

Minnesota Attorney General: Administrative Rules Proceedings

Copyright Notice:

This material may be protected by copyright law (U.S. Code, Title 17). Researchers are liable for any infringement. For more information, visit www.mnhs.org/copyright.

Version 3
August 20, 2018

Our File No. 1059 (B)

RULE REVIEW CHECKLIST

DATE RULE RECEIVED 8-21-84
DATE FOR REVIEW 8-30-84
DATE DUE 9-04-84

Adopted w/a hearing w/o
Adopted w/o hearing
Temporary rule

Approved September 4, 1984 (LDS) Disapproved _____ Returned to Agency _____

Resubmitted _____ Due _____
Approved _____ Disapproved _____ Returned to Agency _____

Date filed w/Secretary of State _____ Revisor approved _____ disapproved _____

✓ Rule as Adopted

_____ Rule as Proposed

✓ Order Adopting 8.16.84 Date

✓ Notice of Intent to Solicit Outside Opinion SR.

✓ Order for rulemaking
N/A date of Hearing

N/A Certificate of Board's Authorizing Resolution

✓ Notice of rulemaking
✓ Sufficiency contains small biz statement.

✓ Affidavit of Mailing Notice or rulemaking
7.11.84 At least 30 days prior to ~~hearing~~/adoption

✓ Mailing list Certificate

✓ Publication in State Register
7.16.84 At least 30/~~20~~ days prior to ~~hearing~~/adoption

N/A Hearing Examiner's Report

_____ Chief Hearing Examiner's Report(s)
_____ Approving H.E.'s Report
_____ Approving agency action

_____ Agency's Findings of Fact

_____ LCRAR Report or agency Affidavit

_____ Certificate of Board's Resolution Adopting Rules

✓ Order Approving Incorporation by Reference

✓ Statement of Need and Reasonableness contains small biz statement

N/A Petition for Adoption of a Rule

✓ Record (includes transcript or tape, exhibits, comments received by agency, requests for a hearing, and other relevant materials)

✓ Certificate of Compliance w/Rulemaking Procedures

N/A Affidavit of Mailing Notice of Submission to Attorney General

✓ Notice of Submission to the Attorney General

AG copy.

Department of Agriculture

Food Inspection Division

Adopted Rules Governing Dyeing of Fish and Fish Products

Rule as Adopted

1545.2050 FISH UNFIT FOR HUMAN FOOD.

Fish unfit for human food, whether parasitic or not, which are offered for sale for animal food must be denatured or identified so as to prohibit their use for human food. Denaturing must be accomplished either by cutting the fish in two immediately behind the abdominal cavity or by dyeing the fish with methyl violet. The strength of the dye solution used may not be less than one part of dye to 5,000 parts of water.

REPEALER. Minnesota Rules, part 1545.2070 is repealed.

STATE OF MINNESOTA
DEPARTMENT OF STATE
FILED
SEP 5 1984
Joan Anderson Growe
Secretary of State

10:00 AM

APPROVED AS TO LEGALITY
September 4, 1984
BY Jerry D. James
SPECIAL ASSISTANT ATTORNEY GENERAL

SF-00006-02

STATE OF MINNESOTA

DEPARTMENT ATTORNEY GENERAL

Office Memorandum

TO : JIM NICHOLS, COMMISSIONER
Department of Agriculture

DATE: September 4, 1984

ATTN: JON MURPHY
Special Assistant Attorney General

FROM : LARRY D. STARNS LDS
Special Assistant Attorney General

PHONE: 297-3493

SUBJECT: In the Matter of the Proposed Amendments To The Rules of the Department of Agriculture Governing Dyeing of Fish and Fish Products (Minnesota Rules 1545.2050 - 1545.2070)

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. Please 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 stamps of the Attorney General and Secretary of State;

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

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

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

LDS:cb

Encs.

cc: Ms. Kathy Burek
Mr. Duane Harves

SF-00006-03

STATE OF MINNESOTA

DEPARTMENT OF AGRICULTURE

Office Memorandum

TO: Judith Wehrwein
Administration - Finance Division
Office of the Attorney General

DATE: 08/16/84

FROM: Carol Milligan, Management Analyst CMM
Planning Division

PHONE: 296-6906

SUBJECT: Review of Amendments to the Rules Governing Dyeing of Fish and Fish Products (Minnesota Rules 1545.2050 - 1545.2070)

The Department of Agriculture adopted the above-mentioned amendments without a public hearing pursuant to Minnesota Statutes, Sections 14.21-14.28 (1982). Enclosed with this memorandum are the documents which are required by Minnesota Rule 2000.0400 to be submitted to the Attorney General for review prior to final approval of the rules. A list of the documents is attached for your convenience.

