

Minnesota Attorney General: Administrative Rules Proceedings

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Our File: 565

DEPARTMENT: Attorney General

STATE OF MINNESOTA

Office Memorandum

TO : Gerald Heil, Director
Division of Planning

DATE: 12/31/79

Attn: Peder Hong

FROM : Lee E. Sheehy
Special Assistant
Attorney General

PHONE: 296-1238

SUBJECT: Rules as Approved In the Matter of the Proposed Adoption of Rules of the Department of Agriculture Governing Nonalcoholic Beverages; Definitions; standards; Restrictions; Labeling; and Manufacturing Requirements.

Enclosed herewith are the rules you have submitted for approval. These rules have been approved by this office and filed with the Secretary of State. Note that they have NOT been filed with the State Register; this must be done promptly by your agency.

Upon receipt and before transmittal to your agency, however, it is important that you recheck these rules as to:

1. Affixation of the stamps of the Attorney General and Secretary of State to the last page of the rules;

2. Coverage by these stamps of all rules submitted; and

3. Inclusion of all pages of the rules in the approved set.

Directly following the approved rules is a complete set of required documents and transcript which must be retained with the rules by you or your agency.

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

LES/dw
Enclosure
cc: Duane Harves
Susan Robertson

STATE OF MINNESOTA

DEPARTMENT OF AGRICULTURE

IN THE MATTER OF THE PROPOSED ADOPTION)
OF RULES OF THE DEPARTMENT OF AGRICULTURE) STATEMENT OF NEED
GOVERNING NONALCOHOLIC BEVERAGES;) AND REASONABLENESS
DEFINITIONS; STANDARDS; RESTRICTIONS;)
LABELING; AND MANUFACTURING REQUIREMENTS)

The above captioned rules are amendments to existing rules of the Department of Agriculture. Agr 4801 and Agr 4803 were originally promulgated in 1967 and Agr 4802 in 1948. Section (c) of Agr 4804 was originally promulated in 1928 and amended in 1948 and 1954. Section (d) was promulgated in 1948 and amended in 1954. Section (i) was promulgated in 1948. The balance of Agr 4804 was promulgated in 1967.

The authority to amend these rules arises from Minn. Stat. §§ 31.101 and 31.11. Specifically, Minn. Stat. § 31.101, subd. 1, directs that "Such regulations when applicable shall conform, insofar as practicable and consistent with state law, with those promulgated under the federal law." These proposed amendments will bring these rules into conformance with Minn. Stat. § 31.101, subd. 8.

The Department will be represented by the following staff: Rollin M. Dennistoun, Deputy Commissioner; Bernard J. Steffen, Director of Food, Meat and Poultry Inspection; Howard J. Anderson, Agricultural Products Analysis Coordinator; Craig Markell, Chemist; and, Randall Young, Director of Planning. Legal counsel will be provided by Peder Hong, Special Assistanct Attorney General.

The Department will call Martin V. Bergerson, Compliance Officer, Food and Drug Administration, as a witness to testify.

The Department will introduce 21 CFR, Parts 10 to 199, into the record.

RULES JUSTIFICATION

The section by section for these rules will be made by first stating the section and then presenting the explanation of the intent, need for and reasonableness of each section.

Agr-4801 3 MCAR 1.4801 Soda Water; Identity; Label Statement of Optional Ingredients.

...Amendments to this rule are purely housekeeping in nature and pose no change to the rule. In addition to changes in codification, grammar, and terminology, 3 MCAR b, would re-reference the Code of Federal Regulations from 21 CFR, Section 121.1137 to 21 CRF, Section 172.810, to conform with federal recodification of the Code of Federal Regulations. There is no change in the regulation itself.

Jerry Heil says correct

~~Agr-4802~~ 3 MCAR 1.4802 Bacterial, Yeast and Mold Standards for Nonalcoholic Beverages.

No canned or bottled carbonated or still beverages, carbonated, plain or otherwise, manufactured, mixed or compounded, shall be sold, offered or exposed for sale or held in possession for sale in this state, the bacterial count of which at any time after manufacturing, mixing or compounding exceeds 100 bacteria per milliliter, 20 molds per milliliter or a mixture of yeasts and molds which exceeds 20 per milliliter collectively, standard plate count, as determined by the arithmetical averages of four consecutive tests of beverage samples taken on separate days.

...This proposed change would limit the applicability of this rule to only canned or bottled carbonated or still beverages. The present rule requires all carbonated or still beverages, including those sold by the glass, cup, or other open container, to comply with this rule. This change would limit the bacteria standards to canned and bottled beverages only.

~~Agr-4803-Proprietary-Names;-Restriction.--Notwithstanding-the-provisions-of 985(e),-(3)-all-beverages-bearing-the-words-or-terms-"Drink",-"Ade",-"Rickey", "Collins",-"Tom-Collins",-"Cocktail",-"Sour",-"Mixer",-and-"Punch",-or-any combination-of-these-words-with-each-other-or-with-other-words-shall-be-considered-to-be-bearing-a-name-or-names-implying-a-content-of-fruit-juice-and shall-be-required-to-be-manufactured,-mixed,-or-compounded-in-accordance-with the-requirements-of-Agr-988(i),-provided-that-nothing-in-this-paragraph-shall prohibit-the-use-of-the-words-"Tonic-Mixer"-when-applied-to-the-label-for "Quinine-Soda",-"Quinine-Soda-Water"-or-"Quinine-Carbonated-Beverage"-when-the label-for-such-beverage-complies-with-all-other-labeling-requirement-applicable thereto.~~

...The FDA standards for these beverages do not have a requirement for six percent fruit juice. This requirement is imposing an unreasonable hardship on those who fall within its jurisdiction. Other states surrounding Minnesota follow FDA standards. This situation is forcing beverage manufacturers to produce two products, labels, and distribution systems to comply with the standards imposed by the various states. This, coupled with the fact that it is very difficult to accurately measure the level of fruit juice in a beverage, has made it necessary to conform to FDA standards as directed in Minn. Stat. § 31.101.

3 MCAR 1.4803 Purified Water; Identity; Label Statement of Process Requirement. Purified water is a water produced by distillation, deionization or by reverse osmosis and shall not contain more than ten (10) parts per million of total dissolved solids and otherwise conforms to the sanitary standards for water. Purified water shall be designated by the name "Purified Water" and the statement "Produced by _____", the blank being filled in with the appropriate descriptive words describing the water treatment process;

for example, "Purified Water Produced by Distillation". These label statements shall appear on the labeling surface of the container in such a manner as to render the statement likely to be read by the ordinary individual under customary conditions of purchase or use. For the purposes of this paragraph the use of the names "distilled water", "deionized water" or "reverse osmosis water" may be used in lieu of the labeling prescribed herein when it properly describes the character and process of the water so designated.

...This section is simply being recodified from Agr 4804 (k) (1) to a separate rule more logically placed in the sequence of rules.

Agr-4804 3 MCAR 1.4804 Other Beverages; Identity, Labeling, Restrictions.

~~(a) Lime rickey is a carbonated beverage prepared from fruit, pure cane, beet sugar, or refined corn sugar, or corn sirup or corn sirup solids, and carbonated water. It contains all tolerances provided for, not less than six per cent lime juice and may or may not be fortified with other fruit juices.~~

~~(b) Noncarbonated (still) flavored beverages containing less than six (6) per cent fruit juice in which the characteristic flavor and/or color of the beverage is created by natural and/or artificial fruit flavor and/or colors shall:~~

~~(1) If labeled with a name or names of fruit or true fruit product, be labeled with the word "imitation". The word "imitation" shall be declared on the label in conjunction and equally conspicuous with the name or names of the fruit or true fruit product the flavor of which is used and/or imitated.~~

~~(2) If labeled with a name that contains the name of a fruit or true fruit product, it shall be manufactured, mixed or compounded free of pulp and cloud.~~

...These sections are being repealed in order to conform with FDA standards which were adopted by reference by the Legislature in Minn. Stat. § 31.101, subd. 8. This repeal is necessary and reasonable in order to provide consistency in state policy and rules. It is also necessary and reasonable to bring Minnesota into conformity with other states ease the unreasonable burdens cited above.

~~(3) Be labeled with a list of ingredients in descending order of predominance.~~

...This repeal eliminates requiring a list of ingredients in descending order of predominance because this requirement is specified in other regulations.

~~(c) A beverage made from oil of lemon, citric acid, tartaric acid, phosphoric acid, lactic acid and coloring matter, with or without emulsifying agent, is not a fruit product even though its essential ingredients are derived from the fruit. For example, the term orangeade, unqualified, can be applied only to a product consisting of orange juice, cane, beet sugar~~

~~or-refined-corn-sugar-or-corn-syrup-or-corn-syrup-solids;-water;-and-flavored with-orange-oil.--The-same-applies-also-to-beverages-sold-as-lemonade, gradeade;-limeade;-lime-rickey;-grapefruit-drink;-orange-drink-and-other similar-beverages.~~

...This standard conflicts with FDA standards and federal standards adopted by this state. This standard limits ingredients in certain lemon and orange beverages. These limitations are not included in federal standards which have been adopted as state standards by reference.

3 MCAR 1.4804 A., B., C., D., and E.

...No changes are proposed for these sections.

~~(i)-Fruit-Ades;-Drinks-or-Rickeys.--Beverages-labeled-orangeade;-lemonade, grapefruitade;-grapeade;-limeade-or-lime-rickey;-etc.-or-with-other-names implying-a-content-of-fruit-juice-must-contain-a-minimum-of-six-(6)-per-cent of-actual-juice-of-the-fruit-name-on-the-label.--This-list-of-ingredients must-be-plainly-declared-in-the-order-of-predominance.--This-list-shall include-water;-plain-or-carbonated;-pure-cane;-beet-sugar-or-refined-corn sugar-or-corn-sirup-or-corn-sirup-solids;-name-of-fruit-juice;-oils;-citric, tartaric-acids;-artificial-color;-etc.~~

...This repeat eliminates the requirements of six percent juice in fruit ades, drinks, rickeys and similar beverages. This is necessary and reasonable because six percent is not required under FDA standards or under federal standards adopted as state standards by reference.

