

STATE OF MINNESOTA

DEPARTMENT OF AGRICULTURE

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

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.