The Department fulfilled the requirements of Minnesota Statutes, section 14.115, subd. 4, by notifying small businesses of the expected impact of the rules. Such notice was given in the Notice of Intent to Adopt Rules Without Public Hearing. The requirements of Subdivision 2 are dealt with in the Statement of Need and Reasonableness.

No written comments were received following the publication of the Rules as Proposed in the State Register. The Department did not receive any requests for a public hearing, nor did any person request to be notified when these documents were submitted to the Attorney General. The Rules as Adopted do not differ from the Rules as Proposed.

If you have questions, please contact me.

GH:cb

Attachment

cc: Jim Nichols, Commissioner
Rollin Dennistoun, Ph.D., Deputy Commissioner
Anne Kanten, Assistant Commissioner
Jon Murphy, Special Assistant Attorney General
Craig Lindeke, Office of Revisor of Statutes
Gerald Heil, Director, Planning Division
Thomas Masso, Director, Food Inspection Division
Howard Anderson, Assistant Director, Food Inspection Division

PLANNING DIVISION
DEPARTMENT OF AGRICULTURE

LIST OF ATTACHED DOCUMENTS

A. Rule as Adopted (Original and three copies). Each copy reflects amendments made in the rules since original publication.

B. Order Adopting the Rule (two copies).

C. Notice of Intent to Solicit Outside Opinion.

D. Order for Notice of Intent to Adopt Rule Without Public Hearing (one copy).

E. Notice of Intent to Adopt a Rule Without Public Hearing (one copy).

F. Affidavit of Mailing Notice of Intent to Adopt a Rule Without Public Hearing (one copy).

G. Mailing List Certificate (one copy).

H. Rule as Proposed (one copy).

I. Statement of Need and Reasonableness (one copy).

J. Certificate of Compliance with Rulemaking Procedures (one copy).

Rule as proposed.

1545.2050 FISH UNFIT FOR HUMAN FOOD.

~~All~~ Fish unfit for human food, whether parasitic or not, ~~that~~ which are offered for sale for animal food ~~shall~~ must be denatured or identified ~~in such a manner~~ so as to prohibit their use for human food. ~~Such~~ Denaturing ~~is to~~ must be accomplished either by cutting the fish in two immediately behind the abdominal cavity or by dyeing the fish with methyl violet ~~or any similar harmless dye~~. The strength of the dye solution used ~~shall~~ may not be less than one part of dye to 5,000 parts of water.

REPEALER. Minnesota Rules, part 1545.2070 is repealed.

APPROVED BY THE REVISOR OF STATUTES OFFICE BY:

OFFICE OF THE REVISOR OF STATUTES

Proposed Rule

RD492

Agency: Department of Agriculture

Division: Food Inspection Division

Agency Contact: Gerald Heil

Minnesota Rules: Part 1545.2050

Title: Proposed Rules Governing Dyeing of Fish And Fish Products

Type of Rules: Permanent

Incorporations by Reference: None

Duplication of Statutory Language: None

Steven C. Cross

Revisor of Statutes

Craig E. Lindeke

Senior Assistant Revisor

Phone: 296-0946

Date: March 21, 1984

APPROVED AS TO LEGALITY
September 4, 1984
HUBERT H. HUMPHREY, III
ATTORNEY GENERAL
BY
SPECIAL ASSISTANT ATTORNEY GENERAL

STATE OF MINNESOTA

DEPARTMENT OF AGRICULTURE

In the Matter of the Proposed Amendments To
The Rules of the Department of Agriculture
Governing Dyeing of Fish and Fish Products
(Minnesota Rules 1545.2050 -1545.2070)