~~(j)-Imitation;-still-and-carbonated-beverages-and-imitation-fruit-extracts, compounds-and-other-similar-preparations-cannot-bear-pictures-of-fruits-on labels;-neither-can-pictures-of-fruits-be-used-on-pamphlets;-circulars;-folders, signs;-newspapers-and-any-other-forms-of-advertising-material.~~

~~(k)-Reserved-for-future-use.~~

...This change repeals the prohibition of pictures of fruit on labels of fruit flavored imitation beverages. Such pictures are allowed on appropriately flavored imitation beverages if properly explained under adopted federal regulations.

~~(l)-Purified-Water;-Identity;-Label-Statement-of-Process-Requirement. Purified-water-is-a-water-produced-by-distillation;-deionization-or-by-reverse osmosis-and-shall-not-contain-more-than-ten-(10)-parts-per-million-of-total dissolved-solids-and-otherwise-conforms-to-the-sanitary-standards-for-water. Purified-water-shall-be-designated-by-the-name-"Purified-Water"-and-the-statement-"Produced-by----------";-the-blank-being-filled-in-with-the-appropriate descriptive-words-describing-the-water-treatment-process;-for-example,-"Purified~~

~~Water-Produced-by-Distillation".--These-label-statements-shall-appear-on-the labeling-surface-of-the-container-in-such-a-manner-as-to-render-the-statement likely-to-be-read-by-the-ordinary-individual-under-customary-conditions-of purchase-or-use.--For-the-purposes-of-this-paragraph-the-use-of-the-names "distilled-water",-"deionized-water"-or-"reverse-osmosis-water"-may-be-used in-lieu-of-the-labeling-prescribed-herein-when-it-properly-describes-the character-and-process-of-the-water-so-designated.~~

...This section has been recodified 3 MCAR 1.4803

Date_____

Rollin M. Dennistoun
Deputy Commissioner
for
Mark W. Seetin
Commissioner of Agriculture

ADMIN 1000 (Rev. 1/78)
SF-00006-01

STATE OF MINNESOTA

DEPARTMENT OF AGRICULTURE

Office Memorandum

TO : Lee Sheehy
Special Assistant Attorney General

DATE: December 26, 1979

FROM : Gerald Heil, Director GH
Division of Planning

PHONE: 6-1486

SUBJECT: In Clarification of the Recodification of Federal Regulations as Cited in 3 MCAR 1.4801, Department of Agriculture Proposed Rules Governing Non-Alcoholic Beverages

This memorandum is in response to your inquiry regarding changes in the citations to the Code of Federal Regulations (CFR) that appear in the proposed rule 3 MCAR 1.4801 (B)6(b) and 3 MCAR 1.4801 (B)9. The citations in the existing, permanent rule (Agr 4801) were taken from the 1975 CFR; the new citations in the proposed rule (3 MCAR 1.4801) are taken from the 1979 CFR. The following, specific changes were made to bring the proposed rule into conformity with the recodified CFR:

- 21 CFR Section 121.1137 in Agr 4801 (b)6(bb) in changed to 21 CFR Section 172.810 in proposed 3 MCAR 1.4801 (B)6(b); and

- 21 CFR Section 121.1081 in Agr 4801 (b)9 is changed to 21 CFR 172.575 in proposed 3 MCAR 1.4801 (B)9.

The new citations to the Code of Federal Regulations pose no change in the Department of Agriculture rules. If you have need of additional information, please call me.

GH:dw

cc: Peder Hong
Ben Steffen

RECEIVED
DEC 27 1979
ATTORNEY GENERAL
ADMINISTRATIVE AGENCIES

PRINTED ON RECYCLED PAPER

Our File #565
Lee

Permanent Rule X

Temporary Rule _____

RULES REVIEW CHECKLIST

DATE RULES RECEIVED 12-13-79 DUE DATE 1-2-80

Resubmitted and Received _____

a. Returned to Agency w/o Filing w/Secretary of State _____
b. Approved 12-27 Date Sent Back to Agency _____

- -

1. Rules as Adopted ✓
2. Rules as Proposed ✓ See State Register
3. Certificate of Board's Authorizing Resolution, where applicable N/A
4. Order for Hearing ✓
5. Notice of Hearing ✓
   Sufficiency ✓ ?
6. Secretary of State's List ✓ (one copy only)
7. Certificate of Acquisition of Secretary of State's List ✓
8. Secretary of State's Certification of Delivery of Secretary of State's List to Agency ✓
9. Affidavit of Mailing ✓
   At least 30 days prior to hearing ✓
10. Publication in State Register ✓
    At least 30 days prior to hearing ✓
11. Statement of Need and Evidence ✓ not H.E. report on failure to file 25 days before hearing
12. Hearing Examiner's Report ✓
13. Agency's Findings of Fact ✓
14. Certificate of Board's Resolution Adopting Rules, where applicable N/A
15. Order Adopting ✓
16. Report of Chief Hearing Examiner ✓
17. Order Approving Incorporation by Reference, where applicable N/A
18. Certificate of Compliance with Rulemaking Procedures ✓
19. Copy of Notice of Intent to Solicit Outside Opinion, where applicable ✓
20. Petition by Public, where applicable N/A

adopted

A.G. Copy

Department of Agriculture

Division of Food, Meat and Poultry

Adopted Rules for Nonalcoholic Beverages; Definitions; Standards; Restrictions; Labeling; Manufacturing Requirements;

The rules proposed and published at State Register, Volume 3, Number 37, pp. 1745-1749, March 19, 1979 (3 S.R. 1745) are now adopted.

Rules as Adopted

3 MCAR 1.4801 Soda Water; Identity; Label Statement of Optional Ingredients.

A. Soda water is the class of beverages made by absorbing carbon dioxide in potable water. The amount of carbon dioxide used is not less than that which will be absorbed by the beverage at a pressure of one atmosphere and at a temperature of 60°F. It may contain buffering agents as provided in paragraph B. 5. of this rule. It either contains no alcohol or only such alcohol (not in excess of 0.5 per cent by weight of the finished beverage) as is contributed by the flavoring ingredient used. Soda water designated by a name including any proprietary name provided for in paragraph C. of this rule which includes the word "cola" or a designation as a "pepper" beverage that for years has become well known as being made with kola nut extract and/or other natural caffeine-containing extracts and thus as a caffeine-containing beverage shall contain caffeine in a quantity not to exceed 0.02 per cent by weight.

B. Soda water may contain optional ingredients but if any such ingredient is a food additive or a color additive within the meaning of Section 201 (s) or (t) of the Federal Food Drug and Cosmetic Act, it is used only in conformity with the requirements established thereof. The optional ingredients that may be used in soda water in such proportions as are reasonably required to accomplish their intended effects are:

1. Nutritive sweetners consisting of the dry or liquid form of sugar, invert sugar, dextrose, corn sirup, glucose sirup, sorbitol, or any combination of two or more of these.

2. One or more of the following flavoring ingredients may be added in a carrier consisting of ethyl alcohol, glycerin, or propylene glycol;

a. Fruit juices (including concentrated fruit juices), natural flavoring derived from fruits, vegetables, bark, buds, roots, leaves, and similar plant materials.

b. Artificial flavoring.

3. Natural and artificial color additives.

4. One or more of the acidifying agents acetic acid, adipic acid, citric acid, fumaric acid, lactic acid, malic acid, phosphoric acid, or tartaric acid.

5. One or more of the buffering agents consisting of the acetate, bicarbonate, carbonate, chloride, citrate, lactate, orthophosphate, or sulfate salts of calcium, magnesium, potassium, or sodium.

6. Emulsifying, stabilizing or viscosity-producing agents.

a. One or more of the emulsifying, stabilizing or viscosity-producing agents brominated vegetable oils, carob bean gum (locust bean gum), glycerol ester of wood rosin, guar gum, gum acacia, gum tragacanth, hydroxylated lecithin, lecithin, methyl-cellulose, mono- and diglycerides of fat-forming fatty acids, pectin, poly-glycerol esters of fatty acids, propylene glycol alginate, sodium carboxymethylcellulose, sodium metaphosphate (sodium hexa-metaphosphate).

b. When one or more of the optional ingredients in B. 6. a. of this rule are used, dioctyl sodium sulfosuccinate complying with the requirements of (21 CFR) Section 172.810 (Federal Food and Drug Administration Regulations) may be used in a quantity not in excess of 0.5 per cent by weight of such ingredients.

7. One or more of the foaming agents ammoniated glycyrrhizin, gum ghatti, licorice or glycyrrhiza, yucca (Joshua-tree), yucca (Mohave).

8. Caffeine, in an amount not to exceed 0.02 per cent by weight of the finished beverage.

9. Quinine, as provided in (21 CFR) Section 172.575 (Federal Food and Drug Administration Regulations), in an amount not to exceed 83 parts per million by weight of the finished beverage.

10. One or more of the chemical preservatives ascorbic acid, benzoic acid, BHA, BHT, calcium disodium EDTA, erythorbic acid, glucose-oxidase-catalase enzyme, methyl or propyl paraben, mordihydroguaiaretic acid, propyl gallate, potassium or sodium benzoate, potassium or sodium bisulfite, potassium or sodium meta-bisulfite, potassium or sodium sorbate, sorbic acid, sulfur dioxide,

or tocopherols; stannous chloride in a quantity not to exceed 11 parts per million calculated as tin (Sn), and in the case of canned soda water, with or without one or more of the other chemical preservatives listed in this subparagraph.

11. The defoaming agent dimethylpolysiloxane in an amount not to exceed 10 parts per million.

C. Names of Beverages.

1. The name of the beverage for which a definition and standard of identity is established by this rule, which is neither flavored nor sweetened, is soda water, club soda, or plain soda.

2. The name of each beverage containing flavoring and sweetening ingredients as provided for in paragraph B. of this regulation is "_____ soda" or "_____ soda water" or "_____ carbonated beverage", the blank being filled in with the word or words that designate the characterizing flavor of the soda water; for example, "grape soda".

