

Minnesota Attorney General: Administrative Rules Proceedings

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Version 3
August 20, 2018

MINNESOTA STATE REGULATIONS

Notice of filing by the Commissioner of Administration

47

We have received on this date, stamped and filed 2 copies of Rules and Regulations pertaining to the Department of Agriculture
(Agency or Board)

Regulation No. Agr 4403 thru 4406 ~~Cancel~~ (amended)

Subject: Pickles and Pickled Vegetables

Department of Administration
Publication, Central Services Division
Documents Section
140 Centennial Office Building
St. Paul, Minnesota 55155
Telephone: (612) 296-2874

FILED
RICHARD L. BRUBACHER
Commissioner of Administration

APR 9 1974 2:20 pm

BY Eda Staudenmaier
AUTH. SIGNATURE

Stamped and filed with the Secretary of State 4-9-74

Rev. 9-72

RULES AND REGULATIONS RELATING TO
FRESH VEGETABLES AND RELATED PRODUCTS
DEFINITIONS AND STANDARDS OF IDENTITY:
LABELING
CHAPTER 133: AGR 4401-4425

"Agr 4403 Pickles and Pickled Vegetables; Standards of Identity; Labeling.

(a) Pickles. Pickles are the clean, sound, properly prepared cucumbers which may or may not have been subjected to fermentation and curing in salt brine, and which are safely and suitably preserved in an acetic or lactic acid solution to which may have been added other vegetables, spices, flavorings, salt, tumeric, natural sweeteners, or other food additives as provided for by the Federal Food, Drug and Cosmetic Act, as amended, and as specified in Title 21, Code of Federal Regulations, Part 121, as revised in accordance with the Administrative Procedure Act. This definition does not include salt pickles as described in Regulation Agr 4404.

(b) Pickled Vegetables. Pickled vegetables are vegetables other than cucumbers prepared as described under paragraph (a) above, and conform in name to the vegetable used.

(c) Labeling. The labels for such pickles and pickled vegetables, in addition to all other information required by Minnesota food law and regulation, shall bear a list of ingredients in the descending order of predominance; provided, that spices and flavorings may be designated as spices and flavorings without naming each, and preservatives, if used, shall be listed by their common or usual names in one of the following qualifying statements: "_____ added as a preservative", or "_____, a preservative", or "preserved with _____", the blank to contain the name of the preservative used."

"Agr 4406. Sauerkraut; Standard of Identity; Labeling.

(a) Sauerkraut. Sauerkraut is the clean, sound, product, of characteristic acid flavor, obtained by the full fermentation, chiefly lactic, of properly prepared and shredded cabbage in the presence of not less than two (2) per cent nor more than three (3) per cent of salt. It contains upon completion of the fermentation, not less than one (1) per cent of acid, expressed as lactic acid, to which may be added additional lactic acid, peppers, pickled vegetables, spices, flavorings, salt, and other food additives as provided by the Federal Food, Drug and Cosmetic Act, as amended, and as specified in Title 21, Code of Federal Regulations, Part 121, as revised in accordance with the Administrative Procedure Act."

(b) Labeling. The label for sauerkraut, in addition to all other information required by Minnesota food law and regulation, shall bear a list of ingredients in descending order or predominance; provided, that spices and flavorings may be designated as spices and flavorings without naming each, and preservatives, if used, shall be listed by their common or usual names in one of the following qualifying statements: "_____ added as a preservative", or "_____, a preservative", or "preserved with _____", the blank to contain the name of the preservative used."

Filed

APPROVED AS TO FORM AND LEGALITY
4-9 1974
WARREN SPANNAUS, ATTORNEY GENERAL
BY Michael B Miller
SPECIAL ASSISTANT ATTORNEY GENERAL

STATE OF MINNESOTA
DEPARTMENT OF STATE
FILED
APR 9 - 1974 1:30 pm
Arlen I. Erdahl
Secretary of State

FILED
RICHARD L. BRUBACHER
Commissioner of Administration
APR 9 1974 2:20pm
BY Eda Staudenmaier
AUTH. SIGNATURE

STATEMENT OF COMPLIANCE WITH

MANUAL OF RULE MAKING PROCEDURES

I, Special Assistant Attorney General Thomas Kalitowski do hereby declare that I have examined the proposed rules and all related documents and that, based on them and my personal familiarity with the applicable procedures, the Manual of Rule Making Procedures has been followed. Any exceptions are noted below.

Thomas Kalitowski

Special Assistant Attorney General

Dated: March 25, 1974

STATE OF MINNESOTA

COUNTY OF RAMSEY

BEFORE JON WEFALD

COMMISSIONER OF AGRICULTURE

In the matter of the Proposed Amendments of Rules and Regulations of the Department of Agriculture Relating to Standards of Identity for Pickles and Sauerkraut, Agr 4403 and 4406.

