CHAPTER 33-33-03
FOOD VENDING RULES

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33-33-03-01. Definitions.

The following definitions apply in the interpretation and the enforcement of this chapter.

1. "Adulterated" means the condition of a food (a) if it bears or contains any poisonous or deleterious substance in a quantity which may render it injurious to health; (b) if it bears or contains any added poisonous or deleterious substance for which no safe tolerance has been established by rule, or in excess of such tolerance if one has been established; (c) if it consists in whole or in part of any filthy, putrid, or decomposed substance, or if it is otherwise unfit for human consumption; (d) if it has been processed, prepared, packed, or held under unsanitary conditions, whereby it may have become contaminated with filth, or whereby it may have been rendered injurious to health; or (e) if its container is composed in whole or in part of any poisonous or deleterious substance which may render the contents injurious to health.

2. "Approved" means acceptable to the department based on a determination as to conformance with appropriate standards and good public health practice.

3. "Closed" means fitted together snugly leaving no openings large enough to permit the entrance of vermin.

4. "Commissary" means catering establishment, restaurant, or any other place in which food, containers, or supplies are kept, handled, prepared, packaged, or stored, and directly from which vending machines are serviced.

5. "Corrosion-resistant material" means a material which maintains its original surface characteristics under prolonged influence of the food, cleaning compounds, and sanitizing solutions which may contact it.

6. "Department" means the department of health and human services.

7. "Easily cleanable" means readily accessible and of such material and finish, and so fabricated that residue may be completely removed by normal cleaning methods.

8. "Employee" means any operator or any person employed by the operator who handles any food to be dispensed through vending machines, or who comes into contact with food-contact surfaces of containers, equipment, utensils, or packaging materials, used in connection with vending machine operations, or who otherwise services or maintains one or more such machines.

9. "Food" means any raw, cooked, processed edible substance, or combination of substances, beverage, or ingredient used or intended for use or for sale in whole or in part for human consumption.

10. "Food-contact surfaces" means surfaces of equipment and utensils with which food normally comes in direct contact, and surfaces with which food may come in contact and drain back onto surfaces normally in contact with food.

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

12. "Misbranded" means the presence of any written, printed, or graphic matter, upon or accompanying food or containers of food, including signs or placards displayed in relation to such products, which is false or misleading, or which violates any applicable state or local labeling requirements.

13. "Operator" means any person who by contract, agreement, or ownership takes responsibility for furnishing, installing, servicing, operating, or maintaining one or more vending machines, or provides space for vending machines.

14. "Perishable food" means any food of such type or in such condition as may spoil.

15. "Person" means an individual, or a firm, partnership, company, corporation, trustee, association, or any public or private entity.

16. ."Safe temperature" as applied to time and temperature control for safety food, means temperatures of forty-one degrees Fahrenheit [5.0 degrees Celsius] or below, or one hundred thirty-five degrees Fahrenheit [57.22 degrees Celsius] or above.

17. "Sanitize" means effective bactericidal treatment of clean surfaces of equipment and utensils by a process which has been approved by the department as being effective in destroying micro-organisms, including pathogens.

18. "Single-service articles" means cups, containers, lids or closures, plates, knives, forks, spoons, stirrers, paddles; straws, place mats, napkins, doilies, wrapping materials; and all similar articles which are constructed wholly or in part from paper, paperboard, molded pulp, foil, wood, plastic synthetic, or readily destructible materials, and which are intended for one usage only, then to be discarded.

19. "Time and temperature control for safety food" means a food that requires time and temperature control for safety to limit pathogenic microorganisms growth or toxin formation.

20. "Vending machine" means any self-service device which upon insertion of a coin, coins, bills, tokens, or an electronic payment method, dispenses food without the necessity of replenishing the device between each vending operation. The term also includes all freezers, refrigerators, and ovens used to store or prepare prepackaged, preserved foods regardless of the manner in which the food is taken from the freezer, refrigerator, or oven. Excluded from the definition of food vending machines are bottled or canned non-time and temperature control for safety food soft drink dispensers; prepackaged ice dispensers and freezers; prepackaged candy, cookie, cracker, or similar non-time and temperature control for safety food dispensers; and gumball, nut, and panned candy dispensers.

