



20 Questions: The Proposed Major Changes of Concern to the Minnesota Food Code

Preface:

The following list encompasses 20 of the most impactful proposed changes to the Minnesota Food Code for food establishment operators. The list is broken down into four sections: Terminology, Food Handling, Health and Hygiene, and Equipment and Facilities. Each topic provides a brief summary of the proposed change, how it will affect operators, and how public health is protected.

This list is not all-inclusive; please refer to the [draft proposed rule language](#) side by side chapters for the full revised rule.

Terminology

1. Potentially Hazardous Food → Time/Temperature Control for Safety (Chapter 1: 4626.0020 Subp. 90a)

What has changed: The revision redefines “potentially hazardous” food (PHF) as “time/temperature control for safety” food (TCS).

How this will affect operators: This does not change any requirements for the majority of food items but formally defines cut tomatoes and cut leafy greens as TCS. It also provides a method of determining if food is non-TCS based on the food’s water activity and pH or if a product assessment is needed.

How this will protect public health: This clarifies and improves the decision-making process when determining whether or not food can support pathogen growth or toxin formation to reduce the risk of foodborne illness.

2. Critical/Non-Critical Item → Priority 1, Priority 2, Priority 3 Items (Chapter 1: 4626.0020 Subp. 65a-65c)

What has changed: The revision replaces the previous categories of “critical” and “non-critical” with “Priority 1” or “_{p1},” “Priority 2” or “_{p2},” and “Priority 3” (no subscript).

How this will affect operators: This classifies code provisions based on the impact they have on operational risk factors. Priority 1 items directly impact hazards associated with foodborne illness or injury (such as food temps and date marking), Priority 2 items support Priority 1 items (such as equipment, utensils, and facilities), and Priority 3 items focus on sanitation and good retail practice (such as cleaning frequency and maintenance).

How this will protect public health: The three tiers of code provisions identify risk-based controls within the food code.

3. Certified Food Manager → Certified Food Protection Manager (Chapter 2: 4626.0033)

What has changed: The revision replaces the term “Certified Food Manager” (CFM) with “Certified Food Protection Manager” (CFPM)

How this will affect operators: This clarifies that the requirement to have a CFPM is primarily based on risk and food processes, rather than the type of facility. The course, exam, and renewal requirements remain similar. The process and requirements to become certified and renew certification are streamlined and an instructor providing CFPM refresher courses must be a CFPM themselves. Also, CFPM exemptions for Mobile Food Units (aka Food Trucks), Permanent Temporary, and Seasonal Temporary establishments are removed and these types of facilities will now need to employ a full-time CFPM based on their risk category and menu.

How this will protect public health: The presence of a CFPM promotes Active Managerial Control in food establishments.

Food Handling

4. Highly Susceptible Population (Chapter 1: 4626.0020 42a and Chapter 3: 4626.0447)

What has changed: The revision adds a definition for Highly Susceptible Populations. This includes individuals in certain settings who are more likely than the general population to experience foodborne illness due to being immune-compromised, preschool-aged children, or older adults.

How this will affect operators: Operators of facilities that provide services such as custodial health care; day care centers; kidney dialysis centers; hospitals or nursing homes; or similar establishments need to be aware of additional requirements for food handling. Offering of certain types of raw or undercooked foods and bare hand contact with ready to eat foods will be prohibited in some establishments that serve a highly susceptible population.

How this will protect public health: Special food safety precautions are added to protect individuals with an increased risk of foodborne illness and for whom the implications of such illness can be fatal.

5. Consumer Advisory (Chapter 3: 4626.0442)

What has changed: The revision will outline specific requirements for establishments to inform customers of potential health risks from eating raw food offered for consumption.

How this will affect operators: Establishments will be required to inform consumers about the significantly increased risk of eating meat, fish, dairy, and eggs that are sold or served raw or undercooked. The customers must be notified through disclosure that includes a description of the food that makes it obvious the food is raw (“raw-egg Caesar salad”) or by

asterisking the food item on the menu and referring to a footnote that states the product is raw or undercooked. The disclosure footnote must include a specific statement regarding the increased risk of foodborne illness from consuming the raw or undercooked product.

How this will protect public health: Consumers are empowered to make an informed choice about the food that they eat, due to being aware of the increased risk of foodborne illness after eating raw or undercooked meat, poultry, seafood, shellfish or eggs.

6. Hot Holding Temperatures (Chapter 3: 4626.0395)

What has changed: The revision lowers the hot holding temperature for Time/Temperature Control for Safety from 140° F to 135° F.

