the commissary to the machine location or its storage area. Potentially hazardous foods while in transit from a commissary must be maintained at a temperature of 40 degrees Fahrenheit (five degrees centigrade), or below, or 150 degrees Fahrenheit (66 degrees centigrade), or above. This part has

been satisfied if the requirements in items A and B are met.

A. Food, single-service articles, and food contact surfaces in transit to vending machine locations must be protected from dirt, dust, insects, rodents, and other contamination.

B. Potentially hazardous food in transit from the commissary to vending machine locations must be maintained at a temperature of 40 degrees Fahrenheit (five degrees centigrade), or below, or 150 degrees Fahrenheit (66 degrees centigrade), or above.

1550.5120 PERSONNEL CLEANLINESS.

Subpart 1. **Handling of food or food contact surfaces.** Employees must maintain a high degree of personal cleanliness and must conform to good hygienic practices while engaged in handling food or food contact surfaces of utensils or equipment.

Subp. 2. **Servicing.** Employees must thoroughly wash their hands and exposed portions of their arms before engaging in vending machine servicing operations and after smoking, eating, or using the toilet. Employees must wear clean outer garments, must not use tobacco in any form, and must keep their fingernails clean and trimmed during servicing operations.

Subp. 3. **Employee health.** No employee, while infected with a disease in a communicable form that can be transmitted by foods or who is a carrier of organisms that cause such a disease or while affected with a boil, an infected wound, or an acute respiratory infection, may work with food in any capacity in which there is a likelihood of that person contaminating food or food contact surfaces with pathogenic organisms or transmitting disease to other persons.

1550.5130 EXISTING VENDING MACHINES.

Vending machines in use before the effective date of parts 1550.5000 to 1550.5130 that do not fully meet the design and fabrication requirements of parts 1550.5000 to 1550.5130 are acceptable if they are in good repair, capable of being maintained in a sanitary condition, and in compliance with part

1550.5000, subpart 19.

Office of the Revisor of Statutes

Administrative Rules

TITLE: Adopted Permanent Rules Relating to Food Vending Machines

AGENCY: Department of Agriculture

MINNESOTA RULES: Chapter 1550

The attached rules are approved for
filing with the Secretary of State

Craig E. Lindeke
Senior Assistant Revisor

Department of Agriculture

Adopted Permanent Rules Relating to Food Vending Machines

Rules as Adopted

1550.5000 DEFINITIONS.

Subpart 1. **Scope.** For the purpose of parts 1550.5000 to 1550.5130, the terms in this part have the meanings given them.

Subp. 2. **Bulk food.** "Bulk food" means a food that when dispensed to the customer is not packaged, wrapped, or otherwise enclosed.

Subp. 3. **Commissary.** "Commissary" means a catering establishment, restaurant, or other place in which food, containers, or supplies are kept, handled, prepared, packaged, or stored for use in vending machines. The term does not apply to an area or conveyance at a vending machine location used for the temporary storage of packaged food or beverages.

Subp. 4. **Corrosion-resistant materials.** "Corrosion-resistant materials" means materials that maintain their original sanitary surface characteristics under prolonged influence of the food to be contacted, the normal use of cleaning compounds and bactericidal solutions, and other conditions of the use environment.

Subp. 5. **Easily cleanable.** "Easily cleanable" means that surfaces are readily accessible and made of a material and finish and fabricated so that residues may be effectively removed by normal cleaning methods.

Subp. 6. **Employee.** "Employee" means an operator or other person who:

A. handles a food, beverage, or ingredient to be dispensed through vending machines;

B. comes into contact with food contact surfaces of containers, equipment, utensils, or packaging materials used in connection with vending machine operations; or

C. services or maintains a vending machine.

Subp. 7. **Food.** "Food" means a raw, cooked, or processed edible substance, beverage, or ingredient used or intended for use or for sale, in whole or in part, for human consumption.

Subp. 8. **Food contact surface.** "Food contact surface" means a surface of a vending machine, appurtenance, or container that comes into direct contact with a food, beverage, or ingredient.

Subp. 9. **Hermetically-sealed container.** "Hermetically-sealed container" means a container that is designed and intended to be secure against the entry of microorganisms and to maintain the commercial sterility of its contents after processing.

Subp. 10. **Hot liquid, food, or beverage.** "Hot liquid, food, or beverage" means a liquid, food, or beverage at a temperature at the time of service to the consumer of at least 150 degrees Fahrenheit (66 degrees centigrade).

Subp. 11. **Law.** "Law" includes applicable federal, state, and local statutes, ordinances, rules, and regulations.

Subp. 12. **License.** "License" means the document issued by the Department of Agriculture or a home rule charter or statutory city or a county that is authorized by the department to impose a license fee and inspect food vending machines. A home rule charter or statutory city or a county that does not inspect food vending machines may not impose a food vending inspection or license fee.

Subp. 13. **Machine location.** "Machine location" means the room, enclosure, space, or area where one or more vending machines are installed and operated.

Subp. 14. **Packaged.** "Packaged" means contained in a case, carton, can, box, wrapping, barrel, tub, bottle, phial, or other receptacle or covering.

Subp. 15. **Person.** "Person" means an individual, partnership, corporation, company, firm, institution, trustee, association, or other public or private entity.

Subp. 16. **Potentially hazardous foods.** "Potentially hazardous foods" means food that consists, in whole or in part,

of milk, milk products, eggs, meat, poultry, fish, shellfish, edible crustacea, or other ingredients, including synthetic ingredients, that is in a form capable of supporting rapid and progressive growth of infectious or toxigenic microorganisms. The term does not include foods that have a pH level of 4.6 or below or a water activity (a_w) value of 0.85 or less at 77 degrees Fahrenheit (25 degrees centigrade) and foods in hermetically-sealed containers processed to prevent spoilage.

Subp. 17. **Readily accessible.** "Readily accessible" means exposed or capable of being exposed for cleaning and inspection without the use of tools.

Subp. 18. **Regulatory authority.** "Regulatory authority" means the Department of Agriculture or the authorized home rule charter or statutory city or county responsible for licensing and inspection of vending machines.

Subp. 19. **Safe materials.** "Safe materials" means materials that may not reasonably be expected to result, directly or indirectly, in their becoming a component or otherwise affecting the characteristics of food. The term includes food additives or color additives as defined in section 201(s) or (t) of the federal Food, Drug, and Cosmetic Act only if they are used in conformity with regulations established under section 409 or 706 of that act. The term includes other materials only if, as used, they are not food additives or color additives as defined in section 201(s) or (t) of the federal Food, Drug, and Cosmetic Act and are used in conformity with applicable regulations of the United States Food and Drug Administration.