History: Effective August 1, 1988; amended effective January 1, 2026.
General Authority: NDCC 19-02.1-24, 23-01-03(3)
Law Implemented: NDCC 19-02.1-24

33-33-03-02. License issuance, suspension, revocation, and reinstatement.

1. It is unlawful for any person to engage in the operation of one or more vending machines in North Dakota if that person does not possess a currently valid vending license from the department. Only persons who comply with the provisions of this chapter are entitled to

receive such a license. The annual license fee for operating a vending machine is forty dollars. The plan review application fee for an operator is fifty percent of the annual license fee if a plan review application is required. For a person's initial license application, an annual license fee and a license application administration fee of one hundred dollars is required in addition to fifty percent of the annual license fee if a plan review application is required.

2. Any person desiring to operate one or more vending machines in North Dakota shall make an application in writing for each vending machine to the department on forms provided by the department. The applicant shall provide the following information:

   a. The applicant's full name, residence, and post-office address.

   b. The name and location of the commissary or commissaries where the vending machines are to be located and the name and location of the company or companies servicing the vending machines.

   c. The identity of the products to be dispensed through vending machines.

   d. The signature of the applicant or applicants.

3. Upon receipt of the application, the department shall issue a license to the applicant. The license is not transferable. The operator's license must be displayed and be readily visible in the immediate area of the vending machines. In order to retain an operator's license, the operator shall comply with the requirements of these regulations.

4. After an opportunity for a hearing, and following the procedures provided in section 33-33-03-04, an operator's license may be suspended temporarily by the department upon violation by the licenseholder of any of the provisions of this chapter or may be revoked upon serious or repeated violation of such section, or for interference with the department's performance of its duties.

5. Notwithstanding any other provisions of this chapter, whenever the department finds unsanitary or other conditions involving the operation of any vending machine or commissary which, in the judgment of the department, constitutes a substantial hazard to the public health, it may, without notice or hearing, issue a written order to the operator citing the existence of such condition and specifying corrective action to be taken and, if deemed necessary, requiring immediate discontinuance of operation. The order is effective immediately and applies only to the vending machine, commissary, or product involved. Any operator to whom such order is issued shall comply therewith, but upon petition to the department, must be afforded a hearing as soon as possible. If necessary corrective action has been taken and upon receipt of a written request from the operator, the department shall make a reinspection to determine whether operations may be resumed.

6. After any hearing held under the provisions of this chapter, the department shall sustain, modify, or rescind any notice or order considered in the hearing.

7. Any operator whose license has been suspended may at any time make application for the reinstatement of the license. Within ten days after the receipt of a written application, accompanied by, or including, a statement signed by the operator to the effect that in the operator's opinion the violated term or terms of this chapter have been complied with, the department shall make a reinspection. If the applicant is again complying with the terms of this chapter, the license must be reinstated.

History: Effective August 1, 1988; amended effective January 1, 2006; April 1, 2008; January 1, 2014; January 1, 2026.
General Authority: NDCC 19-02.1-24, 23-01-03(3)
Law Implemented: NDCC 19-02.1-24

33-33-03-03. Sale, examination, condemnation of adulterated or misbranded food.

It shall be unlawful for any person within North Dakota to sell, offer, or expose for sale, through vending machines, or to have in possession with intent to sell therefrom any food which is adulterated or misbranded. Samples of food may be taken and examined by the department as often as may be necessary to determine freedom from adulteration or misbranding. The department may, on written notice to the operator, impound and forbid the sale of any food which is adulterated or misbranded, or which the department has probable cause to believe to be adulterated or misbranded. After the operator has been given an opportunity for a hearing, the department may cause to be removed or destroyed any food which is adulterated or misbranded; provided, that in the case of misbranding which can be corrected by proper labeling, such food may be released to the operator for correct labeling under the supervision of the department.

History: Effective August 1, 1988.
General Authority: NDCC 19-02.1-24, 23-01-03(3)
Law Implemented: NDCC 19-02.1-24

33-33-03-04. Inspection of machines and commissaries.