How this will affect operators: This will allow operators to keep hot food 5° F lower than was previously allowed, which could have a positive impact on the quality of food held hot.

How this will protect public health: Food safety hazards related to microbial growth is sufficiently controlled at 135° F.

7. Variances Required for Special Processes (Chapter 3: 4626.0415)

What has changed: The revision will require variances to be obtained for special processes.

How this will affect operators: Food establishments will be required to obtain variances from their inspection authority for smoking, curing, or acidifying food for preservation, some (but not all) reduced oxygen packaging, custom processing animals, sprouting seeds/beans, and other. This provides flexibility for operators to use preparation methods not specifically prescribed in the food code when approved by the regulatory authority.

How this will protect public health: Special processing methods need to be approved by the regulatory authority to ensure that that food safety hazards are controlled at the same level as prescribed food handling practices.

8. Time as a Public Health Control (Chapter 3: 4626.0408)

What has changed: The revision will extend the amount of time a TCS food can be held without refrigeration under a Time as a Public Health Control plan from 4 hours to 6 hours for previously-chilled foods.

How this will affect operators: TCS food that is held without temperature control can now be held for up to 6 hours before discarding if the food stays below 70° F during the entire 6 hour period. An example of applying this rule would include serving cut melon on a continental breakfast buffet in a non-mechanically chilled container that keeps food below 70° F.

How this will protect public health: Food safety hazards related to microbial growth are sufficiently controlled within these time and temperature parameters.

9. Wild Mushrooms (Chapter 3: 4626.0155 and 4626.0156)

What has changed: The revision adds requirements for obtaining wild mushrooms from an approved harvester, expands harvester registration requirements, and adds harvester and food establishment record-keeping requirements.

How this will affect operators: This will require food establishments to obtain mushrooms from registered harvesters or inspected food processing plants. It also requires that establishments serving wild mushrooms may have to notify customers via menu disclosure that: “wild mushrooms are not an inspected product and are harvested from a noninspected site.”

How this will protect public health: This increases the responsibility of the mushroom harvesters and food establishment operators to provide safe mushrooms to consumers. It also increases consumer awareness regarding the source of wild mushrooms they may wish to eat at a food establishment.

10. Date Marking of Packaged Food from Manufacturers Opened On-site (Chapter 3: 4626.0400 G)

What has changed: The revision will remove date marking requirements for certain foods.

How will this affect operators: Certain food packaged and produced by a food processing plant according to the Code of Federal Regulations no longer needs to be marked with the date the package was opened at the food facility. Specific items are listed in this rule which include deli salads, hard and some semi-soft cheeses, cultured dairy products (yogurt/sour cream), pickled fish, shelf-stable dry fermented sausages, and shelf stable salt-cured meat products.

How this will protect public health: Food safety hazards related to microbial growth in certain products are sufficiently controlled by food processing plants operating according to the Code of Federal Regulations.

11. Noncontinuous Cooking (Chapter 3: 4626.0349)

What has changed: The revision establishes a process for noncontinuous cooking for raw animal foods if the establishment has a written procedure and obtains regulatory approval.

How this will affect operators: This will allow operators to halt the cooking process if specific time, cooking, and cooling parameters are met. The initial heating of the raw food can be no longer than 60 minutes and cooling must take place immediately after initial heating. Once cool, the food must be properly cold held at or below 41° F and the food must be cooked to the appropriate internal temperature before final sale or service.

How this will protect public health: This ensures that food does not stay for extended periods of time within temperature ranges that favor microbial growth.

Health and Hygiene

12. Employee illness (Chapter 2: 4626.0045 and 4626.0050)

What has changed: The revision adds requirements for restricting employees with wounds and provides specific instructions for when restrictions and exclusions of ill employees can be removed or adjusted.

How this will affect operators: This specifies that staff who have been ill but who do not have a diagnosed disease may return to work after being asymptomatic for at least 24 hours. This also requires managers to restrict employees with wounds that are uncovered.

How this will protect public health: Excluding and restricting food employees who are symptomatic or suffering from a disease likely to be spread through contamination of food will reduce the likelihood of foodborne illness transmission.

13. Clean Up of Vomiting and Diarrheal Events (Chapter 2: 4626.0123)

What has changed: The revision adds requirements for responding to events that involve the discharge of vomitus or fecal matter onto surfaces in the food establishment.

How this will affect operators: This will require managers to establish procedures for employees to follow when cleaning up vomit or feces. The procedures must address specific actions employees must take to minimize the spread of contamination and the exposure of employees, consumers, food, and surfaces to vomitus and fecal matter.