ORDER ADOPTING
RULES

Notice of the Commissioner's intent to adopt the above-entitled amendments without a public hearing was published in the State Register on July 16, 1984, and was sent by United States mail to all persons on the list maintained by the department pursuant to Minnesota Statutes, Section 14.22 on July 11, 1984. After affording interested and affected persons an opportunity to submit comments for 30 days after Notice, receiving fewer than 25 written requests for a public hearing within the 30 day comment period, reviewing and considering the comments, and determining the need for and reasonableness of the above-captioned rules,

NOW, THEREFORE, IT IS ORDERED that these amendments identified as the Amendments Governing the Dyeing of Fish and Fish Products are adopted this 16 th day of August, 1984, pursuant to authority vested in me by Minnesota Statutes, Section 31.11.

STATE OF MINNESOTA

Jim Nichols

JIM NICHOLS
COMMISSIONER
DEPARTMENT OF AGRICULTURE

Department of Agriculture

Food Inspection Division

Notice of Intent to Solicit Outside Opinion Regarding Proposed Amendments to the Rules Governing Dyeing of Fish and Fish Products (Minnesota Rules 1545.2050)

Notice is hereby given that the Department is seeking information or opinions from sources outside the agency in preparing to amend the existing rules governing the dyeing of fish and fish products. The promulgation of these rules is authorized by Minnesota Statutes section 29.27, which permits the Department to adopt and enforce such rules as are necessary to carry out the provisions of Minnesota Statutes sections 29.021-29.091.

The Department requests information and comments concerning the subject matter of these rules. Interested or affected persons or groups may submit statements of information or comment orally or in writing. Written statements should be addressed to:

Gerald Heil
Planning Division
Minnesota Department of Agriculture
90 West Plato Boulevard
St. Paul, MN 55107

Oral statements will be received during regular business hours over the telephone at (612) 296-1486 and in person at the above address.

All statements of information and comment shall be accepted until April 23, 1984. Any written material received by the Department shall become part of the record in the event that the rules are promulgated.

Robb W Dannett

Jim Nichols
Commissioner
Department of Agriculture

4/2/84

STATE OF MINNESOTA

DEPARTMENT OF AGRICULTURE

In the Matter of the Proposed Amendments to the Rules of the Department of Agriculture Governing Dyeing of Fish and Fish Products (Minnesota Rules §1545.2050 - 1545.2070)

ORDER FOR NOTICE OF INTENT TO ADOPT RULES WITHOUT PUBLIC HEARING

IT IS ORDERED this 2nd day of July, 1984, that a Notice of Intent to Adopt Rules Without Public Hearing in the above-entitled matter be given to all persons who have registered their names with the Minnesota Department of Agriculture for that purpose and be published in the State Register.

STATE OF MINNESOTA

Commissioner of Agriculture

Department of Agriculture

Food Inspection Division

In the Matter of the Proposed Amendments to the Rules Governing Dyeing of Fish and Fish Products (Minnesota Rules 1545.2050 - 1545.2070).

Notice of Intent to Amend Rules Without a Public Hearing

Notice is hereby given that the Minnesota Department of Agriculture proposes to adopt the above-entitled amendments without a public hearing. The Commissioner of Agriculture has determined that the proposed adoption of these amendments will be noncontroversial in nature and has elected to follow the procedures set forth in Minnesota Statutes, Sections 14.21-14.28 (1982).

Persons interested in these rules are encouraged to submit comment in support of or in opposition to the proposed amendments, and shall have 30 days to do so. Each comment should identify the portion of the proposed amendments addressed, the reason for the comment, and any change proposed. The proposed amendments may be modified if the modifications are supported by the data and views submitted to the department and do not result in a substantial change in the proposed language.

Unless 25 or more persons submit written requests for a public hearing on the proposed amendments within the 30-day comment period, a public hearing will not be held. Persons requesting a public hearing should state their name and address, and are encouraged to identify the portion of the proposed amendments addressed, the reason for the request, and any proposed change. In the event a public hearing is required, the department will proceed according to the provisions of Minnesota Statutes, Sections 14.11-14.20 (1982).