1. The department may inspect the servicing, maintenance, and operation of vending machines and commissaries as often as needed to determine compliance with this chapter. The department, after proper identification, shall be permitted to enter at any reasonable time upon any private or public property within North Dakota where vending machines or commissaries are operated, or from which such machines are otherwise serviced, for the purpose of determining compliance with the provisions of these regulations. The operator shall make provision for the department to have access, either in company with an employee or otherwise, to the interior of all vending machines operated by the operator.

2. Whenever the department discovers a violation of any provision of this chapter, it shall notify the operator concerned either by the inspection report form or by other written notice. Such form or notice shall (1) describe the condition found and state which section of this chapter is violated by such condition; (2) provide a specific and reasonable period of time for the correction of the condition; and (3) state that an opportunity for a hearing on inspection findings will be provided, if a written request for such hearing is filed with the department within ten days of receipt of the notice. The department may also advise the operator in writing that unless the violations are corrected within the specified period of time, any license issued under the provisions of this chapter may be suspended or revoked, in accordance with provisions of section 33-33-03-02, or court action may be initiated.

History: Effective August 1, 1988.
General Authority: NDCC 19-02.1-24, 23-01-03(3)
Law Implemented: NDCC 19-02.1-24

33-33-03-05. Sanitation requirements.

1. **Food, consumer containers, equipment maintenance, and operations.**

   a. Food intended for sale through vending machines and condiments available at vending machine locations shall be obtained from sources complying with the regulations of North Dakota. Such food shall be wholesome, free from spoilage, and shall be processed, prepared, handled, and stored in such a manner as to be protected against contamination and adulteration. All food-contact surfaces of containers and equipment shall be protected from contamination. If condiments are provided for service in conjunction with food dispensed by a vending machine, they shall be packaged in individual portions in single-service containers or shall be dispensed from approved sanitary dispensers which are washed, sanitized, and filled at the commissary. Relish

bowls and similar non-self-closing condiment containers shall not be used. Potentially hazardous food shall be held at safe temperatures except during necessary periods of preparation.

b. Satisfactory compliance. Subdivision a shall be deemed to have been satisfied when the following requirements are met:

(1) All food offered for sale through vending machines shall be manufactured, processed, and prepared in commissaries or establishments which comply with all applicable state laws and regulations.

(2) All food offered for sale through vending machines shall be wholesome.

(3) All food shall be stored or packaged in clean protective containers, and shall be handled, transported, and vended in a sanitary manner. Condiments provided for service in conjunction with food dispensed by a vending machine shall be packaged in individual portions in single-service containers or shall be dispensed from approved sanitary dispensers which are washed, sanitized, and filled at the commissary. Fresh fruits which may be eaten raw without peeling may be dispensed unpackaged but must be thoroughly washed in potable water before being placed in the vending machine. Storage of cartoned, bottled, canned, or packaged food by placing or submerging it in liquid is prohibited. Submerging such containers of food in ice is prohibited.

(4) Potentially hazardous food offered for sale through vending machines shall be handed or dispensed to the consumer in the individual original container or wrapper into which it was placed at the commissary or at the manufacturer's or processor's plant, or such products shall be dispensed into single-service containers from containers which were filled at the commissary or at the manufacturer's or processor's plant.

(5) In those vending machines which dispense potentially hazardous food from bulk, the bulk supplies of such food shall be transferred only to bulk vending machine containers and appurtenances which have been cleaned and sanitized.

(6) Potentially hazardous food within the vending machine shall be maintained at a temperature of forty-five degrees Fahrenheit [7.22 degrees Celsius] or below, or one hundred forty degrees Fahrenheit [60 degrees Celsius] or above, whichever is applicable; provided, that exceptions may be made for (a) the actual time required to load or otherwise service the machine and for a maximum recovery period of thirty minutes, following completion of loading or servicing operation; and (b) in the case of hot food vending machines, a maximum of one hundred twenty minutes to heat food through the forty-five degrees Fahrenheit [7.22 degrees Celsius] to one hundred forty degrees Fahrenheit [60 degrees Celsius] temperature zone. In hot food vending machines which are not equipped with refrigerated storage, there shall be no time delay to preclude heat from being applied to potentially hazardous food immediately after it is loaded or placed in the machine. Potentially hazardous food once heated to, or held at, a temperature of one hundred forty degrees Fahrenheit [60 degrees Celsius] or above, shall be maintained at such temperature until served or discarded.