3. If the soda water is one generally designated by a particular common name; for example, ginger ale, root beer or sparkling water that name may be used in lieu of the name prescribed in subparagraphs 1. and 2. of this rule. For the purposes of this rule, a proprietary name that is commonly used by the public as the designation of a particular kind of soda water may likewise be used in lieu of the name prescribed in subparagraphs 1. and 2. of this rule.

D. Soda water that contains the optional ingredient caffeine as provided for in paragraph B. 8. of this rule, artificial flavoring, artificial coloring, or any combination of these shall be labeled to show that fact by the label statement "with _____" or "_____ added",

the blank being filled in with the word or words "caffeine", "artificial flavoring", "artificial coloring", or a combination of these words, as appropriate. If the soda water contains one or more of the optional ingredients set forth in paragraph B. 10. of this rule, which has or is intended to have a preservative effect in the finished beverage, it shall be labeled to show that fact by one of the following statements: "_____ added as a preservative" or "preserved with _____" the blank being filled in with the common name of the preservative ingredient. If soda water contains quinine salts, the label shall bear a prominent declaration either by use of the word "quinine" in the name of the article or by separate declaration.

E. The label statements prescribed in paragraph D. of this rule for declaring the optional ingredients present shall appear on a labeling surface of the beverage in such a manner as to render the statement likely to be read by the ordinary individual under customary conditions of purchase or use of such beverage. These statements shall immediately and conspicuously precede or follow the name of the beverage, wherever such name is prominently displayed, without intervening, written, printed, or graphic matter; provided, that, where such name is part of a trademark or brand, then other written, printed, or graphic matter that is also a part of such trademark or brand may intervene if the label statement required by this section is so placed as to be conspicuously related to the name of the beverage.

3 MCAR 1.4802 Bacterial, Yeast and Mold Standards for Nonalcoholic Beverages.

No canned or bottled carbonated or still beverages, carbonated, plain or otherwise, manufactured, mixed or compounded, shall be sold, offered or exposed for sale or held in possession for sale in this state, the bacterial count of which at any time after manufacturing, mixing or compounding exceeds 100 bacteria per milliliter, 20 molds per milliliter or a mixture of yeasts and molds which exceeds 20 per milliliter collectively, standard plate count, as determined by the arithmetical averages of four consecutive tests of beverage samples taken on separate days.

3 MCAR 1.4803 Purified Water; Identity; Label Statement of Process Requirement.

Purified water is a water produced by distillation, deionization or by reverse osmosis and shall not contain more than ten (10) parts per million of total dissolved solids and otherwise conforms to the sanitary standards for water. Purified water shall be designated by the name "Purified Water" and the statement "Produced by _____", the blank being filled in with the appropriate descriptive words describing the water treatment process; for example, "Purified Water Produced by Distillation". These label statements shall appear on the labeling surface of the container in such a manner as to render the statement likely to be read by the ordinary individual under customary conditions of purchase or use. For the purposes of this paragraph the use of the names "distilled water", "deionized water" or "reverse osmosis water" may be used in lieu of the labeling prescribed herein when it properly describes the character and process of the water so designated.

3 MCAR 1.4804 Other Beverages; Identity, Labeling, Restrictions.

A. A product labeled or sold as a phosphate beverage must contain an appreciable amount of phosphoric acid or acid phosphate, with or without other acid material commonly used in the preparation of beverages, provided that none of the acid ingredients are of such a nature as to render the product injurious to health.

B. The information required to be given on the bottles containing a beverage may appear on a label pasted on the side of the bottle, on the crown or cap or may be blown in the glass on the side of the bottle or appear in applied color label on the side of the bottle. All information required by Law or Rulings must be plainly and conspicuously set forth, in proximity to the name of the article, through any one of the above named methods of labeling.

C. The information placed on the bottle by the manufacturer or bottler, whether in the form of a printed label or by means of lettering blown in the glass, must in each case be truly descriptive of the product contained in the bottle. The interchanging of labels, whether printed on paper or on the crown cap or blown in the glass of the bottle, whereby the matter contained in the label is not truly descriptive of the product or its origin, constitutes a misbranding.

D. Beverages which conform to cordials, wines, creme de menthe, etc. in all respects except as to alcoholic content, may be labeled as "nonalcoholic cordials", "nonalcoholic creme de menthe", "nonalcoholic wine", etc. as the case may be.

E. Such terms as "apple juice", "grape juice", "loganberry juice", "cherry juice", etc. are applicable only to the pure juice of

the fruit specified. A fruit juice which has been modified in any way or to which sugar, dextrose, corn cirup or corn sirup solids, has been added, shall be plainly labeled so as to indicate such modification or addition, as for example, grape juice with added sugar.

c. The date of expiration.

3. Identification decals shall be affixed to the food vending machine in a conspicuous place on the surface of the machine which faces the purchaser at the time of selection and purchases.

G. Inspection. Prior to the issuance or renewal of any food vending machine decal, the inspecting authority, or the Commissioner when no local unit of government has been designated as the inspecting authority, may cause appropriate inspections to be made to determine the food vending machine's compliance with all applicable state and local standards. Approval and issuance of a decal shall be withheld if the food vending machine is determined not to be in compliance with such standards.

H. If a vending machine is removed or changed from the location in which it is authorized to be located by the inspecting authority, the owner of the vending machine shall report such a change or removal within seven (7) days to the inspecting authority, or the Commissioner when no local unit of government has been designated as the inspecting authority.

Department of Agriculture

Proposed Rules Governing Nonalcoholic Beverages; Definitions; Standards; Restrictions; Labeling; and Manufacturing Requirements

Notice of Hearing

Notice is hereby given that a public hearing in the above-entitled matter will be held in the Veterans Service Building, Room D, 20 West 12th Street and Columbus Avenue, Saint Paul, Minnesota, on April 23, 1979, commencing at 9:00 a.m. and continuing until all persons have had an opportunity to be heard.

All interested or affected persons will have an opportunity to participate. Statements may be made orally and written materials may be submitted at the hearing. In addition, written materials may be submitted by mail to Myron Greenberg, Office of Hearing Examiners, 1745 University Avenue, Room 300, Saint Paul, Minnesota 55104, phone (612) 296-8109 either before the hearing or after the hearing until the record is closed. The record will remain open for five working days after the public hearing ends or for a longer period not to exceed 20 days if ordered by the Hearing Examiner.

Notice is hereby given that 25 days prior to the hearing, a Statement of Need and Reasonableness will be available for review at the agency and at the Office of Hearing Examiners. This Statement of Need and Reasonableness will include a summary of all of the evidence which will be presented by the agency at the hearing justifying both the need for and the reasonableness of the proposed rule/rules. Copies of the Statement of Need and Reasonableness may be obtained from the Office of Hearing Examiners at a minimal charge.

The proposed rules, if adopted, would repeal Agr 4803 dealing as the proprietary name restrictions, and amend Agr 4804 by repealing identity and labeling restrictions for lime rickey, noncarbonated flavored beverages contained less than six percent fruit juice. Federal Food and Drug Administration regulations for these beverages would be adopted so that State rules conform as the federal regulations. Copies of the proposed rules are now available and one free copy may be obtained by writing to the Minnesota Department of Agriculture, 420 State Office Building, Saint Paul, Minnesota 55155. Additional copies will be available at the door on the date of the hearing. The department's authority to promulgate the proposed rules is contained in Minn. Stat. §§ 31.101 and 31.11. A "statement of need" explaining why the department feels the proposed rules are necessary and a "statement of evidence" outlining the testimony they will be introducing, will be filed with the Hearing Examiners Office at least 25 days prior to the hearing and will be available there for public inspection.

Notice: Any person may request notification of the date on which the Hearing Examiner's Report will be available, after which date the agency may not take any final action on the rules for a period of five working days. Any person may request notification of the date on which the hearing record has been submitted (or resubmitted) to the Attorney General by the agency. If you desire to be so notified, you may so indicate at the hearing. After the hearing, you may request notification by sending a written request to the Hearing Examiner (in the case of the Hearing Examiner's Report), or to the agency (in the case of the agency's submission or resubmission to the Attorney General).

Please be advised that Minn. Stat. ch. 10A requires each lobbyist to register with the Ethical Practices Board within

KEY: RULES SECTION — Underlining indicates additions to proposed rule language. ~~Strike outs~~ indicate deletions from proposed rule language. 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."

five days after he commences lobbying. Lobbying includes attempting to influence rulemaking by communicating or urging others to communicate with public officials. A lobbyist is generally any individual who spends more than $250.00 per year for lobbying or any individual who is engaged for pay or authorized to spend money by another individual or association and who spends more than $250.00 per year or five hours per month at lobbying. The statute provides certain exceptions. Questions should be directed to the Ethical Practices Board, 41 State Office Building, Saint Paul, Minnesota 55155, phone (612) 296-5615.

March 2, 1979

Mark W. Seetin
Commissioner

Rules as Proposed

Chapter 143: ~~AGR 4801-4850~~ 3 MCAR §§ 1.4801-1.4850 (partial)

Nonalcoholic Beverages; Definitions; Standards; Restrictions; Labeling; Manufacturing Requirements; Beer and Other Malt Beverages

3 MCAR 1.4801 ~~Agr 4801~~ Soda water; identity; label statement of Optional Ingredients.

A. ~~(a)~~ Soda water is the class of beverages made by absorbing carbon dioxide in potable water. The amount of carbon dioxide used is not less than that which will be absorbed by the beverage at a pressure of one atmosphere and at a temperature of 60°F. It may contain buffering agents as provided in paragraph ~~(b)~~ ~~(5)~~ B. 5. of this ~~regulation~~ rule. It either contains no alcohol or only such alcohol (not in excess of 0.5 per cent by weight of the finished beverage) as is contributed by the flavoring ingredient used. Soda water designated by a name including any proprietary name provided for in paragraph ~~(c)~~ C. of this ~~regulation~~ rule which includes the word "cola" or a designation as a "pepper" beverage that for years has become well known as being made with kola nut extract and/or other natural caffeine-containing extracts and thus as a caffeine-containing beverage shall contain caffeine in a quantity not to exceed 0.02 per cent by weight.