Persons who wish to submit comments or a written request for a public hearing should submit such comments or request to: Gerald Heil, Minnesota Department of Agriculture, 90 West Plato Boulevard, St. Paul, MN 55107, (612) 296-1486.

Authority to adopt these rules is contained in Minnesota Statutes, Section 31.11. Additionally, a Statement of Need and Reasonableness that describes the need for and reasonableness of each provision of the proposed amendments and identifies the data and information relied upon to support the proposed amendments has been prepared and is available upon request from Mr. Heil.

Upon adoption of the final amended rules without a public hearing, the proposed rules, this Notice, the Statement of Need and Reasonableness, all written comments received, and the final amended rules as Adopted will be delivered to the Attorney General for review as to form and legality, including the issue of substantial change. Persons who wish to be advised of the submission of this material to the Attorney General, or who wish to receive a copy of the final rules as adopted, should submit a written statement of such request to Mr. Heil.

The Commissioner is authorized by Minnesota Statutes, Section 31.11 to promulgate rules to protect the public health, and prevent fraud and deception in the manufacture, use, and sale of food.

The proposed amendments to these rules will bring Minnesota's requirements for colored fish and fish products into conformity with federal regulations, specify the type of dye to be used for denaturing fish unfit for human food and allow for the use of added color in fish and fish products.

The proposed rules will impact and benefit small business as defined in Minnesota Statutes, Section 14.115, because permitting the use of artificial color in fish and fish products will expand the available market for Minnesota processors by allowing them to compete equally with processors from other states which allow coloring of fish.

Please be advised that Minnesota Statutes, Chapter 10A requires each lobbyist to register with the State Ethical Practices Board within five (5) days after he or she commences lobbying. A lobbyist is defined in Minnesota Statutes, Section 10A.01, subdivision 11 (Supp. 1979) as any individual:

(a) Engaged for pay or other consideration, or authorized by another individual or association to spend money, who spends more than five hours in any month or more than $250.00, not including his own travel expenses and membership dues, in any year, for the purpose of attempting to influence legislative or administrative action by communicating or urging others to communicate with public officials; or

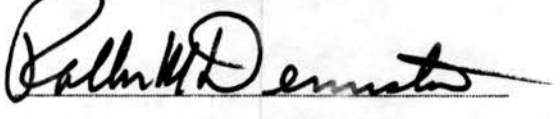
(b) Who spends more than $250.00, not including his own traveling expenses and membership dues, in any year for the purpose of attempting to influence legislative or administrative action by communicating or urging others to communicate with public officials.

The statute provides certain exceptions. Questions should be directed to the Ethical Practices Board, 40 State Office Building, St. Paul, MN 55155, (612) 296-5615.

One free copy of this Notice and the proposed rules are available and may be obtained by contacting Mr. Heil.

STATE OF MINNESOTA

Date: July 2, 1984



Commissioner of Agriculture

In the Matter of the Proposed
Rules of the Department of
Agriculture Governing Dyeing of
Fish and Fish Products
(Minnesota Rules 1545.2050-1545.2070)

AFFIDAVIT OF
MAILING

STATE OF MINNESOTA)
) ss.
COUNTY OF RAMSEY)

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

That on the 11th day of July, 1984, at the City of St. Paul, County of Ramsey, State of Minnesota, he/she served the attached Notice of Intent to Adopt Rules Without a Public Hearing by depositing in the State of Minnesota Central Mail System for United States mailing at said City of St. Paul, a copy thereof, properly enveloped, with postage prepaid, on all persons and associations who have requested that their names be placed on file with the Minnesota Department of Agriculture for the purpose of receiving notice of the proposed adoption of rules by this Department.

DIANE M. WINDHAM
NOTARY PUBLIC-MINNESOTA
RAMSEY COUNTY
MY COMMISSION EXPIRES NOVEMBER 1, 1990

Joyce Walkosz

Subscribed and sworn to before me
this 11th day of July, 1984.