Vending machines dispensing potentially hazardous food shall be provided with adequate refrigerating or heating units, or both, and thermostatic controls which ensure the maintenance of applicable temperatures at all times. Such vending machines shall also have controls which prevent the machine from vending potentially hazardous food until serviced by the operator, in the event of power

failure or other condition which results in noncompliance with temperature requirements in the food storage compartment.

Hot food vending machines designed to heat food through the forty-five degrees Fahrenheit [7.22 degrees Celsius] to one hundred forty degrees Fahrenheit [60 degrees Celsius] temperature range, shall also be equipped with automatic controls which render the machine incapable of vending potentially hazardous food until serviced by the operator in the event that heating through this temperature range is not accomplished in one hundred twenty minutes or less.

Potentially hazardous food which has failed to conform to the time-temperature requirements of this paragraph shall be removed from the vending machine, and be denatured or otherwise rendered unusable for human consumption.

Vending machines dispensing potentially hazardous food shall be provided with one or more thermometers which, to an accuracy of minus two degrees Fahrenheit [minus 18.89 degrees Celsius], indicates the air temperature of the warmest part of the refrigerated food storage compartment, or the coldest part of the heated food storage compartment, whichever is applicable.

(7) Milk and fluid milk products offered for sale through vending machines shall be pasteurized and shall be dispensed only in individual, original containers or from bulk containers into which such product was placed at the milk plant; provided, that such products may be reconstituted automatically within the vending machine when (a) the powder or concentrate is made from a pasteurized milk or milk product and is from an approved source; (b) the mixing chambers or bowls and any food-contact surface downstream from such mixing units are maintained at safe temperatures; and (c) the product is reconstituted for immediate dispensing in individual unit servings.

(8) Milk and fluid milk products used as an ingredient in hot liquid beverages dispensed from vending machines may be transferred to a multiuse machine canister at the machine location; provided, that (a) the location offers adequate protection against dust, insects, and other contamination; (b) the milk or fluid milk product is transferred from a dairy-filled container of not to exceed one-half gallon [1.89 liter] capacity; (c) the entire contents of such dairy-filled container are used in the transfer; (d) unused portions removed from the machine are discarded to waste; and (e) the milk or fluid milk product is poured only into an empty canister which has been effectively cleaned and sanitized at the commissary; provided further, that milk or fluid milk products shall not be used as an ingredient under the terms of this paragraph unless the temperature of the hot beverage at the point of mixing with the milk product is one hundred sixty degrees Fahrenheit [71.11 degrees Celsius] or higher.

Vending machine canisters and appurtenances used for the transfer of such milk products shall be effectively cleaned and sanitized at approved, fixed facilities at the commissary by methods approved by the department. After sanitization, the canister and appurtenances shall be fully wrapped in a single-service bag or cover which shall not be opened until the canister unit is installed in the refrigerated compartment of the vending machine. Canisters and appurtenances shall be so designed and constructed that the handling of contact surfaces at the machine location is unnecessary; and, such surfaces shall not be handled during canister installation, tube insertion, or product transfer.

(9) All parts of any bulk milk vending machine which come into direct contact with the milk or milk product shall be effectively cleaned and sanitized at the milk plant;

provided, that single-service dispensing tubes which receive sanitizing treatment at the fabricating plant and which are individually packaged in such manner as to preclude contamination, may be exempted from this provision. The can or other bulk milk container shall be filled only at the milk plant and shall be sealed in such manner as to make it impractical to withdraw any part of its contents or to introduce any substance without breaking the seal or seals. The delivery tube and any milk-contact parts of the dispensing device shall be attached at the milk plant, and shall be protected by a moistureproof covering, or housed in a compartment with a moisture-tight closure which shall not be removed until after the container is placed in the refrigerated compartment of the vending machine.