B. ~~(b)~~ Soda water may contain optional ingredients but if any such ingredient is a food additive or a color additive within the meaning of Section 201(s) or (t) of the Federal Food, Drug and Cosmetic Act, it is used only in conformity with the requirements established therefor. The optional ingredients that may be used in soda water in such proportions as are reasonably required to accomplish their intended effects are:

1. ~~(1)~~ Nutritive sweeteners consisting of the dry or liquid form of sugar, invert sugar, dextrose, corn sirup, glucose sirup, sorbitol, or any combination of two or more of these.

2. ~~(2)~~ One or more of the following flavoring ingredients may be added in a carrier consisting of ethyl alcohol, glycerin, or propylene glycol;

a. ~~(aa)~~ Fruit juices (including concentrated fruit juices), natural flavoring derived from fruits, vegetables, bark, buds, roots, leaves, and similar plant materials.

b. ~~(bb)~~ Artificial flavoring.

3. ~~(3)~~ Natural and artificial color additives.

4. ~~(4)~~ One or more of the acidifying agents acetic acid, adipic acid, citric acid, fumaric acid, lactic acid, malic acid, phosphoric acid, or tartaric acid.

5. ~~(5)~~ One or more of the buffering agents consisting of the acetate, bicarbonate, carbonate, chloride, citrate, lactate, orthophosphate, or sulfate salts of calcium, magnesium, potassium, or sodium.

6. ~~(6)~~ Emulsifying, stabilizing or viscosity-producing agents.

a. ~~(aa)~~ One or more of the emulsifying, stabilizing or viscosity-producing agents brominated vegetable oils, carob bean gum (locust bean gum), glycerol ester of wood rosin, guar gum, gum acacia, gum tragacanth, hydroxylated lecithin, lecithin, methyl-cellulose, mono- and diglycerides of fat-forming fatty acids, pectin, poly-glycerol esters of fatty acids, propylene glycol alginate, sodium carboxymethylcellulose, sodium metaphosphate (sodium hexa-metaphosphate).

b. ~~(bb)~~ When one or more of the optional ingredients in ~~subdivision (aa) of this subparagraph~~ B.6.a. of this rule are used, dioctyl sodium sulfosuccinate complying with the requirements of ~~(21 CFR)~~ Section ~~121.1157~~ 172.810 (Federal Food and Drug Administration Regulations) may be used in a quantity not in excess of 0.5 per cent by weight of such ingredients.

7. ~~(7)~~ One or more of the foaming agents ammoniated glycyrrhizin, gum ghatti, licorice or glycyrrhiza, yucca (Joshua-tree), yucca (Mohave).

8. ~~(8)~~ Caffeine, in an amount not to exceed 0.02 per cent by weight of the finished beverage.

9. ~~(9)~~ Quinine, as provided in ~~(21 CFR)~~ Section ~~121.1084~~ 172.575 (Federal Food and Drug Administration Regulations), in an amount not to exceed 83 parts per million by weight of the finished beverage.

10. ~~(10)~~ One or more of the chemical preservatives ascorbic acid, benzoic acid, BHA, BHT, calcium disodium EDTA, erythorbic acid, glucose-oxidase-catalase enzyme, methyl or propyl paraben, mordihydroguaiaretic acid, propyl gallate, potassium or sodium benzoate, potassium or sodium bisulfite, potassium or sodium meta-bisulfite, potassium or sodium sorbate, sorbic acid, sulfur dioxide, or tocopherols; stannous chloride in a quantity not to exceed 11 parts per million calculated as tin (Sn), and in the case of canned soda water, with or without one or more of the other chemical preservatives listed in this subparabraph.

11. ~~(11)~~ The defoaming agent dimethylpolysiloxane in an amount not to exceed 10 parts per million.

C. ~~(c)~~ Names of Beverages.

1. ~~(1)~~ The name of the beverage for which a definition and standard of identity is established by this ~~regulation~~ rule, which is neither flavored nor sweetened, is soda water, club soda, or plain soda.

2. ~~(2)~~ The name of each beverage containing flavoring and sweetening ingredients as provided for in paragraph ~~(b)~~ B. of this regulation is "_____ soda" or "_____ soda water" or "_____ carbonated beverage," the blank being filled in with the word or words that designate the characterizing flavor of the soda water; for example, "grape soda".

3. ~~(3)~~ If the soda water is one generally designated by a particular common name; for example, ginger ale, root beer or sparkling water that name may be used in lieu of the name prescribed in subparagraphs ~~(1)~~ 1. and ~~(2)~~ 2. of this ~~paragraph~~ rule. For the purposes of this ~~regulation~~ rule, a proprietary name that is commonly used by the public as the designation of a particular kind of soda water may likewise be used in lieu of the name prescribed in subparagraphs ~~(1)~~ 1. and ~~(2)~~ 2. of this ~~paragraph~~ rule.

D. ~~(d)~~ Soda water that contains the optional ingredient caffeine as provided for in paragraph ~~(b)~~ ~~(8)~~ B. 8. of this ~~regulation~~ rule, artificial flavoring, artificial coloring, or any combination of these shall be labeled to show that fact by the label statement "with _____" or "_____ added", the blank being filled in with the word or words "caffeine", "artificial flavoring", "artificial coloring", or a combination of these words, as appropriate. If the soda water contains one or more of the optional ingredients set forth in paragraph ~~(b)~~ ~~(10)~~ B. 10. of this ~~regulation~~ rule, which has or is intended to have a preservative effect in the finished beverage, it shall be labeled to show that fact by one of the following statements: "_____ added as a preservative" or "preserved with _____" the blank being filled in with the common name of the preservative ingredient. If soda water contains quinine salts, the label shall bear a prominent declaration either by use of the word "quinine" im the name of the article or by separate declaration.

E. ~~(e)~~ The label statements prescribed in paragraph ~~(d)~~ D. of this ~~regulation~~ rule for declaring the optional ingredients present shall appear on a labeling surface of the beverage in such a manner as to render the statement likely to be read by the ordinary individual under customary conditions of purchase or use of such beverage. These statements shall immediately and conspicuously precede or follow the name of the beverage, wherever such name is prominently displayed, without intervening, written, printed, or graphic matter; provided, that, where such name is part of a trademark or brand, then other written, printed, or graphic matter that is also a part of such trademark or brand may intervene if the label statement required by this section is so placed as to be conspicuously related to the name of the beverage.

3 MCAR § 1.4802 ~~Agr 4802~~ Bacterial, yeast and mold standards for nonalcoholic beverages.

No canned or bottled carbonated or still beverages, carbonated, plain or otherwise, manufactured, mixed or compounded, shall be sold, offered or exposed for sale or held in possession for sale in this state, the bacterial count of which at any time after manufacturing, mixing or compounding exceeds 100 bacteria per milliliter, 20 molds per milliliter or a mixture of yeasts and molds which exceeds 20 per milliliter collectively, standard plate count, as determined by the arithmetical averages of four consecutive tests of beverage samples taken on separate days.

~~Agr 4803 Proprietary Names, Restrictions. Notwithstanding the provisions of 985(c). (3) all beverages bearing the words or terms "Drink", "Ade", "Rickey", "Collins", "Tom Collins", "Cocktail", "Sour", "Mixer", and "Punch" or any combination of these words with each other or with other words shall be considered to be bearing a name or names implying a content of fruit juice and shall be required to be manufactured, mixed, or compounded in accordance with the requirements of Agr 988(i). provided that nothing in this paragraph shall prohibit the use of the words "Tonic Mixer" when applied to the label for "Quinine Soda", "Quinine Soda Water" or "Quinine Carbonated Beverage" when the label for such beverage complies with all other labeling requirement applicable thereto.~~

KEY: RULES SECTION — Underlining indicates additions to proposed rule language. ~~Strike outs~~ indicate deletions from proposed rule language. 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."

3 MCAR § 1.4803 Purified water; identity; label statement of process requirement.

Purified water is a water produced by distillation, deionization or by reverse osmosis and shall not contain more than ten (10) parts per million of total dissolved solids and otherwise conforms to the sanitary standards for water. Purified water shall be designated by the name "Purified Water" and the statement "Produced by _____", the blank being filled in with the appropriate descriptive words describing the water treatment process; for example, "Purified Water Produced by Distillation." These label statements shall appear on the labeling surface of the container in such a manner as to render the statement likely to be read by the ordinary individual under customary conditions of purchase or use. For the purposes of this paragraph the use of the names "distilled water," "deionized water" or "reverse osmosis water" may be used in lieu of the labeling prescribed herein when it properly describes the character and process of the water so designated.

3 MCAR § 1.4804 ~~Agr 4804~~ Other beverages; identity, labeling, restrictions.

~~(a) Lime rickey is a carbonated beverage prepared from fruit; pure cane, beet sugar, or refined corn sugar, or corn sirup or corn sirup solids; and carbonated water. It contains all tolerances provided for, not less than six per cent lime juice and may or may not be fortified with other fruit juices.~~

~~(b) Noncarbonated (still) flavored beverages containing less than six (6) per cent fruit juice in which the characteristic flavor and/or color of the beverage is created by natural and/or artificial fruit flavors and/or colors shall:~~

~~(1) If labeled with a name or names of a fruit or true fruit product, be labeled with the word "imitation". The word "imitation" shall be declared on the label in conjunction and equally conspicuous with the name or names of the fruit or true fruit product the flavor of which is used and/or imitated.~~

~~(2) If labeled with a name that contains the name of a fruit or true fruit product, it shall be manufactured, mixed or compounded free of pulp and cloud.~~

~~(3) Be labeled with a list of ingredients in descending order of predominance.~~

~~(c) A beverage made from oil of lemon, citric acid, tartaric acid, phosphoric acid, lactic acid and coloring matter, with or without emulsifying agent, is not a fruit product even though its essential ingredients are derived from the fruit. For example, the term orangeade, unqualified, can be applied only to a product consisting of orange juice, cane, beet sugar or refined corn sugar or corn sirup or corn sirup solids; water, and flavored with orange oil. The same applies also to beverages sold as lemonade, gradeade, limeade, limerickey, grapefruit drink, orange drink and other similar beverages.~~

A. ~~(d)~~ A product labeled or sold as a phosphate beverage must contain an appreciable amount of phosphoric acid or acid phosphate, with or without other acid material commonly used in the preparation of beverages, provided that none of the acid ingredients are of such a nature as to render the product injurious to health.