Subp. 20. **Sanitizing.** "Sanitizing" means effective bactericidal treatment of clean food contact surfaces of utensils and equipment by an approved process that is effective in destroying microorganisms, including pathogens, without adversely affecting the product or the safety of the consumer.

Subp. 21. **Single-service article.** "Single-service article" means a cup, container, lid or closure, plate, knife, fork, spoon, stirrer or paddle, straw, napkin, wrapping material,

toothpick, or similar article made wholly or in part from paper, paperboard, molded pulp, foil, wood, plastic, synthetic, or other readily destructible materials, and intended by the manufacturers and generally recognized by the public as to be discarded after only one usage.

Subp. 22. **Vending machine.** "Vending machine" means a self-service device offered for public use that, upon insertion of a coin, coins, token, credit card, or other payment device, dispenses single or multiple servings of food or beverage, either in bulk or in package, without the necessity of replenishing the device between each vending operation.

1550.5010 VENDING MACHINE SANITATION REQUIREMENTS.

Subpart 1. **Standards.** Food intended for sale through vending machines must be obtained from sources complying with all laws relating to food and food labeling. The products must be in a wholesome condition and must be processed, prepared, handled, and stored to prevent contamination and adulteration. All food-contact surfaces of containers and equipment must be protected from contamination. Lamps located over exposed food storage or display must be shielded, coated, or otherwise shatter-resistant. This subpart has been satisfied when the requirements in subparts 2 to 7 are met.

Subp. 2. **Food manufacturing.** Food offered for sale through vending machines must be manufactured, processed, and prepared in commissaries or establishments that comply with applicable laws relating to food and food labeling.

Subp. 3. **Food.** Food offered for sale through vending machines must be wholesome and properly labeled.

Subp. 4. **Packaged food.** Food in package form must be packaged in sanitary containers and must be handled, transported, and vended in a sanitary manner.

Subp. 5. **Potentially hazardous food.** Potentially hazardous food offered for sale through vending machines must be dispensed to the consumer in a single-service original container or wrapper into which it was placed at the commissary or at the

manufacturing or processing plant. Potentially hazardous food in bulk form must not be dispensed from vending machines.

Subp. 6. **Potentially hazardous food temperature requirements.** Potentially hazardous food within a vending machine must be maintained at a temperature of 40 degrees Fahrenheit (five degrees centigrade), or below, or 150 degrees Fahrenheit (66 degrees centigrade), or above. Vending machines dispensing potentially hazardous food must be provided with controls that will maintain the required temperatures at all times, except during the filling or servicing of the machine and for the maximum recovery period of 30 minutes following completion of these operations. The controls must also place the machine in an inoperative condition until serviced by the operator during a power failure or other condition that may permit the food storage compartment to attain a temperature over 40 degrees Fahrenheit (five degrees centigrade), or below, or 150 degrees Fahrenheit (66 degrees centigrade), or above, whichever is applicable. Vending machines dispensing potentially hazardous foods must be provided with a numerically-scaled indicating thermometer accurate to ±3 degrees Fahrenheit (±1 degree centigrade), indicating the air temperature of the food storage compartment. The thermometer must be readable without opening the machine.

Subp. 7. **Milk and milk products.** Fluid milk and fluid milk products offered for sale through vending machines must comply with the Grade A standards established by law and must be dispensed only in individual original containers.

Fluid milk and fluid milk products and fluid nondairy products must not be dispensed in vending machines as additional ingredients in hot liquid beverages or other foods.

1550.5020 CLEANING OF VENDING MACHINE.

Parts of vending machines that come into direct contact with food must be thoroughly cleaned and sanitized using methods approved by law. The frequency of cleaning and sanitizing treatment depends on the type of product being dispensed. A

record of cleaning and sanitizing treatment must be maintained by the operator in each machine and must be current for at least 30 days. This subpart has been satisfied if the requirements in items A to C have been met.

A. All equipment at the vending location must be kept clean. Food contact surfaces must be cleaned, rinsed, and sanitized using methods that are effective in removing food residues and destroying microorganisms, including pathogens, without adversely affecting the product or the safety of the consumer.

B. The cavities and door seals of microwave ovens must be cleaned with nonabrasive cleaners as often as necessary to be maintained free of encrusted grease deposits and other soil. All doors, seals, hinges, and latch fasteners must be maintained tight and adjusted according to manufacturer's procedures. Microwave ovens must comply with applicable safety standards of the United States Food and Drug Administration's Bureau of Radiological Health.

C. Food contact surfaces of all equipment and utensils must be maintained free from contamination.

1550.5030 EQUIPMENT FOR CLEANING VENDING MACHINES.

In lieu of a permanent fixed installation of sink facilities, the person may provide portable equipment that can be moved from one location to another. The equipment must consist of detergents, sanitizers, brushes, pails, and other utility devices necessary for effective cleaning and sanitizing disinfection. Separate containers must be used for washing and rinsing operations.

1550.5040 SINGLE-SERVICE ARTICLES.

Single-service articles used for bulk food and beverages must be purchased in sanitary cartons or packages that protect the articles from contamination, stored in a clean, dry place until used, and handled in a sanitary manner. The articles must be stored in the original carton or package until introduced into the container magazine or dispenser of the vending

machine. Single-service articles stored within the vending machine must be protected from manual contact, dust, insects, rodents, and other contamination. Single-service articles such as utensils, straws, toothpicks, or similar articles must be prewrapped and maintained out of the food when included as part of the packaged vended food.

1550.5050 CONDIMENTS.

Condiments must be in single-service containers and maintained out of the food when included as part of the packaged vended food.

1550.5060 VENDING MACHINE LOCATION.

Subpart 1. **Standards.** A vending machine must be located to minimize the potential for contamination of the food, must be easily cleanable, and must be kept clean. Food, food containers, and equipment stored near the machine or in a separate room at the location must be stored at least six inches (152 millimeters) above the floor and not exposed to moisture and the storage area must be kept clean. This subpart has been satisfied if the requirements in items A and B are met.

A. Each vending machine must be located in a room, area, or space that will maintain the machine in a clean condition and protect the machine from overhead leakage of drains and pipes. Vending machines must be located so that the space around and under the machine can be readily cleaned and maintained free of insect and rodent harborage.

B. The floors under vending machines must be reasonably smooth, cleanable, and capable of withstanding repeated washing and scrubbing. The immediate area surrounding a vending machine must be maintained in a clean condition.

1550.5070 EXTERIOR MACHINE CONSTRUCTION AND MAINTENANCE.

The exterior of a vending machine must be readily cleanable to prevent the entrance of insects and rodents and must be kept clean. Service connections to the machine must protect against unintentional or accidental interruption of service. This part

has been satisfied if the requirements in items A to F are met.

A. The vending machine must be of sturdy construction with the exterior designed, fabricated, and finished to facilitate its cleanliness and prevent the entrance of insects and rodents.