(10) With the exception of food-contact surfaces of bulk milk vending machines for which separate provisions for cleaning and sanitizing are specified in paragraph 9, all multiuse containers or parts of vending machines which come into direct contact with potentially hazardous food shall be removed from the machine daily and shall be thoroughly cleaned and effectively sanitized at the commissary or other approved facility; provided, that the requirement for daily cleaning and sanitizing may be waived for those food-contact surfaces which are maintained at all times at a temperature of forty-five degrees Fahrenheit [7.22 degrees Celsius] or below, or one hundred forty degrees Fahrenheit [60 degrees Celsius] or above, whichever is applicable, and an approved cleaning frequency is followed. Such parts shall, after sanitizing, be protected from contamination.

(11) All parts of vending machines which come into direct contact with other than potentially hazardous food shall be thoroughly cleaned by approved methods. The frequency of such cleaning shall be established by the department based upon the type of product being dispensed. A record of such cleaning operations shall be maintained by the operator in each machine or shall be made available at the time of inspection and shall be current for at least the past thirty days.

(12) All single-service articles shall be purchased in sanitary cartons or packages which protect the articles from contamination, shall be stored in a clean, dry place until used, and shall be handled in a sanitary manner. Such articles shall be stored in the original carton or package in which they were placed at the point of manufacture until introduced into the magazine or dispenser of the vending machine. Single-service articles stored within the vending machine shall be protected from manual contact, dust, insects, rodents, and other contamination.

2. **Machine location.**

a. The machine location shall be such as to minimize the potential for contamination of the food, shall be well-lighted, easily cleanable, and shall be kept clean. Conveniently located handwashing facilities shall be available for use by employees servicing or loading bulk food machines.

b. Satisfactory compliance. Subdivision a shall be deemed to have been satisfied when the following requirements are met:

(1) Each vending machine shall be located in a room, area, or space which can be maintained in a clean condition and which is protected from overhead leakage or condensation from water, waste, or sewer piping. The immediate area in which the machine is located shall be well-lighted. Each vending machine shall be so located that the space around and under the machine can be easily cleaned and maintained, and so that insect and rodent harborage is not created.

(2) The floor area where vending machines are located shall be reasonably smooth, of cleanable construction, and be capable of withstanding repeated washing and scrubbing. This space and the immediate surroundings of each vending machine shall be maintained in a clean condition.

(3) Adequate handwashing facilities, including hot and cold or tempered running water, soap, and individual towels, shall be convenient to the machine location and shall be available for use by employees servicing or loading bulk food machines.

3. **Exterior construction and maintenance.**

a. The exterior construction of the vending machine shall be such as to facilitate cleaning and to minimize the entrance of insects and rodents, and the exterior of the machine shall be kept clean. Service connections to machines vending potentially hazardous food or food in bulk shall be such as to protect against unintentional or accidental interruption of service to the machine.

b. Satisfactory compliance. Subdivision a shall be deemed to have been satisfied when the following requirements are met:

(1) The vending machine shall be of sturdy construction and the exterior shall be so designed, fabricated, finished, and maintained so as to facilitate its being kept clean, and to minimize the entrance of insects and rodents. The exterior of the machine shall be kept clean.

(2) Door and panel access openings to the food and container storage spaces of the machine shall be tight-fitting, and if necessary, gasketed, so as to prevent the entrance of dust, moisture, insects, and rodents.

(3) All ventilation louvers or openings into vending machines shall be effectively screened. Screening material for openings into food and container storage spaces of the machine shall be not less than sixteen mesh to the inch [2.54 centimeters] or equivalent. Screening material for openings into condenser units which are separated from food and container storage spaces shall be not less than eight mesh to the inch [2.54 centimeters] or equivalent.

(4) In all vending machines in which the condenser unit is an integral part of the machine, such unit when located below the food and container storage space shall be separated from such space by a dustproof barrier, and when located above, shall be sealed from such space.