B. ~~(e)~~ The information required to be given on the bottles containing a beverage may appear on a label pasted on the side of the bottle, on the crown or cap or may be blown in the glass on the side of the bottle or appear in applied color label on the side of the bottle. All information required by Law or Rulings must be plainly and conspicuously set forth, in proximity to the name of the article, through any one of the above named methods of labeling.

C. ~~(f)~~ The information placed on the bottle by the manufacturer or bottler, whether in the form of a printed lable or by means of lettering blown in the glass, must in each case be truly descriptive of the product contained in the bottle. The interchanging of labels, whether printed on paper or on the crown cap or blown in the glass of the bottle, whereby the matter contained in the label is not truly descriptive of the product or its origin, constitutes a misbranding.

D. ~~(g)~~ Beverages which conform to cordials, wines, creme de menthe, etc. in all respects except as to alcoholic content, may be labeled as "nonalcoholic cordials," "nonalcoholic creme de menthe," "nonalcoholic wine," etc. as the case may be.

E. ~~(h)~~ Such terms as "apple juice," "grape juice," "loganberry juice," "cherry juice," etc. are applicable only to the pure juice of the fruit specified. A fruit juice which has been modified in any way or to which sugar, dextrose, corn sirup or corn sirup solids, has been added, shall be plainly labeled so as to indicate such modification or addition, as for example, grape juice with added sugar.

~~(i) Fruit Ades, Drinks or Rickeys. Beverages labeled orangeade, lemonade, grapefruitade, grapeade, limeade or lime rickey, etc. or with other names implying a content of fruit juice must contain a minimum of six (6) per cent of actual juice of the fruit name on the label. The list of ingredients must be plainly declared in the order of predominance. This list shall include water, plain or carbonated; pure cane, beet sugar or refined corn sugar or corn sirup or corn sirup solids; name of fruit juice; oils, citric, tartaric acids, artificial color, etc.~~

~~(j) Imitation, still and carbonated beverages and imitation fruit extracts, compounds and other similar prepa-~~

~~rations cannot bear pictures of fruits on labels, neither can pictures of fruits be used on pamphlets, circulars, folders, signs, newspapers and any other forms of advertising material.~~

~~(k) Reserved for future use.~~

~~(l) Purified Water; Identity; Label Statement of Process Requirement. Purified water is a water produced by distillation, deionization or by reverse osmosis and shall not contain more than ten (10) parts per million of total dissolved solids and otherwise conforms to the sanitary standards for water. Purified water shall be designated by the name "Purified Water" and the statement "Produced by _____", the blank being filled in with the appropriate descriptive words describing the water treatment process; for example, "Purified Water Produced by Distillation". These label statements shall appear on the labeling surface of the container in such a manner as to render the statement likely to be read by the ordinary individual under customary conditions of purchase or use. For the purposes of this paragraph the use of the names "distilled water", "deionized water" or "reverse osmosis water" may be used in lieu of the labeling prescribed herein when it properly describes the character and process of the water so designated.~~

Department of Health

Proposed Rules Relating to Crippled Childrens Services Criteria, Procedures and Responsibilities for Eligibility, Cost-Sharing and Reimbursement

Notice of Hearing

Notice is hereby given that a public hearing in the above-entitled matter will be held pursuant to Minn. Stat. § 15.0412, subd. 4 (1978) in the Council Room of the St. Cloud City Hall, 314 St. Germain, St. Cloud, Minnesota, on Wednesday, April 25, 1979, commencing at 9:00 a.m. Following adjournment, the hearing shall be reconvened in Room 105, Minnesota Department of Health Building, 717 Delaware Street Southeast, Minneapolis, Minnesota, on Friday, April 27, 1979, commencing at 9:30 a.m.

All interested or affected persons will have an opportunity to participate concerning the adoption of the proposed rules captioned above. Statements may be made orally and written material may be submitted. In addition, whether or not an appearance is made at the hearing, written statements or material may be submitted by mail to Peter Erickson, Hearing Examiner, at Room 300, 1745 University Avenue, Saint Paul, Minnesota 55104, telephone (612) 296-8118, either before the hearing or within five (5) days after the close of the hearing or for a longer period not to exceed 20 calendar days if ordered by the hearing examiner. All such statements will be entered into and become part of the record. Testimony or other evidence to be submitted for consideration should be pertinent to the matter at hand. For those wishing to submit written statements or exhibits, it is requested but not required that at least three (3) copies be furnished. In addition, it is suggested, to save time and avoid duplication, that those persons, organizations, or associations having a common viewpoint or interest in these proceedings join together where possible and present a single statement in behalf of such interests. The conduct of the hearing shall be governed by the rules of the Office of Hearing Examiners.

A copy of the proposed rules is attached hereto and made a part hereof.

Copies of the proposed rules are now available and at least one free copy may be obtained by writing to the Director, Crippled Childrens Services of the Minnesota Department of Health, Community Park Plaza, 2829 University Avenue Southeast, Minneapolis, Minnesota 55414. Additional copies will be available at the door on the date of the hearing.

Notice: The proposed rules are subject to change as a result of the rule hearing process. The Agency therefore strongly urges those who are potentially affected in any manner by the substance of the proposed rules to participate in the rule hearing process.

The statutory authority of the Commissioner to promulgate and adopt these rules is contained in Minn. Stat. §§ 144.05, 144.12, 144.07, 144.06, 144.09, 144.10, 144.11 (1978) and under State of Minnesota, Department of Administration Reorganization No. 101 pursuant to Minn. Stat. § 16.125 (1978). Further authority to implement these rules is found in Minn. Stat. §§ 256.01, subd. 2(3) and (5), 256.011, 257.175, 250.05, subd. 6, 260.35 and 15.0412 (1978).

Notice is hereby given that 25 days prior to the hearing, a statement of need and reasonableness will be available for review at the agency and at the Office of Hearing Examiners. This statement of need and reasonableness will include a summary of all of the evidence which will be presented by the agency at the hearing justifying both the need for and the reasonableness of the proposed amendments. Copies of the

KEY: RULES SECTION — Underlining indicates additions to proposed rule language. ~~Strike outs~~ indicate deletions from proposed rule language. 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."

APPROVED AS TO FORM AND LEGALITY
DEC. 27 1979 19___
WARREN SPANNAUS, ATTORNEY GENERAL
BY [signature]
SPECIAL ASSISTANT ATTORNEY GENERAL

STATE OF MINNESOTA
DEPARTMENT OF STATE
F I L E D
DEC 28 1979
Joan Anderson Growe
Secretary of State

STATE OF MINNESOTA

DEPARTMENT OF AGRICULTURE

IN THE MATTER OF THE PROPOSED ADOPTION)	AFFIDAVIT OF RECEIPT OF
OF RULES OF THE DEPARTMENT OF AGRICULTURE)	THE SECRETARY
GOVERNING NONALCOHOLIC BEVERAGES;)	OF STATE'S LIST
DEFINITIONS; STANDARDS; RESTRICTIONS;)	
LABELING; AND MANUFACTURING REQUIREMENTS)	

Sandra Fenton being duly sworn on oath deposes and says:

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

2) That on the 15 day of March 1979 she went to the Secretary of State's Office for the State of Minnesota and requested a current list of all representatives of associations or 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 Minn. Stat. 15.0412 (1977 Supp.)

3) That on the 15 day of March 1979 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. Sandra Fenton

Subscribed and sworn to before me this

15th day of March, 1979

Notary Public, Joan LeDuc

Ramsey County, Minnesota

JOAN LeDUC
Notary Public, Ramsey Co., Mn.
MY COMMISSION EXPIRES
August 14, 1981

My Commission expires _____.

STATE OF MINNESOTA

DEPARTMENT OF AGRICULTURE

IN THE MATTER OF THE PROPOSED ADOPTION)
OF RULES OF THE DEPARTMENT OF AGRICULTURE) ORDER OF HEARING
GOVERNING NONALCOHOLIC BEVERAGES;)
DEFINITIONS; STANDARDS; RESTRICTIONS;)
LABELING; AND MANUFACTURING REQUIREMENTS)

IT IS HEREBY ORDERED that a public hearing on the above-captioned rules be held in the Veterans Service Building, Room D, 20 West 12th Street and Columbus Avenue, Saint Paul, Minnesota, on April, 23, 1979, commencing at 9:00 a.m. and continuing until all persons have had an opportunity to be heard.

IT IS FURTHER ORDERED that a Notice of Hearing be mailed to all persons, representatives of associations, and other interested groups who have registered their names with the Secretary of State for that purpose.

IT IS FURTHER ORDERED that the Notice of Hearing be published in the State Register.

STATE OF MINNESOTA

Mark W. Seetin

Commissioner of Agriculture

Date: March 2, 1979

ADMIN 1000 (Rev. 1/78)
SF-00006-01

STATE OF MINNESOTA

DEPARTMENT ATTORNEY GENERAL

Office Memorandum

TO : Joanne Hinderaker
Special Assistant Attorney General
Department of Administration

DATE: December 12, 1979

FROM : Peder B. Hong
Special Assistant Attorney General

PHONE: 6-0415

SUBJECT: In the Matter of the Proposed Adoption of the Rules of the Department of Agriculture Governing Non-Alcoholic Beverages; Definitions; Standards; Restrictions; Labeling; Manufacturing Requirements.

Enclosed for your final statutory review please find Adopted Rules of the Department of Agriculture Governing Non-Alcoholic Beverages. I enclose the original of each item in the department file together with a copy thereof.