B. Door and panel access openings to the product and container storage spaces of the machine must be tight-fitting to prevent the entrance of dust, moisture, insects, and rodents.

C. All necessary ventilation louvers on openings into vending machines must be effectively screened against insects and rodents. Screening material must not be less than 16 mesh to the inch or equivalent.

D. New vending machines with a condenser unit as an integral part of the machine must be sealed from the product and container storage spaces.

E. Unless the vending machine is sealed to the floor to prevent seepage or can be manually moved with ease, one or more of the following provisions must be used to facilitate cleaning operations:

(1) the machine must be mounted on legs six or more inches in height;

(2) the machine must be mounted on casters or rollers; or

(3) the machine must be mounted on gliders that permit it to be easily moved.

F. All service connections through an exterior wall of the machine, such as water, gas, electrical, and refrigeration connections, must be grommeted or sealed to prevent the entrance of insects and rodents. Connections to utilities must discourage unauthorized or unintentional disconnection.

1550.5080 INTERIOR CONSTRUCTION AND MAINTENANCE.

All interior surfaces and component parts of the vending machine must be designed and constructed to permit easy cleaning and must be kept clean. All food contact surfaces of the

machine must be smooth, nontoxic, corrosion-resistant, and nonabsorbent and must be capable of withstanding repeated cleaning and sanitizing by normal procedures. Food contact surfaces must be protected against contamination. This part has been satisfied if the requirements in items A to G are met.

A. Nonfood contact surfaces of the interior of vending machines must be designed and constructed to permit easy cleaning and to facilitate maintenance operations. Inaccessible surfaces or areas must be minimized.

B. Food contact surfaces of vending machines must be smooth, in good repair, and free of breaks, corrosion, open seams, cracks, and chipping. Food contact surfaces must be designed to prevent routine contact between food and V-type threaded surfaces. All joints and welds in food contact surfaces must be smooth with rounded internal angles and corners to facilitate cleaning.

C. All food contact surfaces of vending machines including containers, pipes, valves, and fittings, must be constructed of nontoxic, corrosion-resistant, and relatively nonabsorbent materials and must be kept clean. All containers, valves, fittings, chutes, and faucets in contact with food must be readily removable and fabricated to be easily disassembled; and when disassembled, all surfaces must be visible for inspection and cleaning. If a machine is designed so that food contact pipes or tubing are not readily removable, in-place cleaning of pipes and pipe fittings is permitted if they are arranged so that cleaning and sanitizing solutions can be circulated throughout the fixed system and the solutions will contact all interior surfaces. The system must be self-draining, and the cleaning procedures must result in thorough cleaning of the equipment.

D. The openings into all nonpressurized containers used for the storage of food and single-service articles in vending machines must be provided with covers to prevent contamination of the interior of the containers. Covers must be designed to provide a flange that overlaps the opening and must

be sloped to provide drainage from the cover surface. Port openings through the cover must be flanged upward at least three-eighths inch and must be provided with a cover that overlaps the flange. Condensation-deflecting or drip-deflecting aprons must be provided on all piping, thermometers, equipment, rotary shafts, and other functional parts extending into the container, unless joints are watertight. Aprons must be of safe material for those openings that are in continuous use. Gaskets, if used, must be nontoxic, relatively stable, and relatively nonabsorbent, and must have a smooth surface. Gasket retaining grooves must be readily cleanable.

E. The delivery tube, chute, and orifice of bulk food and bulk beverage vending machines must be protected from manual contact, dust, insects, rodents, and other contamination. The design must divert condensation and other moisture from the normal filling position of the container receiving the food or beverage. The vending stage of a vending machine must be provided with a tight-fitting, self-closing door or cover that is kept closed, except when the machine is in the process of delivering a food or beverage.

F. The product storage compartment within a vending machine dispensing packaged liquid products must be self-draining or must be provided with a drain outlet that permits complete draining of the compartment. The drains must be easily cleanable.

G. Opening devices that contact food or the food contact surface of the containers must be constructed of smooth, nontoxic, corrosion-resistant, and relatively nonabsorbent materials. Unless the opening device is a single-service type, it must be readily removable for cleaning and must be kept clean. Parts of multiuse opening devices coming into contact with the food or food contact surface of containers must be reasonably protected from manual contact, dust, insects, rodents, and other contamination. The parts must be readily removable for cleaning and must be kept clean.

1550.5090 WATER SUPPLY.

Water used in a vending machine must be from an approved source and must be of a safe and sanitary quality. This part has been satisfied if the requirements in items A to E are met.

A. Water used in a vending machine must be potable and from an approved source. Water used as a product ingredient must be piped into the vending machine under pressure, and all connections and fittings must be installed in accordance with law. Containers for the storage of water must be designed and maintained as food contact surfaces. Bottled water use is not excluded.

B. Water filters or other water conditioning devices used as part of vending machines must be of a type that can be disassembled for periodic cleaning or replacement of the active element. Replacement elements must be handled in a sanitary manner. The date of the latest replacement must be on the water device.

C. Vending machines dispensing carbonated beverages that are connected to a water supply system must be equipped with a built-in positive airgap or an approved double check type backflow preventer with intermediate atmospheric vent, or other approved devices that will provide positive protection against the entrance of carbon dioxide or carbonated water into the water supply system.

D. Check valves used for the protection of the water supply system must have a screen of not less than 100 mesh to the inch installed in the water supply line immediately upstream from the check valves in a location that permits servicing or replacement.

E. Vending machines dispensing carbonated beverages that are connected to a water supply system with the water contact surfaces from the check valves or other protective device downstream, including the device itself, must be made of safe materials to prevent the production of toxic substances that may result from interaction with carbon dioxide or carbonated water.

1550.5100 WASTE DISPOSAL.

Waste must be maintained in suitable containers and properly disposed of to prevent a nuisance. This part has been satisfied if the requirements in items A to C are met.

A. Trash and waste material must be frequently removed from the machine location and must be disposed of in a manner approved by law.

B. Self-closing, leakproof, readily cleanable, clearly labeled and designated waste containers must be provided near each machine for disposal of used single-service items. Waste containers must not be located within the machine, except for those machines dispensing only packaged products with crown closures, where the closure receptacle may be located within the machine. Suitable racks or cases must be provided for multiuse containers or bottles.

C. Containers must be provided within vending machines dispensing liquid products in bulk for the collection of drip, spillage, overflow, or other liquid wastes. An automatic shutoff device must be provided that will make the vending machine inoperative before the container overflows. Containers for waste must be readily removable for cleaning, must be easily cleanable, and must be corrosion-resistant. Liquid wastes from drip, spillage, or overflow discharged into a sewerage system must have an air gap between the connection and the sewer. The sewerage system must be constructed, maintained, and operated according to law.