(5) Unless the vending machine is sealed to the floor or counter so as to prevent seepage underneath, or can be manually moved with ease, one or more of the following provisions shall be utilized to facilitate cleaning operations: (a) The machine shall be mounted on legs six inches [l5.24 centimeters] or more in height; provided, that countertype machines may use four-inch [10.16-centimeter] legs; or (b) the machine shall be mounted on casters or rollers; or (c) the machine shall be mounted on gliders which permit it to be easily moved.

(6) All service connections through an exterior wall of the machine, including water, gas, electrical, and refrigeration connections, shall be grommeted or closed to prevent the entrance of insects and rodents. All service connections to machines vending potentially hazardous food or food in bulk shall be such as to discourage their unauthorized or unintentional disconnection.

4. **Interior construction and maintenance.**

a. All interior surfaces and component parts of the vending machine shall be so designed and constructed as to permit easy cleaning, and shall be kept clean. All food-contact surfaces of the machine shall be of smooth, nontoxic, corrosion-resistant, and relatively nonabsorbent material, and shall be capable of withstanding repeated cleaning and sanitizing by normal procedures. Such surfaces shall be protected against contamination.

b. Satisfactory compliance. Subdivision a shall be deemed to have been satisfied when the following requirements are met:

(1) The non-food-contact surfaces of the interior of vending machines shall be so designed and constructed as to permit easy cleaning, and to facilitate maintenance operations. Inaccessible surfaces or areas shall be minimized.

(2) All food-contact surfaces of vending machines shall be smooth, in good repair, and free of breaks, corrosion, open seams, cracks, and chipped places. The design of such surfaces shall be such as to preclude routine contact between food and V-type threaded surfaces. All joints and welds in food-contact surfaces shall be smooth; and all internal angles and corners of such surfaces shall be rounded to facilitate cleaning.

(3) All food-contact surfaces of vending machines, including containers, pipes, valves, and fittings, shall be constructed of nontoxic, corrosion-resistant, and relatively nonabsorbent materials, and shall be kept clean. In all vending machines in which carbon dioxide is used to propel water, food, or other ingredients, all food-contact surfaces in the system shall be of such material as to preclude the production of toxic substances which might result from interaction between the carbon dioxide and food-contact surfaces. All food-contact surfaces, unless designed for inplace cleaning, shall be accessible for manual cleaning and inspection: (a) without being disassembled; (b) by disassembly without the use of tools; or (c) by easy disassembly with the use of only simple tools such as a screwdriver or an open-end wrench. In machines of such design that food-contact surfaces are not readily removable, inplace cleaning of such surfaces may be permitted; provided, that (a) they are so arranged that cleaning and sanitizing solutions can be circulated throughout the fixed system; (b) such solutions will contact all food-contact surfaces; (c) the system is self-draining or otherwise completely evacuated; and (d) the procedures utilized result in thorough cleaning of the equipment.

(4) The openings into all nonpressurized containers used for the storage of vendable food, including water, shall be provided with covers which prevent contamination from reaching the interior of the containers. Such covers shall be designed to provide a flange which overlaps the opening, and shall be sloped to provide drainage from the cover wherever the collection of condensation, moisture, or splash is possible. Concave covers or cover areas are prohibited. Any port opening through the cover shall be flanged upward at least three-sixteenths inch [4.76 millimeters], and shall be provided with an overlapping cover flanged downward. Condensation, drip, or dust deflecting aprons shall be provided on all piping, thermometers, equipment, rotary shafts, and other functional parts extending into the food container, unless a watertight joint is provided. Such aprons shall be considered as satisfactory covers for those openings which are in continuous use. Gaskets, if used, shall be of a material which is nontoxic, relatively stable, and relatively nonabsorbent, and shall have a smooth surface. All gasket retaining grooves shall be easily cleanable.

(5) The delivery tube or chute and orifice of all bulk food and bulk beverage vending machines shall be protected from normal manual contact, dust, insects, rodents,

and other contamination. The design shall be such as to divert condensation or other moisture from the normal filling position of the container receiving the food or beverage. The vending stage of such machines shall be provided with a tight-fitting, self-closing door or cover which is kept shut, except when food is being removed.