ORDER OF HEARING

To bring the standards of identity for pickles and sauerkraut into conformity with those in national use, the Minnesota Commissioner of Agriculture deems it necessary to consider amendments to the existing rules captioned above pursuant to the authority vested in me by M.S. 1971, Section 31.10.

NOW, THEREFORE, IT IS ORDERED this 23rd day of January, 1974, that a public hearing on the proposed amendments captioned above be held in Room 415, 4th Floor, State Office Building, St. Paul, Minnesota, on Thursday, February 28, 1974, commencing at 10:00 A.M., and continuing until all representatives of associations or other interested groups or persons have had an opportunity to be heard.

IT IS FURTHER ORDERED, that notice of said hearing be given to all representatives of associations or other interested groups or persons who have registered their names with the Secretary of State for that purpose and to all persons who are presently members of the Minnesota Legislature.

STATE OF MINNESOTA

Jon Wefald

JON WEFALD
COMMISSIONER OF AGRICULTURE

STATE OF MINNESOTA

COUNTY OF RAMSEY

BEFORE JON WEFALD
COMMISSIONER OF AGRICULTURE

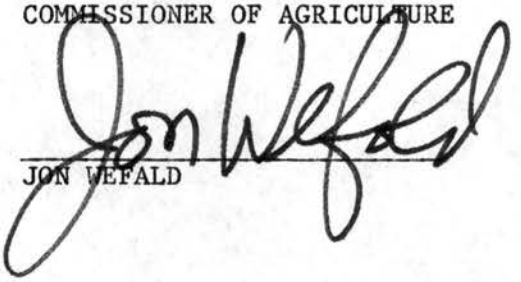
In the matter of the Proposed Amendments of Rules and Regulations of the Department of Agriculture Relating to Standards of Identity for Pickle and Sauerkraut, Agr 4403 and 4406.

STATEMENT OF NEED

The above captioned rules are amendments to existing rules of the Minnesota Department of Agriculture. The above captioned rules have not been amended since their enactment prior to November 14, 1945.

The need to adopt these rules arises because they are obsolete in that requirements contained therein relate to processing methods long since discontinued or changed and because present acceptable methods of processing and the food additives permitted in pickles and sauerkraut by federal standards and standards of other states are not permitted by these old rules and thus they are in restraint of interstate commerce.

COMMISSIONER OF AGRICULTURE



JON WEFALD

STATE OF MINNESOTA

COUNTY OF RAMSEY

BEFORE JON WEFALD

COMMISSIONER OF AGRICULTURE

In the matter of the Proposed Amendments of Rules and Regulations of the Department of Agriculture Relating to Standards of Identity for Pickles and Sauerkraut, Agr 4403 and 4406.

NOTICE OF HEARING

Notice is hereby given that a public hearing will be held pursuant to M.S. 1971, Section 15.0412, Subdivision 4, in the above entitled matter in Room 415, fourth floor, State Office Building, St. Paul, Minnesota, February 28, 1974, commencing at 10:00 A.M., and continuing until all persons have had an opportunity to be heard concerning adoption of the proposed amendments to existing rules captioned above by submitting either oral or written data, statements or arguments. Statements may be submitted without appearing in person at the hearing.

The Commissioner proposes to adopt rules amending Regulations Agr 4403, relating to the standard of identity for pickles, and Agr 4406, relating to the standard of identity for sauerkraut to bring them into uniformity with federal standards and the practices of the trade, as authorized by M.S. 31.10.

Copies of the proposed amendments may be obtained by writing to the office of the Commissioner, 420 State Office Building, St. Paul, Minnesota 55155. Additional copies will be available at the door on the date of the hearing.

Dated January 30, 1974

STATE OF MINNESOTA

Jon Wefald

JON WEFALD
COMMISSIONER OF AGRICULTURE

PROPOSED

RULES AND REGULATIONS RELATING TO
FRESH VEGETABLES AND RELATED PRODUCTS
DEFINITIONS AND STANDARDS OF IDENTITY;
LABELING
CHAPTER 133: AGR 4401-4425

Minnesota Department of Agriculture Rules and Regulation, Chapter 133, Regulation Agr 4403, Pickles, which reads as follows:

"Agr 4403 Pickles. Pickles are clean, sound, immature cucumbers, properly prepared, without taking up any metallic compound other than salt and preserved in any kind of vinegar, with or without spices; pickled onions, pickled beets, pickled beans and other pickled vegetables are vegetables prepared as described above and conform in name to the vegetables used", is amended to read:

"Agr 4403 Pickles and Pickled Vegetables; Standards of Identity; Labeling.