1550.5110 DELIVERY OF FOOD, EQUIPMENT, AND SUPPLIES TO MACHINE LOCATION.

Food and food contact surfaces of containers, equipment, and supplies must be protected from contamination while in transit from the commissary to the machine location or its storage area. Potentially hazardous foods while in transit from a commissary must be maintained at a temperature of 40 degrees Fahrenheit (five degrees centigrade), or below, or 150 degrees Fahrenheit (66 degrees centigrade), or above. This part has

been satisfied if the requirements in items A and B are met.

A. Food, single-service articles, and food contact surfaces in transit to vending machine locations must be protected from dirt, dust, insects, rodents, and other contamination.

B. Potentially hazardous food in transit from the commissary to vending machine locations must be maintained at a temperature of 40 degrees Fahrenheit (five degrees centigrade), or below, or 150 degrees Fahrenheit (66 degrees centigrade), or above.

1550.5120 PERSONNEL CLEANLINESS.

Subpart 1. **Handling of food or food contact surfaces.** Employees must maintain a high degree of personal cleanliness and must conform to good hygienic practices while engaged in handling food or food contact surfaces of utensils or equipment.

Subp. 2. **Servicing.** Employees must thoroughly wash their hands and exposed portions of their arms before engaging in vending machine servicing operations and after smoking, eating, or using the toilet. Employees must wear clean outer garments, must not use tobacco in any form, and must keep their fingernails clean and trimmed during servicing operations.

Subp. 3. **Employee health.** No employee, while infected with a disease in a communicable form that can be transmitted by foods or who is a carrier of organisms that cause such a disease or while affected with a boil, an infected wound, or an acute respiratory infection, may work with food in any capacity in which there is a likelihood of that person contaminating food or food contact surfaces with pathogenic organisms or transmitting disease to other persons.

1550.5130 EXISTING VENDING MACHINES.

Vending machines in use before the effective date of parts 1550.5000 to 1550.5130 that do not fully meet the design and fabrication requirements of parts 1550.5000 to 1550.5130 are acceptable if they are in good repair, capable of being maintained in a sanitary condition, and in compliance with part

1550.5000, subpart 19.

Office of the Revisor of Statutes

Administrative Rules

TITLE: Adopted Permanent Rules Relating to Food Vending Machines

AGENCY: Department of Agriculture

MINNESOTA RULES: Chapter 1550

The attached rules are approved for
filing with the Secretary of State

Craig E. Lindeke
Senior Assistant Revisor

In the Matter of the Proposed Adoption of the Rule of the State Department of Agriculture Governing Food Vending Machines

AFFIDAVIT OF MAILING THE NOTICE OF INTENT TO ADOPT A RULE WITHOUT A PUBLIC HEARING

STATE OF MINNESOTA)
) ss.
COUNTY OF RAMSEY)

Marie Skerbitz, being sworn, says:

That on the 14th day of June, 1990, at the City of St. Paul, County of Ramsey, State of Minnesota, I mailed the attached Notice of Intent to Adopt a Rule Without a Public Hearing by depositing in the State of Minnesota Central Mail System for United States mailing a copy thereof, with postage prepaid, to all persons and associations who have requested, pursuant to Minnesota Statutes, sections 14.14, subdivision 1a and 14.22 or 14.30, that their names be placed on the Minnesota Department of Agriculture rulemaking mailing list.

Marie Skerbitz
Mail Room Clerk

Subscribed and sworn to before me
this 14th day of June, 1990.

Jennifer L. Hance

JENNIFER L. HANCE
NOTARY PUBLIC — MINNESOTA
RAMSEY COUNTY
My commission expires 9-3-90

In the Matter of the Proposed Adoption of the Rule of the State Department of Agriculture Governing Food Vending Machines

CERTIFICATE OF MAILING LIST

STATE OF MINNESOTA)
) ss.
COUNTY OF RAMSEY)

Carol Milligan, being sworn, says:

I hereby certify that the list of persons and associations who have requested, pursuant to Minnesota Statutes, sections 14.14, subdivision 1a, and 14.22 or 14.30, that their names be placed on the Minnesota Department of Agriculture rulemaking mailing list is accurate, complete and current as of this 14th day of June, 1990.

Carol Milligan
Management Analyst

Subscribed and sworn to before me
this 14th day of June, 1990.

Jennifer L. Hance

JENNIFER L. HANCE
NOTARY PUBLIC — MINNESOTA
RAMSEY COUNTY
My commission expires 9-3-90

Proposed Rules

Pursuant to Minn. Stat. §§ 14.22, an agency may propose to adopt, amend, suspend or repeal rules without first holding a public hearing, as long as the agency determines that the rules will be noncontroversial in nature. The agency must first publish a notice of intent to adopt rules without a public hearing, together with the proposed rules, in the *State Register*. The notice must advise the public:

1. that they have 30 days in which to submit comment on the proposed rules;
2. that no public hearing will be held unless 25 or more persons make a written request for a hearing within the 30-day comment period;
3. of the manner in which persons shall request a hearing on the proposed rules; and
4. that the rule may be modified if the modifications are supported by the data and views submitted.

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*.

Pursuant to Minn. Stat. §§ 14.29 and 14.30, agencies may propose emergency rules under certain circumstances. Proposed emergency rules are published in the *State Register* and, for at least 25 days thereafter, interested persons may submit data and views in writing to the proposing agency.

Department of Agriculture

Proposed Permanent Rules Relating to Food Vending Machines

Notice of Intent to Adopt a Rule without a Public Hearing

NOTICE IS HEREBY GIVEN that the Minnesota Department of Agriculture intends to adopt the above-entitled rule without a public hearing following the procedures set forth in the Administrative Procedures Act for adopting rules without a public hearing in *Minnesota Statutes*, sections 14.22-14.28. The statutory authority to adopt this rule is *Minnesota Statutes*, section 31.11.

All persons have 30 days in which to submit comment in support of or in opposition to the proposed rule or any part or subpart of the rule. Comment is encouraged. Each comment should identify the portion of the proposed rule addressed, the reason for the comment, and any change proposed.

Any person may make a written request for a public hearing on the rule within the 30-day comment period. If 25 or more persons submit a written request for a public hearing within the 30-day comment period, a public hearing will be held unless a sufficient number withdraw their request in writing. Any person requesting a public hearing should state their name and address, and is encouraged to identify the portion of the proposed rule addressed, the reason for the request, and any proposed change. If a public hearing is required, the department will proceed according to *Minnesota Statutes*, sections 14.131-14.20.

Comments or written requests for a public hearing must be submitted to: Carol Milligan, Minnesota Department of Agriculture, 90 West Plato Boulevard, St. Paul, MN 55107, (612) 296-6906.