(6) The food storage compartment within vending machines dispensing packaged liquid food shall be so constructed as to be self-draining, or shall be provided with a drain outlet which permits complete draining of the compartment. All such drains shall be easily cleanable.

(7) Opening devices which come into contact with the food or the food-contact surface of the containers shall be constructed of smooth, nontoxic, corrosion-resistant, and relatively nonabsorbent materials. Unless the opening device is of a single-service type, it shall be readily removable for cleaning, and shall be kept clean. Parts of multiuse opening devices which come into contact with the food or food-contact surface of containers shall be reasonably protected from manual contact, dust, insects, rodents, and other contamination; and such parts shall be readily removable for cleaning.

5. **Water supply.**

a. Water used in vending machines shall be from an approved source, and shall be of a safe and sanitary quality. Vending machines shall be so installed and operated as to prevent the production of toxic substances in the water.

b. Satisfactory compliance. Subdivision a shall be deemed to have been satisfied when the following requirements are met:

(1) All water used in vending machines shall be of a safe and sanitary quality and from an approved source. Water used as a food ingredient shall be piped to the vending machine under pressure or brought to the vending machine in portable containers or urns which have been filled in a sanitary manner directly from an approved water supply outlet at the commissary or other approved location. Ingredient water shall not be transferred from one container to another at the machine location. Containers for the storage of ingredient water or ice, which are not a part of this closed water system, shall be designed and maintained as food-contact surfaces. Water containers or urns shall be cleaned and sanitized at the commissary or other approved facility after each use. Such portable containers shall be continuously protected against contamination from the time of sanitizing until placed in the vending machine. Protection shall be effected which will prevent unauthorized persons from tampering with or refilling the water container. All plumbing connections and fittings shall be installed in accordance with state and local plumbing regulations.

(2) If used, water filters or other water-conditioning devices shall be of a type which may be disassembled for periodic cleaning or replacement of the active element. Replacement elements shall be handled in a sanitary manner.

(3) All vending machines which dispense carbonated beverages, and which are connected to a water supply system, shall be equipped with two (or a double) check valves; or an airgap; or a device to vent carbon dioxide to the atmosphere; or other approved device, which will provide positive protection against the entrance of carbon dioxide or carbonated water into the water supply system.

(4) Where check valves are used for the protection of the water supply system, a screen of not less than one hundred mesh to the inch [2.54 centimeters] shall be installed in the waterline immediately upstream from the check valves.

(5) In all vending machines which dispense carbonated beverages and which are connected to a water supply system, the ingredient water-contact surfaces from the check valves or other protective device downstream, including the device itself, shall be of such material as to preclude the production of toxic substances which might result from interaction with carbon dioxide or carbonated water.

6. **Waste disposal.**

a. All wastes shall be properly disposed of, and pending disposition, shall be kept in suitable containers so as to prevent creating a nuisance.

b. Satisfactory compliance. Subdivision a shall be deemed to have been satisfied when the following requirements are met:

(1) All trash and other waste material shall be removed from the machine location as frequently as may be necessary to prevent nuisance and unsightliness, and shall be disposed of in an approved manner.

(2) Self-closing, leakproof, easily cleanable, plainly labeled and designated waste container or containers shall be provided in the vicinity of each machine or machines to receive used cups, cartons, wrappers, straws, closures, and other single-service items. After being emptied, each waste container shall be thoroughly cleaned. Such waste containers shall not be located within the vending machine; provided, that an exception may be made for those machines dispensing only packaged food with crown closures. In case of an exception, the closure receptacle may be located within the machine. Suitable racks or cases shall be provided for multiuse containers or bottles.

(3) Containers shall be provided within all machines dispensing liquid food in bulk for the collection of drip, spillage, overflow, or other internal wastes. An automatic shutoff device shall be provided which will place the vending machine out of operation before such container overflows. Containers or surfaces on which such wastes may accumulate shall be readily removable for cleaning, shall be easily cleanable, and shall be corrosion-resistant. If liquid wastes from drip, spillage, or overflow, which originate within the machine are discharged into a sewerage system, the connection to the sewer shall be through an airgap.