How this will protect public health: Proper response to vomiting and diarrheal events in a timely manner can help reduce potential for the spread of harmful bacterial or viral pathogens. It may decrease the likelihood that food and surfaces become contaminated and that others may become ill as a result of the accident.

14. Fingernail Brushes and Hand Dryers (Chapter 6: 4626.1440 and 4626.1445)

What has changed: The revision eliminates the requirement for food establishments to have a nailbrush at their handwashing sinks and allows for heated-air and air-knife hand dryers at handwashing sinks in the kitchen.

How this will affect operators: Operators will not be required to maintain nailbrushes at handwashing sinks, and will be allowed to use heated-air and air-knife hand dryers at all handwashing sinks, including those located within the kitchen area.

How this will protect public health: Fingernail brushes can be a source of contamination if not properly maintained. Hand dryers are an acceptable alternative to individual disposable towels, when used properly.

15. Handwashing Signage (Chapter 6: 4626.1457)

What has changed: The revision will require establishments to provide handwashing reminder signs at all handwashing sinks used by food employees.

How this will affect operators: Many operators posted this signage voluntarily prior to the newest code revision. For those that do not have signs at their hand sinks, they will now be required to post a sign or poster that notifies employees to wash their hands.

How this will protect public health: Visual reminders increase handwashing behavior.

16. Preventing Contamination from Hands (Chapter 3: 4626.0225)

What has changed: This revision formally prohibits bare hand contact with food that is ready to eat and will not receive further heat treatment.

How this will affect operators: This will require that all food establishments prevent bare hand contact with ready to eat food using single-use gloves, utensils, or other single-use articles such as deli paper. There is a very detailed option for food establishments not serving a highly susceptible population which may allow the use of bare hands during food preparation. The plan to use bare hands during the handling of ready to eat foods at these establishments does not require a variance but must be available for review by the regulatory authority.

How this will protect public health: This revision addresses one of the main sources of food contamination, human hands. Controlling potential contamination from hands will reduce food borne illness and increases protection of food for highly susceptible populations.

Equipment and Facilities

17. Equipment (Chapter 4: 4626.0505 and 4626.0506)

What has changed: The revision removes a requirement for all equipment to be NSF-certified or equivalent, and specifies that only particular pieces of equipment must be certified or classified for sanitation by an ANSI accredited certification program (such as NSF, CSA, ETL, or UL.).

How this will affect operators: This ensures that critical pieces of equipment in higher risk operations remain certified/classified to ANSI accredited sanitation standards while granting some flexibility to operators in certain settings and with certain pieces of equipment.

How this will protect public health: Food equipment and utensils need to be safe, durable, and cleanable. If they cannot maintain their original characteristics over time, they may become difficult to clean which could allow for the harborage of pathogens and pests. Additionally, they must be designed and constructed so parts do not break, creating an injury hazard to consumers.

18. Take-Home Food Container Reuse (Chapter 3: 4626.0295)

What has changed: The revision will provide allowances for refilling take-home food containers for food and beverages.

How this will affect operators: Operators will need to wash, rinse, sanitize and inspect the refillable container if it is for food or a TCS beverage before refilling. Non-TCS beverages will

be allowed to be refilled by the operator after rinsing with hot water, and can be refilled by the customer if contamination can be prevented.

How this will protect public health: This ensures that reusable containers are durable, and are capable of being adequately cleaned and sanitized before refilling.

19. Food Thermometers (Chapter 4: 4626.0705)

What has changed: The revision specifies the type of thermometer that must be used with a particular food.

How this will affect operators: This will require operators to have a suitable small diameter probe thermometer for measuring the temperatures of foods with thin masses such as meat patties and fish fillets. Normal bi-metallic stem thermometers can still be used, but may only be used with thick foods such as a large pot of chili or a roast.

How this will protect public health: These devices provide greater accuracy when taking temperatures of food, which ensures that pathogens are adequately controlled.

20. Warewashing Temperature Measuring Devices (Chapter 4: 4626.0710)

What has changed: The revision will require operators using dish machines with hot water for sanitization to have an irreversible registering temperature indicator to measure utensil surface temperature.

How this will affect operators: Operators will be required use a temperature measuring device to ensure that food contact surface temperatures reach 160° F. Reusable Min-Max registering thermometers or single-use temperature-sensitive stickers or labels meet this requirement.

How this will protect public health: These devices provide a simple method to verify that food contact surfaces reach the minimum required temperature to destroy pathogens that may remain on surfaces after cleaning.

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