The proposed rule may be modified if the modifications are supported by the data and views submitted to the department and do not result in a substantial change in the proposed rule as noticed.

A copy of the proposed rule is attached to this notice.

A STATEMENT OF NEED AND REASONABLENESS that describes the need for and reasonableness of each provision of the proposed rule and identifies the data and information relied upon to support the proposed rule has been prepared and is available upon request from Ms. Milligan.

The department has determined that small business will be minimally affected by this rule because many of the provisions are now being enforced under the sanitary food laws of *Minnesota Statutes*, Chapter 31. Also, the rule allows vending machines currently in operation that do not fully meet the design and fabrication requirements of the rule to continue in use as long as they remain in good repair, maintain proper temperatures, and are capable of being maintained in a sanitary condition.

If no hearing is required, upon adoption of the final rule, the rule and the required supporting documents will be submitted to Attorney General for review as to legality and form to the extent the form relates to legality. Any person may request notification of the date of submission to the Attorney General. Persons who wish to be advised of the submission of this material to the Attorney General, or who wish to receive a copy of the adopted rule must submit a written request to Ms. Milligan.

Dated: 26 May 1990

Jim Nichols, Commissioner
Department of Agriculture

Rules as Proposed (all new material)

1550.5000 DEFINITIONS.

Subpart 1. **Scope.** For the purpose of parts 1550.5000 to 1550.5130, the terms in this part have the meanings given them.

Subp. 2. **Bulk food.** "Bulk food" means a food that when dispensed to the customer is not packaged, wrapped, or otherwise enclosed.

Subp. 3. **Commissary.** "Commissary" means a catering establishment, restaurant, or other place in which food, containers, or supplies are kept, handled, prepared, packaged, or stored for use in vending machines. The term does not apply to an area or conveyance at a vending machine location used for the temporary storage of packaged food or beverages.

Subp. 4. **Corrosion-resistant materials.** "Corrosion-resistant materials" means materials that maintain their original sanitary surface characteristics under prolonged influence of the food to be contacted, the normal use of cleaning compounds and bactericidal solutions, and other conditions of the use environment.

Subp. 5. **Easily cleanable.** "Easily cleanable" means that surfaces are readily accessible and made of a material and finish and fabricated so that residues may be effectively removed by normal cleaning methods.

Subp. 6. **Employee.** "Employee" means an operator or other person who:

A. handles a food, beverage, or ingredient to be dispensed through vending machines;

B. comes into contact with food contact surfaces of containers, equipment, utensils, or packaging materials used in connection with vending machine operations; or

C. services or maintains a vending machine.

Subp. 7. **Food.** "Food" means a raw, cooked, or processed edible substance, beverage, or ingredient used or intended for use or for sale, in whole or in part, for human consumption.

Subp. 8. **Food contact surface.** "Food contact surface" means a surface of a vending machine, appurtenance, or container that comes into direct contact with a food, beverage, or ingredient.

Subp. 9. **Hermetically-sealed container.** "Hermetically-sealed container" means a container that is designed and intended to be secure against the entry of microorganisms and to maintain the commercial sterility of its contents after processing.

Subp. 10. **Hot liquid, food, or beverage.** "Hot liquid, food, or beverage" means a liquid, food, or beverage at a temperature at the time of service to the consumer of at least 150 degrees Fahrenheit (66 degrees centigrade).

Subp. 11. **Law.** "Law" includes applicable federal, state, and local statutes, ordinances, rules, and regulations.

Subp. 12. **License.** "License" means the document issued by the Department of Agriculture or a home rule charter or statutory city or a county that is authorized by the department to impose a license fee and inspect food vending machines. A home rule charter or statutory city or a county that does not inspect food vending machines may not impose a food vending inspection or license fee.

Subp. 13. **Machine location.** "Machine location" means the room, enclosure, space, or area where one or more vending machines are installed and operated.

Subp. 14. **Packaged.** "Packaged" means contained in a case, carton, can, box, wrapping, barrel, tub, bottle, phial, or other receptacle or covering.

Subp. 15. **Person.** "Person" means an individual, partnership, corporation, company, firm, institution, trustee, association, or other public or private entity.

Subp. 16. **Potentially hazardous foods.** "Potentially hazardous foods" means food that consists, in whole or in part, of milk, milk products, eggs, meat, poultry, fish, shellfish, edible crustacea, or other ingredients, including synthetic ingredients, that is in a form capable of supporting rapid and progressive growth of infectious or toxigenic microorganisms. The term does not include foods that have a pH level of 4.6 or below or a water activity (a_w) value of 0.85 or less at 77 degrees Fahrenheit (25 degrees centigrade) and foods in hermetically-sealed containers processed to prevent spoilage.

Subp. 17. **Readily accessible.** "Readily accessible" means exposed or capable of being exposed for cleaning and inspection without the use of tools.

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.

Subp. 18. **Regulatory authority.** "Regulatory authority" means the Department of Agriculture or the authorized home rule charter or statutory city or county responsible for licensing and inspection of vending machines.

Subp. 19. **Safe materials.** "Safe materials" means materials that may not reasonably be expected to result, directly or indirectly, in their becoming a component or otherwise affecting the characteristics of food. The term includes food additives or color additives as defined in section 201(s) or (t) of the federal Food, Drug, and Cosmetic Act only if they are used in conformity with regulations established under section 409 or 706 of that act. The term includes other materials only if, as used, they are not food additives or color additives as defined in section 201(s) or (t) of the federal Food, Drug, and Cosmetic Act and are used in conformity with applicable regulations of the United States Food and Drug Administration.

Subp. 20. **Sanitizing.** "Sanitizing" means effective bactericidal treatment of clean food contact surfaces of utensils and equipment by an approved process that is effective in destroying microorganisms, including pathogens, without adversely affecting the product or the safety of the consumer.

Subp. 21. **Single-service article.** "Single-service article" means a cup, container, lid or closure, plate, knife, fork, spoon, stirrer or paddle, straw, napkin, wrapping material, toothpick, or similar article made wholly or in part from paper, paperboard, molded pulp, foil, wood, plastic, synthetic, or other readily destructible materials, and intended by the manufacturers and generally recognized by the public as to be discarded after only one usage.

Subp. 22. **Vending machine.** "Vending machine" means a self-service device offered for public use that, upon insertion of a coin, coins, token, credit card, or other payment device, dispenses single or multiple servings of food or beverage, either in bulk or in package, without the necessity of replenishing the device between each vending operation.

1550.5010 VENDING MACHINE SANITATION REQUIREMENTS.

Subpart 1. **Standards.** Food intended for sale through vending machines must be obtained from sources complying with all laws relating to food and food labeling. The products must be in a wholesome condition and must be processed, prepared, handled, and stored to prevent contamination and adulteration. All food-contact surfaces of containers and equipment must be protected from contamination. Lamps located over exposed food storage or display must be shielded, coated, or otherwise shatter-resistant. This subpart has been satisfied when the requirements in subparts 2 to 7 are met.