PBH:kjr

Enclosures

STATE OF MINNESOTA

DEPARTMENT OF AGRICULTURE

IN THE MATTER OF THE PROPOSED ADOPTION)
OF RULES OF THE DEPARTMENT OF AGRICULTURE) NOTICE OF HEARING
GOVERNING NONALCOHOLIC BEVERAGES;)
DEFINITIONS; STANDARDS; RESTRICTIONS;)
LABELING; AND MANUFACTURING REQUIREMENTS)

NOTICE IS HEREBY GIVEN that a public hearing in the above-entitled matter will be held in the Veterans Service Building, Room D, 20 West 12th Street and Columbus Avenue, Saint Paul, Minnesota, on April 23, 1979, commencing at 9:00 a.m. and continuing until all persons have had an opportunity to be heard. (1)

All interested or affected persons will have an opportunity to participate. (2) Statements may be made orally and written materials may be submitted at the hearing. In addition, written materials may be submitted by mail (5) to Myron Greenberg, Office of Hearing Examiners, 1745 University Avenue, Room 300, Saint Paul, Minnesota 55104, phone (612) 296-8109 either before the hearing or after the hearing until the record is closed. The record will remain open for five working days after the public hearing ends or for a longer period not to exceed 20 days if ordered by the Hearing Examiner. (7)

NOTICE IS HEREBY GIVEN that 25 days prior to the hearing, a Statement of Need and Reasonableness will be available for review at the agency and at the Office of Hearing Examiners. This Statement of Need and Reasonableness will include a summary of all of the evidence which will be presented by the agency (9) at the hearing justifying both the need for and the reasonableness of the proposed rule/rules. Copies of the Statement of Need and Reasonableness may be obtained from the Office of Hearing Examiners at a minimal charge.

The proposed rules, if adopted, would repeal Agr 4803 dealing as the proprietary name restrictions, and amend Agr 4804 by repealing identity and labeling restrictions for lime rickey, noncarbonated flavored beverages containing less than six percent fruit juice. Federal Food and Drug Administration regulations for these beverages would be adopted so that State (3) rules conform as the federal regulations. Copies of the proposed rules are now available and one free copy may be obtained by writing to the Minnesota Department of Agriculture, 420 State Office Building, Saint Paul, Minnesota 55155. Additional copies will be available at the door on the date of the hearing. The department's authority to promulgate the proposed rules is (4) contained in Minn. Stat. secs. 31.101 and 31.11. A "statement of need" explaining why the department feels the proposed rules are necessary and a "statement of evidence" outlining the testimony they will be introducing, will be filed with the Hearing Examiners Office at least 25 days prior to the hearing and will be available there for public inspection.

NOTICE: Any person may request notification of the date on which the Hearing Examiner's Report will be available, after which date the agency may not take any final action on the rules for a period of five working days. Any person may request notification of the date on which the hearing record has been submitted (or resubmitted) to the Attorney General by the agency. (8) If you

desire to be so notified, you may so indicate at the hearing. After the hearing, you may request notification by sending a written request to the Hearing Examiner (in the case of the Hearing Examiner's Report), or to the agency (in the case of the agency's submission or resubmission to the Attorney General).

Please be advised that Minn. Stat. ch. 10A requires each lobbyist to register with the Ethical Practices Board within five days after he commences lobbying. Lobbying includes attending to influence rule making by communicating or urging others to communicate with public officials. A lobbyist is generally any individual who spends more than $250.00 per year for lobbying or any individual who is engaged for pay or authorized to spend money by another individual or association and who spends more than $250.00 per year or five hours per month at lobbying. The statute provides certain exceptions. Questions should be directed to the Ethical Practices Board, 41 State Office Building, Saint Paul, Minnesota 55155, phone (612) 296-5615.

STATE OF MINNESOTA

Mark W. Seetin
Commissioner of Agriculture

Date: March 2, 1979

STATE OF MINNESOTA

DEPARTMENT OF AGRICULTURE

IN THE MATTER OF THE PROPOSED ADOPTION	)	CERTIFICATE OF DELIVERY
OF RULES OF THE DEPARTMENT OF AGRICULTURE	)	SECRETARY
GOVERNING NONALCOHOLIC BEVERAGES;	)	OF STATE LIST
DEFINITIONS; STANDARDS; RESTRICTIONS;	)	
LABELING; AND MANUFACTURING REQUIREMENTS	)	

I hereby certify that the attached 5th Labels 5 sheets constitute the complete list of persons, associations, and other interested groups who as of 10:05 o'clock AM this 15th day of March, ~~1979~~, have requested pursuant to Minn. Stat. 15.0412 (1977 Supp.), 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

Joan Anderson Growe

By Kenneth A. Scott

STATE OF MINNESOTA
OFFICE OF HEARING EXAMINERS

FOR THE DEPARTMENT OF AGRICULTURE

In the Matter of the Proposed Adoption of Rules of the Department of Agriculture Governing Nonalcoholic Beverages; Definitions; Standards; Restrictions; Labeling; and Manufacturing Requirements.

REPORT OF HEARING EXAMINER

The above-entitled matter came on for hearing on April 23, 1979, in the Veterans Service Building, Room D, Saint Paul, Minnesota, before Myron S. Greenberg, Hearing Examiner assigned by the Chief Hearing Examiner.

This is a rules hearing pursuant to Minn. Stat. Ch. 15, to determine whether proposed rules dealing with proprietary name restrictions on beverages and identity and labeling restrictions for lime rickey, noncarbonated flavored beverages containing less than 6% fruit juice should be adopted.

The following persons appeared for the Minnesota Department of Agriculture ("Department"): Bernard J. Steffen, Director of Food, Meat and Poultry Inspection; Martin V. Bergerson, Compliance Officer, Food and Drug Administration; and Peder Hong, Special Assistant Attorney General.

Three persons attending the hearing signed the hearing register. The hearing continued until all interested persons and all interested groups had had an opportunity to be heard.

Pursuant to Minn. Stat. Sec. 15.0412, subd. 4, this Report shall be available for review to all affected individuals upon request for at least five days. Thereafter, the Department shall, if it proposes to adopt the rules as originally proposed or amended, submit a copy of the Order Adopting Rules, a copy of any additional agency findings, a copy of the rules as originally proposed, and a copy of the rules as adopted to the Chief Hearing Examiner for review pursuant to Minn. Stat. Sec. 15.052, subd. 4. The submission to the Chief Hearing Examiner shall precede review by the Attorney General. The Chief Hearing Examiner shall complete his review and submit his report to the Department on the issues of substantial changes in the rule and compliance with Minn. Stat. Sec. 15.0412 within ten calendar days. The Department will be responsible for filing the rules with the Attorney General and for notifying persons who have indicated that they wish to be notified of such filing.

Based upon the record herein, the Examiner makes the following:

FINDINGS OF FACT

Procedural Requirements

1. On March 2, 1979, the Department filed the following documents with the Chief Hearing Examiner:

(a) A copy of the proposed rules.
(b) The Order for Hearing proposed to be issued.
(c) The Notice of Hearing proposed to be issued.

The Department did not submit to the Office of Hearing Examiners the statement of the number of persons expected to attend the hearing, and the estimated length of the Agency's presentation.

2. On March 19, 1979, a Notice of Hearing and a copy of the proposed rules were published at 3 State Register 1745.

3. On March 15, 1979, the Department mailed the Notice of Hearing and proposed rules to all persons and associations who had registered their names with the Secretary of State for the purpose of receiving such notice and to all state agencies, political subdivisions, and other interested entities.

4. On March 29, 1979, the Department filed the Statement of Need and Reasonableness with the undersigned Hearing Examiner. That document was available for inspection at the Office of Hearing Examiners from the date of filing to the date of the hearing.

The following documents which are required to be filed at least 25 days prior to the hearing date pursuant to 9 MCAR Sec. 2.105 were not filed with either the Chief Hearing Examiner or the undersigned Hearing Examiner:

(a) The Order for Hearing.
(b) The Notice of Hearing as mailed.
(c) The Affidavit of Receipt of the Secretary of State's list.
(d) An Affidavit of Mailing the Notice to all persons on the Secretary of State's list.
(e) Any materials received following a Notice made pursuant to Minn. Stat. Sec. 15.0412, subd. 6, together with the citation to said Notice.

The documents enumerated above were submitted for the record at the time of the hearing. During the 25 days prior to the hearing, no one requested of the Hearing Examiner or any other employee of the Office of Hearing Examiners an opportunity to review the file in the instant matter. The Examiner finds, therefore, that the Department's failure to comply with the requirements of the cited rule were not prejudicial or harmful to any interested individual or entity.

5. The record remained open through May 1, 1979, for the receipt of written comments and statements. Two public comments were received as part of the record.

Statutory Authority

6. The authority to amend the rules here under consideration is found in Minn. Stat. Sec. 31.101 and Sec. 31.11. Specifically, Minn. Stat. Sec. 31.101, subd. 1, directs that "such regulations (sic) when applicable shall conform, insofar as practicable and consistent with state law, with those promulgated under the federal law."

Need and Reasonableness of the Proposed Rules

7. Unless otherwise specified, all the proposed amendments of the rules, including new proposed rules, were supported by the Department's

presentation as contained in the Statement of Need.

Many of the changes are "housekeeping" in nature, i.e., changes of numbering, nonsubstantive language correction (e.g. "regulation" to "rule"), and the like. No comments were received regarding such changes. They are necessary and reasonable to bring the rules into conformity with current citation systems and language usage.

The rules have general support from the Minnesota Soft Drink Association, an organization representing the interests which are primarily subject to these rules, and other members of the industry. (See, testimony of Dave Locey and Bill Weinreich) It is apparent from Mr. Locey's testimony that the Department has worked with the soft drink industry in a mutual effort to make Minnesota's rules uniform with federal regulations dealing with the same subject matter.