(a) Pickles. Pickles are the clean, sound, properly prepared cucumbers which may or may not have been subjected to fermentation and curing in salt brine, and which are safely and suitably preserved in an acetic or lactic acid solution to which may have been added other vegetables, spices, flavorings, salt, tumeric, natural sweeteners, or other food additives as provided for by the Federal Food, Drug and Cosmetic Act, as amended, and as specified in Title 21, Code of Federal Regulations, Part 121, as revised.

(b) Pickled Vegetables. Pickled vegetables are vegetables other than cucumbers prepared as described under paragraph (a) above, and conform in name to the vegetable used.

(c) Labeling. The labels for such pickles and pickled vegetables, in addition to all other information required by Minnesota food law and regulation, shall bear a list of ingredients in the descending order of predominance; provided, that spices and flavorings

may be designated as spices and flavorings without naming each, and preservatives, if used, shall be listed by their common or usual names in one of the following qualifying statements: '_____ added as a preservative", or "_____, a preservative', or "preserved with _____', the blank to contain the name of the preservative used."

Minnesota Department of Agriculture Rules and Regulations, Chapter 133, Regulation Agr 4406, Sauerkraut, which reads as follows:

Agr 4406 Sauerkraut. Sauerkraut is the clean, sound product, of characteristic acid flavor, obtained by the full fermentation, chiefly lactic, of properly prepared and shredded cabbage in the presence of not less than two (2) per cent not more than three (3) per cent of salt. It contains, upon completion of the fermentation, not less than 1 1/2 per cent of acid, expressed as lactic acid. Sauerkraut which has been rebrined in the process of canning or repacking contains not less than one (1) per cent of acid, expressed as lactic acid', is amended to read:

"Agr 4406. Sauerkraut; Standard of Identity; Labeling.

(a) Sauerkraut. Sauerkraut is the clean, sound, product, of characteristic acid flavor, obtained by the full fermentation, chiefly lactic, of properly prepared and shredded cabbage in the presence of not less than two (2) per cent nor more than three (3) per cent of salt. It contains upon completion of the fermentation, not less than one (1) per cent of acid, expressed as lactic acid, to which may be added additional lactic acid, peppers, pickled vegetables, spices, flavorings, salt, and other food additives as provided by the Federal Food, Drug and Cosmetic Act, as amended, and as specified in Title 24, Code of Federal Regulations, Part 21, as revised.

(b) Labeling. The label for sauerkraut, in addition to all other information required by Minnesota food law and regulation, shall bear a list of ingredients in descending order of predominance; provided, that spices and flavorings may be designated as spices and flavorings without naming each, and preservatives, if used, shall be listed by their common or usual names in one of the following qualifying statements: "_____ added as a preservative", or _____, a preservative", or "preserved with _____", the blank to contain the name of the preservative used."

Filed

Amendments are offered for the proposed Rules and Regulations Relating to Fresh Vegetables and Related Products, Definitions and Standards of Identity; Labeling, Chapter 133: Agr 4401 - 4425, as follows:

First page, Proposed Regulation, Agr 4403 (a) Pickles, last line, after "revised" and before the period, add:

"in accordance with the administrative procedure act; provided, that this does not include salt pickles as described in Regulation Agr 4404".

Second page, last line, after "Title", change "24" to "21", after "Part", change "21" to "121", and after "revised" and before the period, add "in accordance with the administrative procedure act".

STATE OF MINNESOTA

COUNTY OF RAMSEY

In the matter of the Proposed Amendments of Rules and Regulations of the Department of Agriculture Relating to Standards of Identity for Pickles and Sauerkraut.

CERTIFICATE

I herby certify that the attached 325 labels and Two sheets constitute the complete lists of persons, associations, and other interested groups who as of 9:45 o'clock A .M., this 23rd day of January, 1974 have requested pursuant to M.S. 1971, Sec. 15.0421 that their names be placed on file with the Secretary of State for the purpose of receiving notice of public hearing on proposed rules on the subject captioned above.

Secretary of State

Allen D. Erdahl

By Neil Dion

AFFIDAVIT

Joyce Walkosz, being duly sworn on oath deposes and says:

1) That she is an employee of the Agriculture Department of the State of Minnesota.

2) That on the 23rd day of January, she went to the Secretary of State's office for the State of Minnesota and requested a current list of all representatives of associations and other interested groups or persons who had registered their names with the Secretary of State for the purpose of obtaining notices of public hearings relating to the promulgation of rules pursuant to M.S. 15.0412.