Subp. 2. **Food manufacturing.** Food offered for sale through vending machines must be manufactured, processed, and prepared in commissaries or establishments that comply with applicable laws relating to food and food labeling.

Subp. 3. **Food.** Food offered for sale through vending machines must be wholesome and properly labeled.

Subp. 4. **Packaged food.** Food in package form must be packaged in sanitary containers and must be handled, transported, and vended in a sanitary manner.

Subp. 5. **Potentially hazardous food.** Potentially hazardous food offered for sale through vending machines must be dispensed to the consumer in a single-service original container or wrapper into which it was placed at the commissary or at the manufacturing or processing plant. Potentially hazardous food in bulk form must not be dispensed from vending machines.

Subp. 6. **Potentially hazardous food temperature requirements.** Potentially hazardous food within a vending machine must be maintained at a temperature of 40 degrees Fahrenheit (five degrees centigrade), or below, or 150 degrees Fahrenheit (66 degrees centigrade), or above. Vending machines dispensing potentially hazardous food must be provided with controls that will maintain the required temperatures at all times, except during the filling or servicing of the machine and for the maximum recovery period of 30 minutes following completion of these operations. The controls must also place the machine in an inoperative condition until serviced by the operator during a power failure or other condition that may permit the food storage compartment to attain a temperature over 40 degrees Fahrenheit (five degrees centigrade), or below, or 150 degrees Fahrenheit (66 degrees centigrade), or above, whichever is applicable. Vending machines dispensing potentially hazardous foods must be provided with a numerically-scaled indicating thermometer accurate to %3 degrees Fahrenheit (%1 degree centigrade), indicating the air temperature of the food storage compartment. The thermometer must be readable without opening the machine.

Subp. 7. **Milk and milk products.** Fluid milk and fluid milk products offered for sale through vending machines must comply with the Grade A standards established by law and must be dispensed only in individual original containers.

Fluid milk and fluid milk products and fluid nondairy products must not be dispensed in vending machines as additional ingredients in hot liquid beverages or other foods.

1550.5020 CLEANING OF VENDING MACHINE.

Parts of vending machines that come into direct contact with food must be thoroughly cleaned and sanitized using methods approved by law. The frequency of cleaning and sanitizing treatment depends on the type of product being dispensed. A record of cleaning and sanitizing treatment must be maintained by the operator in each machine and must be current for at least 30 days. This subpart has been satisfied if the requirements in items A to C have been met.

A. All equipment at the vending location must be kept clean. Food contact surfaces must be cleaned, rinsed, and sanitized using methods that are effective in removing food residues and destroying microorganisms, including pathogens, without adversely affecting the product or the safety of the consumer.

B. The cavities and door seals of microwave ovens must be cleaned with nonabrasive cleaners as often as necessary to be maintained free of encrusted grease deposits and other soil. All doors, seals, hinges, and latch fasteners must be maintained tight and adjusted according to manufacturer's procedures. Microwave ovens must comply with applicable safety standards of the United States Food and Drug Administration's Bureau of Radiological Health.

C. Food contact surfaces of all equipment and utensils must be maintained free from contamination.

1550.5030 EQUIPMENT FOR CLEANING VENDING MACHINES.

In lieu of a permanent fixed installation of sink facilities, the person may provide portable equipment that can be moved from one location to another. The equipment must consist of detergents, sanitizers, brushes, pails, and other utility devices necessary for effective cleaning and sanitizing disinfection. Separate containers must be used for washing and rinsing operations.

1550.5040 SINGLE-SERVICE ARTICLES.

Single-service articles used for bulk food and beverages must be purchased in sanitary cartons or packages that protect the articles from contamination, stored in a clean, dry place until used, and handled in a sanitary manner. The articles must be stored in the original carton or package until introduced into the container magazine or dispenser of the vending machine. Single-service articles stored within the vending machine must be protected from manual contact, dust, insects, rodents, and other contamination. Single-service articles such as utensils, straws, toothpicks, or similar articles must be prewrapped and maintained out of the food when included as part of the packaged vended food.

1550.5050 CONDIMENTS.

Condiments must be in single-service containers and maintained out of the food when included as part of the packaged vended food.

1550.5060 VENDING MACHINE LOCATION.

Subpart 1. **Standards.** A vending machine must be located to minimize the potential for contamination of the food, must be easily cleanable, and must be kept clean. Food, food containers, and equipment stored near the machine or in a separate room at the location must be stored at least six inches (152 millimeters) above the floor and not exposed to moisture and the storage area must be kept clean. This subpart has been satisfied if the requirements in items A and B are met.

A. Each vending machine must be located in a room, area, or space that will maintain the machine in a clean condition and protect the machine from overhead leakage of drains and pipes. Vending machines must be located so that the space around and under the machine can be readily cleaned and maintained free of insect and rodent harborage.

B. The floors under vending machines must be reasonably smooth, cleanable, and capable of withstanding repeated washing and scrubbing. The immediate area surrounding a vending machine must be maintained in a clean condition.

1550.5070 EXTERIOR MACHINE CONSTRUCTION AND MAINTENANCE.

The exterior of a vending machine must be readily cleanable to prevent the entrance of insects and rodents and must be kept clean. Service connections to the machine must protect against unintentional or accidental interruption of service. This part has been satisfied if the requirements in items A to F are met.

A. The vending machine must be of sturdy construction with the exterior designed, fabricated, and finished to facilitate its cleanliness and prevent the entrance of insects and rodents.

B. Door and panel access openings to the product and container storage spaces of the machine must be tight-fitting to prevent the entrance of dust, moisture, insects, and rodents.

C. All necessary ventilation louvers on openings into vending machines must be effectively screened against insects and rodents. Screening material must not be less than 16 mesh to the inch or equivalent.

D. New vending machines with a condenser unit as an integral part of the machine must be sealed from the product and container storage spaces.

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.

E. Unless the vending machine is sealed to the floor to prevent seepage or can be manually moved with ease, one or more of the following provisions must be used to facilitate cleaning operations:

(1) the machine must be mounted on legs six or more inches in height;

(2) the machine must be mounted on casters or rollers; or

(3) the machine must be mounted on gliders that permit it to be easily moved.

F. All service connections through an exterior wall of the machine, such as water, gas, electrical, and refrigeration connections, must be grommeted or sealed to prevent the entrance of insects and rodents. Connections to utilities must discourage unauthorized or unintentional disconnection.