8. Considering the finding of the immediately preceding paragraph, the Examiner notes with interest that one of the two public comments on the proposed rules indicates a possible lack of total success in making the proposed rules conform to federal regulations. Red Owl Stores observes that:

> . . . paragraphs D and E [of 3 MCAR Sec. 1.4801] seem to be in conflict with the present FDA regulation in that Minnesota provisions require a voluminous quantity of copy on the principal display panel of the beverage container/label.
>
> The current federal regulation does require similar information—but on the consumer panel--which is to the right of the [principal display panel]. (Red Owl letter, April 9, 1979)

However, testimony of FDA representative Martin Bergerson and Mr. Locey indicates that there is no conflict between the existing Minnesota rule and the federal regulation found at 21 C.F.R. 101 I(3). (21 C.F.R. 101, 1-B)

Since no substantive changes are proposed for the referenced paragraphs D and E, the Department had no reason to set forth any justification regarding those rules. It is clear, however, that if the purpose of the changes in the rules is to make them more like the federal regulations, as directed by Minn. Stat. Sec. 31.101, subd. 1 and restated on page 1 of the Statement of Need, then some change would be appropriate to correct any such problem as noted by Red Owl.

9. Although the Statement of Need does not support the proposed change to 3 MCAR Sec. 1.4802, the Department of Agriculture did note during the hearing that there is no federal standard for soft drinks which are poured in glass or sold by dispensers. For that reason, the rule is limited, by the amendment, to canned or bottled beverages.

It is obvious that there is some confusion within the Department as to the effect of the proposed change. A post-hearing written submission by the Department of Agriculture claims an effect directly opposite that claimed by the Statement of Need, as indicated by the following conflicting statements:

> This change (to 3 MCAR Sec. 1.4082) would limit the bacteria standards to canned and bottled beverages only. (Statement of Need, page 2; emphasis added)

and

> The proposed regulation (3 MCAR Sec. 1.4802) would eliminate bacteria, yeast and mold standards for soft drink beverages which are bottled and canned. (Letter from Howard J. Anderson, Department of Agriculture, Product Analysis Co-ordinator, Food, Meat & Poultry Inspection Division, April 27, 1979; emphasis added)

Clearly, the first of the above statements is the more accurate. It is difficult to determine from the record, however, which is the desired intent of the Department.

Even though the substantiation of the proposed change is very weak, such substantiation may be found in the hearing record and the Examiner finds it sufficient to establish the need for and reasonableness of the proposed change.

Based upon the foregoing, the Examiner makes the following:

CONCLUSIONS

1. The Department of Agriculture and the Office of Hearing Examiners duly acquired and have jurisdiction in the instant matter.

2. The Department failed to comply with certain procedural rules associated with the filing of documents prior to a hearing, but such failure to comply was not prejudicial to the interests of any interested person or entity.

3. The rules, as proposed, are supported by an affirmative presentation of facts and are reasonable and necessary for the reasons stated in the Findings, except as otherwise specifically noted in Finding of Fact No. 8 with respect to 3 MCAR Sec. 1.4801 D. and E.

Based upon the foregoing, the Examiner makes the following:

RECOMMENDATION

That the rules be adopted as proposed with special attention given to consideration of whether 3 MCAR Sec. 1.4801 D. and E. follow the statutory directive to conform to federal law.

Dated: May 31, 1979.

Myron S. Greenberg

MYRON S. GREENBERG
State Hearing Examiner

STATE OF MINNESOTA

DEPARTMENT OF AGRICULTURE

IN THE MATTER OF THE ADOPTION OF RULES OF THE DEPARTMENT OF AGRICULTURE GOVERNING NONALCOHOLIC BEVERAGES; DEFINITIONS; STANDARDS; RESTRICTIONS; LABELING; AND MANUFACTURING REQUIREMENTS.	))))))	DEPARTMENT FINDINGS OF FACT, CONCLUSIONS, AND ORDER ADOPTING RULES

The above-entitled matter came on for hearing before Hearing Examiner Myron S. Greenberg on April 23, 1979, in the Veterans Service Building, Room D, Saint Paul, Minnesota.

The following persons appeared for the Minnesota Department of Agriculture ("Department"): Bernard J. Steffen, Director of Food, Meat and Poultry Inspection; Martin V. Bergerson, Compliance Officer, Food and Drug Administration; and Peder Hong, Special Assistant Attorney General. The hearings continued until all persons or representatives of interested persons or organizations desiring to be heard were heard.

On May 31, 1979, the Report of the Hearing Examiner was issued in this matter. The Department adopts the report of the Hearing Examiner with the exception of the Finding of Fact No. 8 with respect to 3 MCAR Sec. 1.4801 D. and E.. These Findings of Fact, Conclusion, and Order Adopting Rules are issued for the purpose of clarifying that particular finding as well as for the adoption of the rules.

FINDINGS OF FACT

The Hearing Examiner recommended that the rules be adopted as proposed with special attention given to consideration of whether 3 MCAR Sec. 1.4801 D. and E. follow the statutory directive to conform to federal law. That concern arose because of a letter submitted by Red Owl Stores stating that a conflict seemed to exist. The Hearing Examiner cited the following parts of the Red Owl Store letter:

> ... paragraphs D and E (of 3 MCAR Sec. 1.4801) seem to be in conflict with the present FDA regulation in that Minnesota provisions require a voluminous quantity of copy on the principal display panel of the beverage container/label.
>
> The current federal regulation does require similar information -- but on the consumer panel -- which is to the right of the (principal display panel). (Red Owl letter, April 9, 1979)

Red Owl Stores, in the above citations, raises the issues of the quantity of copy required and the location of that copy. Red Owl Stores acknowledges that "current federal regulation does require similar information". Since Minn. Stat. Sec. 31.101, subd. 1, directs that "Such regulations when applicable shall conform, insofar as practicable and consistent with state law, with those promulgated under federal law", the Department does not feel it has authority in regard to the nature or quantity of copy required. It is an issue Red Owl Stores must direct to the Federal Government.

The potential for conflict, therefore, is in regard to the location of the information. Red Owl Stores says federal regulation requires the information being discussed to be on the consumer panel - not the principal display panel. Federal regulations do not mention a consumer panel; 21 C.F.R. 101 discusses the required location of labels in terms of a principal display panel and an information panel. Heretofore, the Department will not use the term consumer panel but will substitute the phrase information panel instead. The Department assumes Red Owl Stores was referring to the information panel which is located "to the right of the principal display panel" (21 C.F.R. 101.2 (a)). The issue of conflict, therefore, is in regard to whether 3 MCAR Sec. 1.4801 D. and E. conflict with federal law by requiring the required labeling information to appear on the principal panel rather than the information panel. The Code of Federal Regulations (21 C.F.R. 165.175 (a)) says all soda water labeling shall be declared as required by the applicable sections of Part 101. The Code of Federal Regulation, furthermore, states the following:

> All information required to appear on the label of any package of food pursuant to 21 C.F.R. 101.4, 101.5, 101.8, 101.9, 101.17, 101.25 and Part 105 of this Chapter shall appear either on the principal display panel or on the information panel... (21 C.F.R. 101.2 (b)).

From the above, it appears the required information may appear on either panel. Moreover, 21 C.F.R. 101.4 (a) states that "Ingredients required to be declared ... shall be listed ... on either the principal display panel or the information panel...". The proposed rule says the following:

> The label statements prescribed in paragraph D. of this rule for declaring the optional ingredients present shall appear on a labeling surface of the beverage in such a manner as to render the statement likely to be read by the ordinary individual under customary conditions of purchase or use of such beverage. These statements shall immediately and conspicuously precede or follow the name of the beverage, wherever such name is prominently displayed, without intervening, written, printed, or graphic matter ... (3 MCAR 1.4801 E.).

The proposed rule appears to agree with the intent of 21 C.F.R. 101.22 (c) which states:

> A statement of artificial flavoring, artificial coloring, or chemical preservative shall be placed on the food, or on its container or wrapper, or on any two of these, as may be necessary to render such statement likely to be read by the ordinary individual under customary conditions of purchase and use of food.

Based upon the foregoing, the Department makes the following:

CONCLUSIONS

1. The Report of the Hearing Examiner in this matter is adopted by the Department, with the exception of Finding Number 8.

2. The information required by 3 MCAR 1.4801 D. is pursuant to federal regulation. The Department, by statute, must conform to such regulations. Therefore, the information required is not an issue in this matter.

3. The location of the required information - on the principal or information panel - is optional under federal regulation. However, 21 C.F.R. 101.22 (c) requires that optional ingredients be labeled in such manner that the labels are "likely to be read".

4. The Department, in the rule, does not require the information to be on the principal display panel. Rather, the requirement is that the information "shall appear ... in such a manner as to render the statement likely to be read ... under customary conditions of purchase or use ...".

5. The Department concludes that locating the labeling "immediately and conspicuously preceding or following the name of the beverage" would best fulfill the intent of the federal regulation.

ORDER ADOPTING RULES

After 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 or criteria, and having confirmed the need for the above-captioned rules and the reasonableness thereof,

NOW THEREFORE, IT IS ORDERED that the Rules identified as Rules Governing Nonalcoholic Beverages; Definitions; Standards; Restrictions; Labeling; and Manufacturing Requirements, attached hereto, and the Department Findings of Fact, Conclusions and Order Adopting Rules are adopted this 9th day of November, 1979, pursuant to the authority vested in me by Minn. Stat. Sec. 15.0412 and Minn. Stat. Sec. 31.101 and Sec. 31.11.

STATE OF MINNESOTA

Mark W. Seetin
Commissioner of Agriculture

STATE OF MINNESOTA

DEPARTMENT OF AGRICULTURE

IN THE MATTER OF THE PROPOSED ADOPTION)
OF RULES OF THE DEPARTMENT OF AGRICULTURE) AFFIDAVIT OF MAILING
GOVERNING NONALCOHOLIC BEVERAGES)

Sandra Fenton being first duly sworn, deposes and says:

That on the 15th, day of March, 1979, in 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 and associations on the attached list.

Sandra Fenton

Subscribed and sworn to before me this
19TH day of APRIL 1979
Notary Public, RAMSEY COUNTY
My Commission expires FEB 16, 1984.