3) That on the 23rd day of January, in response to the above request, the Secretary of State provided her with such a list, a copy of which is attached hereto and incorporated by reference.

Further affiant sayeth not.

Joyce Walkosz

Subscribed and sworn to before me
this 24th day of January 19 74.
Emma Copeland

Notary Public,
Ramsey County, Minnesota
My commission expires 3-17-77.

EMMA COPELAND
Notary Public, Ramsey County, Minn.
My Commission Expires Mar. 17, 1977

STATE OF MINNESOTA

COUNTY OF RAMSEY

In the matter of the Proposed Amendments of Rules and Regulations of the Department of Agriculture Relating to Standards of Identity for Pickles and Sauerkraut.

AFFIDAVIT OF MAILING

Joyce Walkosz, being first duly sworn, deposes and says:

That on the 24th day of January, 1974, at the City of St. Paul, County of Ramsey, State of Minnesota, she served the attached Notice of Hearing by depositing in the United State mail at said City of St. Paul, a true and correct copy thereof, properly enveloped, with postage prepaid, to all persons listed on the attached certificate of the Secretary of State as well as to all persons listed on the attached sheet as presently being members of the Minnesota Legislature.

Joyce Walkosz

Subscribed and sworn to before me this 24th day of January, 1974.

Emma Copeland

Notary Public
Ramsey County, Minnesota
My commission expires 3-17-77.

EMMA COPELAND
Notary Public, Ramsey County, Minn.
My Commission Expires Mar. 17, 1977

STATE OF MINNESOTA

COUNTY OF RAMSEY

BEFORE JON WEFALD
COMMISSIONER OF AGRICULTURE

In the matter of the Proposed Amendments of Rules and Regulations of the Department of Agriculture Relating to Standards of Identity for Pickle and Sauerkraut, Agr 4403 and 4406.

FINDINGS OF FACT

The above entitled matter came on for hearing before the Agriculture Commissioner of the State of Minnesota on the 28th day of February, 1974, at 10:00 A.M. in Room 415, fourth floor, State Office Building, St. Paul, Minnesota, after proper notice required by M.S. 1971, Section 15.0412 was served on all persons, associations and other interested groups registered with the Secretary of State for that purpose.

After affording interested persons an opportunity to present written and oral data, statements and arguments, having heard all of the testimony, having considered all of the evidence adduced and upon the records, files and proceedings herein, I find the following:

1. That the regulations captioned above are obsolete because:

   (a) Industry methods and equipment have changed.
   (b) Farmer processing technology no longer applies.
   (c) Acceptable food additives are not allowed under present regulations.

2. That pickles and sauerkraut processed under newer methodology do not conform to present Minnesota rules.

3. That Minnesota and out-of-state processors must prepare two types of products and maintain two types of labels if Minnesota and other state standards are to be met.

4. That Minnesota processors wish to retain standards of identity for pickles and sauerkraut, but to have them equitable for all processors.

5. That continued enforcement of present standards is in restraint of interstate commerce.

6. That Minnesota consumers will benefit by having available a larger variety of pickles and sauerkraut and that these products processed under the new standards will retain their elegance for longer periods on the consumers' shelves.

STATE OF MINNESOTA

JON WEFALD
COMMISSIONER OF AGRICULTURE

STATE OF MINNESOTA

COUNTY OF RAMSEY

BEFORE JON WEFALD

COMMISSIONER OF AGRICULTURE

In the matter of the Proposed Amendments of Rules and Regulations of the Department of Agriculture Relating to Standards of Identity for Pickles and Sauerkraut, Agr 4403 and 4406.

ORDER ADOPTING RULES

The above-entitled matter came on for hearing before the Agriculture Commissioner of the State of Minnesota on the 28th day of February, 1974, at 10:00 A.M., in Room 415, fourth floor, State Office Building, St. Paul, Minnesota, after proper notice required by M.S. 1971, Section 15.0412 was served upon all persons, associations and other interested groups registered with the Secretary of State for that purpose, and to all members of the Minnesota Legislature.

After affording interested persons an opportunity to present written and oral data, statements and arguments, having heard all of the testimony, having considered all of the evidence adduced and upon the records, files and proceedings herein, and applicable statutory standards and criteria, and having confirmed the need for the above captioned rules,

NOW, THEREFORE, IT IS ORDERED that the amendments to the rules identified as Rules of the State Department of Agriculture Relating to Standards of Identity for Pickles and Sauerkraut, Agr 4403 and 4406 are adopted this 25th day of March 1974, pursuant to authority vested in me by M.S. 1971, Sections 15.0412 and 31.10.

STATE OF MINNESOTA

Jon Wefald

JON WEFALD
COMMISSIONER OF AGRICULTURE