Diane M. Windham

STATE OF MINNESOTA

COUNTY OF RAMSEY

CERTIFICATE

In the Matter of the Proposed Rules
of the Department of Agriculture
Governing Dyeing of Fish and Fish Products
(Minnesota Rules 1545.2050-1545.2070)

I hereby certify that the list of persons, associations, and other interested groups who have requested, pursuant to Minn. Stat. § 14.14, subd. 1, that their names be placed on file with and maintained by the Minnesota Department of Agriculture for the purpose of receiving notice of the proposed adoption of rules by this Department is accurate and complete as of 9:00 A.m., this 11th day of July, 1984.

Carol Milligan

1510.0360 SUGGESTED LABEL FOR MIXTURES AND BLENDS OF AGRICULTURAL SEED.

~~Where grown required for alfalfa, red clover, field corn, and hybrid corn.~~

			LOT NO. .....
KIND ~~AND~~	.....	.....	.....
VARIETY	.....	.....	.....
~~PURITY~~ PURE SEED %	.....	.....	.....
GERMINATION %	.....	.....	.....
HARD SEED %	.....	.....	.....
~~GERM. DATE~~	.....	.....	.....
~~GROWN IN~~ ORIGIN	.....	.....	.....
WEED SEED %	INERT MATTER %	OTHER CROP ~~SEED~~ %	
~~NO.~~ NOXIOUS WEED SEEDS ..... (Name)	NO. PER ~~LB.~~ ~~OR PER OZ.~~ POUND	GERM. DATE	

~~DEALER'S~~ LABELER'S NAME AND ADDRESS .....

REPEALER. Minnesota Rules, parts 1510.0010; 1510.0120; 1510.0160; 1510.0170; 1510.0230; 1510.0240; 1510.0250; 1510.0260; 1510.0270; 1510.0280; 1510.0290; and 1510.0300 are repealed.

Department of Agriculture
Food Inspection Division

Proposed Rules Governing Dyeing of Fish and Fish Products

Notice of Intent to Amend Rules Without a Public Hearing

Notice is hereby given that the Minnesota Department of Agriculture proposes to adopt the above-entitled amendments without a public hearing. The Commissioner of Agriculture has determined that the proposed adoption of these amendments will be noncontroversial in nature and has elected to follow the procedures set forth in Minnesota Statutes, Sections 14.21-14.28 (1982).

Persons interested in these rules are encouraged to submit comment in support of or in opposition to the proposed amendments, and shall have 30 days to do so. Each comment should identify the portion of the proposed amendments addressed, the reason for the comment, and any change proposed. The proposed amendments may be modified if the modifications are supported by the data and views submitted to the department and do not result in a substantial change in the proposed language.

Unless 25 or more persons submit written requests for a public hearing on the proposed amendments within the 30-day comment period, a public hearing will not be held. Persons requesting a public hearing should state their name and address, and are encouraged to identify the portion of the proposed amendments addressed, the reason for the request, and any proposed change. In the event a public hearing is required, the department will proceed according to the provisions of Minnesota Statutes, Sections 14.11-14.20 (1982).

Persons who wish to submit comments or a written request for a public hearing should submit such comments or request to: Gerald Heil, Minnesota Department of Agriculture, 90 West Plato Boulevard, St. Paul, MN 55107, (612) 296-1486.

Authority to adopt these rules is contained in Minnesota Statutes, Section 31.11. Additionally, a Statement of Need and Reasonableness that describes the need for and reasonableness of each provision of the proposed amendments and identifies the data and information relied upon to support the proposed amendments has been prepared and is available upon request from Mr. Heil.

Upon adoption of the final amended rules without a public hearing, the proposed rules, this notice, the statement of need and reasonableness, all written comments received, and the final amended rules as adopted will be delivered to the Attorney General for review as to form and legality, including the issue of substantial change. Persons who wish to be advised of the submission of this material to the Attorney General, or who wish to receive a copy of the final rules as adopted, should submit a written statement of such request to Mr. Heil.

The Commissioner is authorized by Minnesota Statutes, Section 31.11 to promulgate rules to protect the public health, and prevent fraud and deception in the manufacture, use, and sale of food.