7. **Delivery of food, equipment, and supplies to machine location.**

a. Food, food-contact surfaces of containers, equipment, and supplies shall be protected from contamination while in transit to machine location. Potentially hazardous food, while in transit and in storage on location, shall be maintained at safe temperatures.

b. Satisfactory compliance. Subdivision a shall be deemed to have been satisfied when the following requirements are met:

(1) Food, while in transit to vending machine locations, shall be protected from the elements, dirt, dust, insects, rodents, and other contamination. Similar protection shall be provided for single-service containers, and for the food-contact surfaces of equipment, containers, and devices in transit to machine locations.

(2) Potentially hazardous food, prior to being loaded in the delivery vehicle, shall be maintained at a temperature of forty-five degrees Fahrenheit [7.22 degrees Celsius]

or below, or one hundred forty degrees Fahrenheit [60 degrees Celsius] or above, whichever is applicable. Such food shall also comply with the applicable temperature requirements while in transit to machine locations.

(3) If potentially hazardous food is stored at machine locations, the applicable safe temperature shall be maintained during storage.

8. **Cleanliness of personnel.**

a. Employees shall maintain a high degree of personal cleanliness and shall conform to hygienic practices while engaged in handling foods, or food-contact surfaces of utensils or equipments.

b. Satisfactory compliance. Subdivision a shall be deemed to have been satisfied when the requirements of this subdivision are met. Employees shall wash their hands immediately prior to engaging in any vending machine servicing operation which may bring them into contact with food, or with food-contact surfaces of utensils, containers, or equipment. While engaged in such servicing operations, employees shall wear clean outer garments, shall conform to hygienic practices, and shall not use tobacco in any form.

History: Effective August 1, 1988.
General Authority: NDCC 19-02.1-24, 23-01-03(3)
Law Implemented: NDCC 19-02.1-24

33-33-03-06. Disease control.

No person, while affected with any disease in a communicable form, or while a carrier of such disease, or while afflicted with boils, infected wounds, sores, or an acute respiratory infection, shall work in any area of a commissary or vending operation in any capacity in which there is a likelihood of such person contaminating food or food-contact surfaces with pathogenic organisms, or transmitting disease to other individuals. No person known or suspected of being affected with any such disease or condition shall be employed in such an area or capacity. If the manager or person in charge of the establishment has reason to suspect that any employee has contracted any disease in a communicable form or has become a carrier of such disease, the manager or person in charge shall notify the department immediately.

History: Effective August 1, 1988.
General Authority: NDCC 19-02.1-24, 23-01-03(3)
Law Implemented: NDCC 19-02.1-24

33-33-03-07. Procedure when infection is suspected.

When the department has reasonable cause to suspect the possibility of disease transmission from any employee, the department shall secure a morbidity history of the suspected employee or make such other investigation as may be indicated, and take appropriate action. The department may require any or all of the following:

1. The immediate exclusion of the employee from all commissaries and vending machine operations.

2. The immediate closure of the commissaries and operations concerned until, in the opinion of the department, no further danger of disease outbreak exists.

3. Restriction of the employee's services to some area of work where there would be no danger of transmitting disease.

4. Adequate medical examination of the employee and of the employee's associates, with such laboratory examinations as may be indicated.

History: Effective August 1, 1988.
General Authority: NDCC 19-02.1-24, 23-01-03(3)
Law Implemented: NDCC 19-02.1-24

33-33-03-08. Commissaries outside North Dakota.

Food from commissaries outside of North Dakota may be sold within the state if such commissaries conform to the provisions of the food-service establishment sanitation regulations of North Dakota, or to substantially equivalent provisions. To determine the extent of compliance with such provisions, the department may accept reports from the responsible authorities in the jurisdictions where the commissary or commissaries are located.

History: Effective August 1, 1988.
General Authority: NDCC 19-02.1-24, 23-01-03(3)
Law Implemented: NDCC 19-02.1-24