1550.5080 INTERIOR CONSTRUCTION AND MAINTENANCE.

All interior surfaces and component parts of the vending machine must be designed and constructed to permit easy cleaning and must be kept clean. All food contact surfaces of the machine must be smooth, nontoxic, corrosion-resistant, and nonabsorbent and must be capable of withstanding repeated cleaning and sanitizing by normal procedures. Food contact surfaces must be protected against contamination. This part has been satisfied if the requirements in items A to G are met.

A. Nonfood contact surfaces of the interior of vending machines must be designed and constructed to permit easy cleaning and to facilitate maintenance operations. Inaccessible surfaces or areas must be minimized.

B. Food contact surfaces of vending machines must be smooth, in good repair, and free of breaks, corrosion, open seams, cracks, and chipping. Food contact surfaces must be designed to prevent routine contact between food and V-type threaded surfaces. All joints and welds in food contact surfaces must be smooth with rounded internal angles and corners to facilitate cleaning.

C. All food contact surfaces of vending machines including containers, pipes, valves, and fittings, must be constructed of nontoxic, corrosion-resistant, and relatively nonabsorbent materials and must be kept clean. All containers, valves, fittings, chutes, and faucets in contact with food must be readily removable and fabricated to be easily disassembled; and when disassembled, all surfaces must be visible for inspection and cleaning. If a machine is designed so that food contact pipes or tubing are not readily removable, in-place cleaning of pipes and pipe fittings is permitted if they are arranged so that cleaning and sanitizing solutions can be circulated throughout the fixed system and the solutions will contact all interior surfaces. The system must be self-draining, and the cleaning procedures must result in thorough cleaning of the equipment.

D. The openings into all nonpressurized containers used for the storage of food and single-service articles in vending machines must be provided with covers to prevent contamination of the interior of the containers. Covers must be designed to provide a flange that overlaps the opening and must be sloped to provide drainage from the cover surface. Port openings through the cover must be flanged upward at least three-eighths inch and must be provided with a cover that overlaps the flange. Condensation-deflecting or drip-deflecting aprons must be provided on all piping, thermometers, equipment, rotary shafts, and other functional parts extending into the container, unless joints are watertight. Aprons must be of safe material for those openings that are in continuous use. Gaskets, if used, must be nontoxic, relatively stable, and relatively nonabsorbent, and must have a smooth surface. Gasket retaining grooves must be readily cleanable.

E. The delivery tube, chute, and orifice of bulk food and bulk beverage vending machines must be protected from manual contact, dust, insects, rodents, and other contamination. The design must divert condensation and other moisture from the normal filling position of the container receiving the food or beverage. The vending stage of a vending machine must be provided with a tight-fitting, self-closing door or cover that is kept closed, except when the machine is in the process of delivering a food or beverage.

F. The product storage compartment within a vending machine dispensing packaged liquid products must be self-draining or must be provided with a drain outlet that permits complete draining of the compartment. The drains must be easily cleanable.

G. Opening devices that contact food or the food contact surface of the containers must be constructed of smooth, nontoxic, corrosion-resistant, and relatively nonabsorbent materials. Unless the opening device is a single-service type, it must be readily removable for cleaning and must be kept clean. Parts of multiuse opening devices coming into contact with the food or food contact surface of containers must be reasonably protected from manual contact, dust, insects, rodents, and other contamination. The parts must be readily removable for cleaning and must be kept clean.

1550.5090 WATER SUPPLY.

Water used in a vending machine must be from an approved source and must be of a safe and sanitary quality. This part has been satisfied if the requirements in items A to E are met.

A. Water used in a vending machine must be potable and from an approved source. Water used as a product ingredient must be piped into the vending machine under pressure, and all connections and fittings must be installed in accordance with law. Containers for the storage of water must be designed and maintained as food contact surfaces. Bottled water use is not excluded.

B. Water filters or other water conditioning devices used as part of vending machines must be of a type that can be disassembled

for periodic cleaning or replacement of the active element. Replacement elements must be handled in a sanitary manner. The date of the latest replacement must be on the water device.

C. Vending machines dispensing carbonated beverages that are connected to a water supply system must be equipped with a built-in positive airgap or an approved double check type backflow preventer with intermediate atmospheric vent, or other approved devices that will provide positive protection against the entrance of carbon dioxide or carbonated water into the water supply system.

D. Check valves used for the protection of the water supply system must have a screen of not less than 100 mesh to the inch installed in the water supply line immediately upstream from the check valves in a location that permits servicing or replacement.

E. Vending machines dispensing carbonated beverages that are connected to a water supply system with the water contact surfaces from the check valves or other protective device downstream, including the device itself, must be made of safe materials to prevent the production of toxic substances that may result from interaction with carbon dioxide or carbonated water.

1550.5100 WASTE DISPOSAL.

Waste must be maintained in suitable containers and properly disposed of to prevent a nuisance. This part has been satisfied if the requirements in items A to C are met.

A. Trash and waste material must be frequently removed from the machine location and must be disposed of in a manner approved by law.

B. Self-closing, leakproof, readily cleanable, clearly labeled and designated waste containers must be provided near each machine for disposal of used single-service items. Waste containers must not be located within the machine, except for those machines dispensing only packaged products with crown closures, where the closure receptacle may be located within the machine. Suitable racks or cases must be provided for multiuse containers or bottles.

C. Containers must be provided within vending machines dispensing liquid products in bulk for the collection of drip, spillage, overflow, or other liquid wastes. An automatic shutoff device must be provided that will make the vending machine inoperative before the container overflows. Containers for waste must be readily removable for cleaning, must be easily cleanable, and must be corrosion-resistant. Liquid wastes from drip, spillage, or overflow discharged into a sewerage system must have an air gap between the connection and the sewer. The sewerage system must be constructed, maintained, and operated according to law.

1550.5110 DELIVERY OF FOOD, EQUIPMENT, AND SUPPLIES TO MACHINE LOCATION.

Food and food contact surfaces of containers, equipment, and supplies must be protected from contamination while in transit from the commissary to the machine location or its storage area. Potentially hazardous foods while in transit from a commissary must be maintained at a temperature of 40 degrees Fahrenheit (five degrees centigrade), or below, or 150 degrees Fahrenheit (66 degrees centigrade), or above. This part has been satisfied if the requirements in items A and B are met.

A. Food, single-service articles, and food contact surfaces in transit to vending machine locations must be protected from dirt, dust, insects, rodents, and other contamination.

B. Potentially hazardous food in transit from the commissary to vending machine locations must be maintained at a temperature of 40 degrees Fahrenheit (five degrees centigrade), or below, or 150 degrees Fahrenheit (66 degrees centigrade), or above.

1550.5120 PERSONNEL CLEANLINESS.

Subpart 1. **Handling of food or food contact surfaces.** Employees must maintain a high degree of personal cleanliness and must conform to good hygienic practices while engaged in handling food or food contact surfaces of utensils or equipment.