The proposed amendments to these rules will bring Minnesota's requirements for colored fish and fish products into conformity with federal regulations, specify the type of dye to be used for denaturing fish unfit for human food and allow for the use of added color in fish and fish products.

The proposed rules will impact and benefit small business as defined in Minnesota Statutes, Section 14.115, because permitting the use of artificial color in fish and fish products will expand the available market for Minnesota processors by allowing them to compete equally with processors from other states which allow coloring of fish.

Please be advised that Minnesota Statutes, Chapter 10A requires each lobbyist to register with the State Ethical Practices Board within five (5) days after he or she commences lobbying. A lobbyist is defined in Minnesota Statutes, Section 10A.01, subdivision 11 (Supp. 1979) as any individual:

(a) Engaged for pay or other consideration, or authorized by another individual or association to spend money, who spends more than five hours in any month or more than $250.00, not including his own travel expenses and membership dues, in any year, for the purpose of attempting to influence legislative or administrative action by communicating or urging others to communicate with public officials; or

(b) Who spends more than $250.00, not including his own traveling expenses and membership dues, in any year for the purpose of attempting to influence legislative or administrative action by communicating or urging others to communicate with public officials.

The statute provides certain exceptions. Questions should be directed to the Ethical Practices Board, 40 State Office Building, St. Paul, MN 55155, (612) 296-5615.

One free copy of this notice and the proposed rules are available and may be obtained by contacting Mr. Heil.

July 2, 1984

Rollin M. Denniston
Commissioner of Agriculture

Rule as proposed.

1545.2050 FISH UNFIT FOR HUMAN FOOD.

~~All~~ Fish unfit for human food, whether parasitic or not, ~~that~~ which are offered for sale for animal food ~~shall~~ must be denatured or identified ~~in such a manner~~ so as to prohibit their use for human food. ~~Such~~ Denaturing ~~is to~~ must be accomplished either by cutting the fish in two immediately behind the abdominal cavity or by dyeing the fish with methyl violet ~~or any similar harmless dye~~. The strength of the dye solution used ~~shall~~ may not be less than one part of dye to 5,000 parts of water.

REPEALER. Minnesota Rules, part 1545.2070 is repealed.

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

STATE OF MINNESOTA

DEPARTMENT OF AGRICULTURE

IN THE MATTER OF THE PROPOSED AMENDMENTS TO THE RULES OF THE DEPARTMENT OF AGRICULTURE GOVERNING COLORED FISH AND FISH PRODUCTS. (MINNESOTA RULES PART 1545.2050-1545.2070)

STATEMENT OF NEED AND REASONABLENESS

I. INTRODUCTION

The subject of this rulemaking is the proposed adoption by the Minnesota Department of Agriculture (MDA) of an amendment to rules governing the requirements for denaturing fish unfit for human consumption, and the repeal of a rule prohibiting coloring of fish and fish products. The amendment is proposed for adoption pursuant to Minnesota Statutes, section 31.11, which authorizes the MDA to promulgate and amend rules for the efficient administration and enforcement of the Minnesota Food Law. As provided in Minnesota Statute, section 31.002, when practicable and consistent with state law, these rules shall conform with those promulgated under Federal law.

The department has determined that the proposed amendment to the rule is non-controversial in nature because they are supported by the industry as common practice, and will bring Minnesota's requirement for colored fish and fish products into conformity with federal regulations. Because of the noncontroversial nature of this rule, the department directed that the rulemaking proceedings be conducted in accordance with the statutory provisions governing the adoption of noncontroversial rules, Minnesota Statutes, section 14.21 to 14.28. Accordingly, the rulemaking proceedings on the proposed amendment to the rule are governed by that statute and no hearing will be conducted on the proposed amendment unless, on or before August 14, 1984, twenty-five or more persons submit to the department a written request for such hearing.

In accordance with the requirement of Minnesota Statutes, section 14.23, this Statement of Need and Reasonableness was prepared and completed prior to the date that the proposed amendment to the rule was published by the State Register.

II. GENERAL OVERVIEW

Minnesota Rules, Parts 1545.2050 and 1545.2070 were adopted in 1945 and revised in 1954. No revisions have since occurred.