Jerome J. Jarosch
JEROME J. JAROSCH
NOTARY PUBLIC-MINNESOTA
RAMSEY COUNTY
My Comm. Expires Feb. 16, 1984

AGR 79-003-MG

STATE OF MINNESOTA
OFFICE OF HEARING EXAMINERS

FOR THE DEPARTMENT OF AGRICULTURE

IN THE MATTER OF THE PROPOSED ADOPTION OF RULES OF THE DEPARTMENT OF AGRICULTURE GOVERNING NONALCOHOLIC BEVERAGES; DEFINITIONS; STANDARDS; RESTRICTIONS; LABELING; AND MANUFACTURING REQUIREMENTS.

REPORT OF THE CHIEF HEARING EXAMINER

WHEREAS, a hearing was held on April 23, 1979, before Myron S. Greenberg, a Hearing Examiner of the State Office of Hearing Examiners, on the above-entitled matter in compliance with Minn. Stat. § 15.0412, subd. 4; and

WHEREAS, the Report of Hearing Examiner made pursuant to Minn. Stat. § 15.052, subd. 3, was issued to the Department of Agriculture on May 31, 1979; and

WHEREAS, the Department of Agriculture has now determined to adopt rules pursuant to Minn. Stat. § 15.0412, subd. 4; and

WHEREAS, the Department of Agriculture has submitted said rules to the Chief Hearing Examiner for review pursuant to Minn. Stat. § 15.052, subd. 4, and 9 MCAR § 2.110; and

WHEREAS, the Chief Hearing Examiner finds that the final proposed rules are not substantially different from those proposed at the public hearing and that the Department of Agriculture has met all requirements of Minn. Stat. § 15.0412, subd. 4.

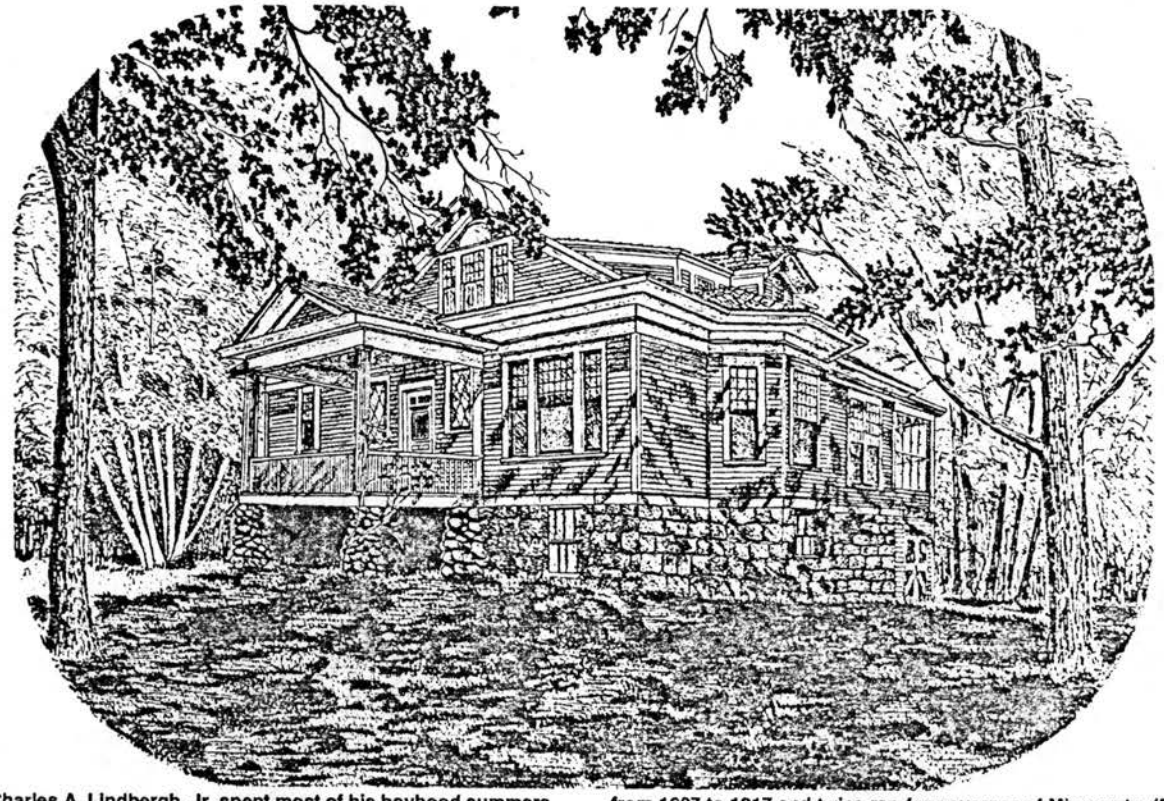
NOW, THEREFORE, upon receipt of this Report, the Department of Agriculture has the responsibility of submitting the complete hearing record and the rules as adopted by the Department to the Attorney General, notifying all persons who requested to be informed that the hearing record has been submitted to the Attorney General, and publishing in the State Register, all pursuant to Minn. Stat. § 15.0412, subd. 4.

Dated this 27th day
of November, 1979.

Duane R. Harves

DUANE R. HARVES
Chief Hearing Examiner

OFFICIAL NOTICES



Aviator Charles A. Lindbergh, Jr. spent most of his boyhood summers on the family farm south of Little Falls. After his non-stop flight from New York to Paris in 1927, the house was stripped by souvenir hunters. The Lindbergh family donated the house and 110-acre farm to the state in 1931 as a memorial to Charles A. Lindbergh, Sr., who served in Congress from 1907 to 1917 and twice ran for governor of Minnesota. (Drawing by Ron Hunt reprinted, with permission, from *A Living Past: 15 Historic Places in Minnesota*, copyright 1973, 1978 by the Minnesota Historical Society.)

Pursuant to the provisions of Minn. Stat. § 15.0412, subd. 6, an agency, in preparing proposed rules, may seek information or opinion from sources outside the agency. Notices of intent to solicit outside opinion must be published in the *State Register* and all interested persons afforded the opportunity to submit data or views on the subject, either orally or in writing.

The *State Register* also publishes other official notices of state agencies, notices of meetings, and matters of public interest.

Department of Agriculture Food, Meat and Poultry Division

Notice of Intent to Solicit Outside Opinion on Rules Relating to Nonalcoholic Beverages; Definitions; Standards; Restrictions; Labeling; and Manufacturing Requirements

Notice is hereby given, pursuant to the provisions of Minn. Stat. § 15.0412, subd. 6 (Supp. 1977) that the Minnesota Department of Agriculture is considering amending Agr 4801–4804 relating to the above-captioned matter.

All interested parties desiring to submit data or views relating to said rule amendments should address their comments to the department by writing or calling the person designated below. Evidence submitted for consideration

should be pertinent to the matter at hand. Any materials received by the department will become a part of the hearing record.

All interested parties may submit comments to:

Bernard J. Steffen, Director
Food, Meat and Poultry Division
530 State Office Building
Saint Paul, Minnesota 55155
(612) 296-2627

Any materials submitted shall be reviewed and considered by the Department of Agriculture during the preparation of proposed amendments. Notice of the public hearing on this matter will be published in the *State Register* and given to all interested parties registered with the Secretary of State in accordance with the provisions of the Administrative Procedure Act.

All comments and materials must be received by 4:30 p.m., September 29, 1978.

Under the provisions of Minn. Stat. § 15.0412, subd. 6 (Supp. 1977), any individual representing persons or associations attempting to influence administrative action, such as the adoption of proposed rules, must register with the Ethical Practices Board as a lobbyist within five days of the commencement of such activity. The Ethical Practices Board is located at Room 41, State Office Building, Saint Paul, Minnesota 55155.

Bill Walker
Commissioner

Department of Commerce Board of Architecture, Engineering, Land Surveying and Landscape Architecture

Notice of Intent to Solicit Outside Information Regarding Proposed Adoption of a Rule Governing the Intern Development Program

Notice is hereby given that the Board of Architecture, Engineering, Land Surveying and Landscape Architecture is seeking information or opinion from sources outside the Board in preparing to propose the adoption of a rule governing the participation of potential applicants for admission to the Architectural Registration Examination in the Intern Development Program (IDP). The Intern Development Program is a training program designed to qualify its participants for the entry into practice of architecture. Any interested persons may submit data or views on the subject in writing or orally to:

Lowell E. Torseth
Executive Secretary
Board of AELS & LA
500 Metro Square Building
St. Paul, Minnesota 55101
(612) 296-2388

Any written material received by the Board shall become part of the hearing record in the event the rule governing this subject is promulgated.

Livestock Sanitary Board

Notice of An Addition to the Hearing Notice for Proposed Rules of the Livestock Sanitary Board Governing Importation of Goats (3 MCAR § 2.003), Control of Goat Brucellosis in Minnesota (3 MCAR § 2.022) and Control of Goat Tuberculosis in Minnesota (3 MCAR § 2.023)

The following paragraph is to be added to and incorporated in the Hearing Notice published on these rules in this issue of the *State Register* (3 S.R. 313):

Notice: Any person may request notification of the date on which the Hearing Examiner's Report will be available, after which date the agency may not take any final action on the rules for a period of five working days. Any person may request notification of the date on which the hearing record has been submitted (or resubmitted) to the Attorney General by the agency. If you desire to be so notified, you may so indicate at the hearing. After the hearing, you may request notification by sending a written request to the Hearing Examiner (in the case of the Hearing Examiner's Report), or to the agency (in the case of the agency's submission or resubmission to the Attorney General).

STATE OF MINNESOTA

DEPARTMENT OF AGRICULTURE

IN THE MATTER OF THE PROPOSED ADOPTION OF THE RULES OF THE DEPARTMENT OF AGRICULTURE GOVERNING NON-ALCOHOLIC BEVERAGES; DEFINITIONS; STANDARDS; RESTRICTIONS; LABELING; MANUFACTURING REQUIREMENTS.	))))))	STATEMENT OF COMPLIANCE WITH THE MANUAL OF RULE MAKING PROCEDURES

I, Special Assistant Attorney General Peder Hong, 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.

Peder Hong

Special Assistant Attorney General

Dated: 12-12-79