Subp. 2. **Servicing.** Employees must thoroughly wash their hands and exposed portions of their arms before engaging in vending machine servicing operations and after smoking, eating, or using the toilet. Employees must wear clean outer garments, must not use tobacco in any form, and must keep their fingernails clean and trimmed during servicing operations.

Subp. 3. **Employee health.** No employee, while infected with a disease in a communicable form that can be transmitted by foods or who is a carrier of organisms that cause such a disease or while affected with a boil, an infected wound, or an acute respiratory infection, may work with food in any capacity in which there is a likelihood of that person contaminating food or food contact surfaces with pathogenic organisms or transmitting disease to other persons.

1550.5130 EXISTING VENDING MACHINES.

Vending machines in use before the effective date of parts 1550.5000 to 1550.5130 that do not fully meet the design and fabrication

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.

requirements of parts 1550.5000 to 1550.5130 are acceptable if they are in good repair, capable of being maintained in a sanitary condition, and in compliance with part 1550.5000, subpart 19.

Environmental Quality Board

Proposed Permanent Rules Relating to High Voltage Lines, Power Plants

Notice of Intent to Adopt Rules Without a Public Hearing, Notice of Intent to Adopt Rules With a Public Hearing If 25 or More Persons Request a Hearing, and Notice of Intent to Cancel Hearing If Fewer Than 25 Persons Request a Hearing

I. Explanation of Alternative Notices

The Minnesota Environmental Quality Board (EQB) is hereby giving notice of its intent to adopt the above-entitled rules without a public hearing under the noncontroversial rulemaking procedures set forth in *Minnesota Statutes*, sections 14.22 to 14.28 (1986). However, in order to expedite the rulemaking process should 25 or more persons request a hearing, thus necessitating that a hearing be held, the EQB is simultaneously giving notice of a hearing on the proposed rules. Unless, at least 25 persons request that the hearing be held, the hearing will be cancelled.

The EQB has elected to jointly notice rulemaking both with and without a hearing in order to avoid delay should a hearing be required. The EQB has informally discussed concerns raised over various parts of the proposed rules with concerned parties throughout the drafting of the proposed rules, and consequently believes that all known concerns have been given adequate considerations. Nevertheless, the EQB recognizes that there may be sufficient concern over the proposed rules to necessitate the holding of a public hearing.

II. Notice of Intent to Adopt a Rule Without a Public Hearing

NOTICE IS HEREBY GIVEN that the Minnesota Environmental Quality Board (EQB) proposes to adopt the above-captioned proposed rules without a public hearing following the procedures set forth in *Minnesota Statutes* sections 14.22 to 14.28 (1986). If adopted, the proposed permanent rules would amend existing rules, authorized by *Minnesota Statutes*, section 116C.66, which prescribes the circumstances and manner in which proposed transmission line routes and power plant sites must be reviewed through the preparation of an application and environmental review documents, and the procedures by which these reviews must be conducted. The proposed amendments (1) include a 1989 statutory amendment to the Power Plant Siting Act providing for a process to exempt small power plants from the Act, (2) transfers procedures for environmental review of electric energy facilities from the environmental review rules (chapter 4410) to the power plant siting rules (chapter 4400), and (3) makes numerous, nonsubstantive changes in form and organization. (Please note that a separate notice of intent to adopt rules is provided in this issue which relates to proposed, corresponding amendments to the EQB's environmental review rules.) A free copy of the proposed permanent rules may be obtained by contacting Bob Cupit at the address or telephone number provided in this notice.

Interested persons will have 30 days from the date of this notice in the *State Register* to submit comments in support of or in opposition to the proposed rules or any part thereof. Comment is encouraged. Each comment should identify the part of the proposed rules being addressed, the reason for the comment, and any change proposed.

Any person may make a written request for a public hearing on the proposed rules within the 30-day comment period. If 25 or more persons submit a written request for a public hearing within this 30-day comment period, a public hearing will be held, ***unless a sufficient number withdraw their request in writing***. A public hearing, if required, will be held in accordance with the notice of hearing given in part III of this notice. Request for a public hearing must be received by the EQB by 5:00 p.m. on July 18, 1990. Any person requesting a hearing should state his or her name, address, and telephone number, and is encouraged to identify the part of the proposed rules addressed by the comment, the reason for the request, and any changes suggested in the proposed rules.

If a person desires that a hearing be held on only a portion of the proposed rules, it is requested that the EQB be informed of the specific rule part on which a hearing is being requested at the time that the hearing request is made. This will enable the EQB to limit the hearing, if one is held, to the specific issues of concern, and to adopt portions of the proposed rules for which less than 25 persons request a hearing in accordance with the noncontroversial rulemaking procedures.

Comments or written requests for a public hearing should be submitted to:

Bob Cupit
Environmental Quality Board
300 Centennial Office Building
658 Cedar Street
St. Paul, MN 55155
(612) 296-2096

STATE OF MINNESOTA

DEPARTMENT OF AGRICULTURE

In the Matter of the Proposed Adoption of the Rule of the State Department of Agriculture Governing Food Vending Machines	FINDINGS OF FACT, CONCLUSIONS, AND ORDER ADOPTING RULE WITHOUT PUBLIC HEARING

(1) Notice of the Commissioner's intent to adopt the above-entitled rule was published in the *State Register* on June 18, 1990, and was sent by United States mail to all persons on the list maintained by the department pursuant to Minnesota Statutes, sections 14.14, subdivision 1a and 14.22 on June 14, 1990. (2) The statement of need and reasonableness was prepared before the notice of intent to adopt a rule without a public hearing was mailed to all persons on the rulemaking mailing list and published in the *State Register* and was available to the public.

(4) All persons were given the opportunity to submit comment on the rule for 30 days after the notice of proposed rulemaking. (5) No requests for a public hearing on the rule were received by the department.

(7) No submissions or comments on the rule were received by the department. No requests for notice of submission to the attorney general were received by the department.

(8) The above-captioned rule is needed and reasonable.

NOW, THEREFORE, IT IS ORDERED that the rule identified as the rule governing food vending machines is adopted this 19th day of July, 1990, pursuant to authority vested in me by Minnesota Statutes, section 31.11.

Jim Nichols

Jim Nichols
Commissioner

In the Matter of the Adoption of
the Rule of the State Department
Agriculture Governing Food
Vending Machines

DECLARATION
OF COUNSEL

I, Paul Strandberg, Special Assistant Attorney General, do hereby declare that I have examined the above-captioned rule and the supporting rulemaking record, and that, based on my examination, the Administrative Procedure Act and Minnesota Rules, chapter 2010 have been followed. Any exceptions are listed below. For Attorney General billing purposes, the four-digit docket client code is 0986.

Paul Strandberg
Special Assistant Attorney General

Dated: 7/20/90