The department recently received a petition from a Minnesota fish processor to review and revise these rules so that they would conform with the Federal Code and other states. The current rules are a trade barrier and, therefore, serve no useful function since Federal Regulations have already been adopted as our regulations.

There has developed over the past thirty years a practice of artificially coloring fish to achieve the desirable color for palatability to fish and fish products. Colored fish has become preferred by certain ethnic groups and consumers to the point whereby they demand color in the fish they purchase.

Title 21, Parts 74 and 101.22 of the Code of Federal Regulations has never prohibited the use of artificial food color in fish and fish products. The Federal Code has prohibited the use of certain dyes to be used in food products. The Minnesota Food Law, section 31.002 requires this state to conform when practicable with Federal Regulations.

The coloring and sale of fish and fish products is acceptable in 48 of the 50 states.

III. NEED FOR AND REASONABLENESS OF THE PROPOSED AMENDMENT TO THE RULE

The need for and reasonableness of the proposed amendment to the rule governing the requirements for colored fish and fish products follows.

A. Minnesota Rules, part 1545.2050

Fish unfit for human food, whether parastic or not, which are offered for sale for animal food ~~shall~~ must be denatured or identified ~~in such~~

~~a manner~~ so as to prohibit their use for human food. ~~Such~~ Denaturing ~~is to~~ must be accomplished either by cutting the fish in two immediately behind the abdominal cavity or by dyeing the fish with methyl violet ~~or any similar harmless dye.~~ The strength of the dye solution ~~shall~~ may not be less than one part of dye to 5,000 parts of water.

The proposed amendments made to this rule is one of style and form designed to bring the rule into conformance with Minnesota Statutes, section 14.07 et. seq.

Methyl violet is the dye of general use for denaturing. The wording "or any other similar harmless dye" was deleted to disallow a food coloring which would make "fish unfit for human food" appear to be wholesome.

B. Minnesota Rules, part 1545.2070

~~Fish and fish products shall be free from added yellow, red, or orange color, either of coal tar or vegetable origin. The use of yellow, orange, or red coloring in or on these products is prohibited even when declared.~~

The department recently received a petition from a Minnesota fish processor to rescind this rule because the rule no longer serves a purpose and does serve to act as a economic trade barrier by preventing Minnesota fish processors from competing in the markets of other states.

The Code of Federal Regulations has permitted the use of color additives to fish and fish products since the code was first published in 1947. This Department has adopted the code in order to achieve and maintain uniformity with the Federal and with other states. The repeal of this rule would bring this state into uniformity with the code and with 48 other states.

IV. SMALL BUSINESS IMPACT OF THE PROPOSED AMENDMENT

As prescribed by Minnesota Statutes, section 14.115, subdivisions 1 and 2, the Department has considered the degree of impact the proposed amendments will have on fish processors and the alternative methods for lessening that impact.

The Department has determined that all fish processors will be affected because implementation of the Federal Color Regulations will result in greater competition in a potentially new and larger market both within this state and with other states. The degree of competition for market sales cannot be known at this time.

Alternative methods for lessening the impact would be contrary to the objectives sought by Minnesota Statute, section 31.002 which requires conformity with Federal Regulations. The present rule serves no general purpose and acts as an economic trade barrier. Repeal of Minnesota Rule, part 1545.2070 would permit a Minnesota fish processor to compete equally with processors of other states. These amendments would have a positive benefit to Minnesota fish processors since Minnesota is one of the three major fresh water fish processing states.

In the Matter of the Proposed
Amendments to the Rules of the
Department of Agriculture
Governing the Dyeing of Fish and Fish Products
(Minnesota Rules 1545.2050 - 1545.2070)

STATEMENT OF
COMPLIANCE WITH
RULEMAKING PROCEDURES

I, (Special Assistant Attorney General) Jon Murphy, do hereby declare that I have examined the rules and all related documents and that, based on my examination and my personal familiarity with the applicable procedures, the Administrative Procedure Act, the rules of the Office of Administrative Hearings, and the rules of the Attorney General have been followed. Any exceptions are noted below.

Special Assistant Attorney General

Date: 8/17/84