

Minnesota Attorney General: Administrative Rules Proceedings

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Version 3
August 20, 2018

MYC

RULE REVIEW CHECKLIST

File No. 1595 | Docket No. 05-0009.0986

DATE RECEIVED 4-26-89 | ADOPTED W/O HEARING X

REVIEW DATE 5-5-89 | EMERGENCY RULE _____

DUE DATE 5-10-89 (WD) | REVISOR APPROVED _____

APPROVED 5-5-89 MJC | REVISOR DISAPPROVED _____

DISAPPROVED _____ | FILED W/SEC. OF STATE _____

WITHDRAWN _____ | RETURNED TO AGENCY _____

✓ Rule as adopted (4 copies) one comment in ag copy

~~Notice to Solicit Outside Information/Opinion (if applicable)~~
- ~~Date published in State Register~~
- ~~Comments~~

~~Petition for Adoption of a Rule (if applicable)~~

~~Board's Authorizing Resolution~~
- ~~Date adopted~~

✓ Proposed Rule
- yes Revisor's Certificate

✓ Notice of Intent to Adopt Rule
- 17.012 subd 6 Statutory Authority
- yes Small Business Statement
- no Expenditure of public money statement
- yes Signature

✓ Statement of Need and Reasonableness (if applicable)
- yes Small Business Statement
- n/a Fees - § 16A.128

✓ Affidavit of Mailing Notice of Intent to Adopt Rule
- 3/15/89 Date (30/25 days before adoption)
- OK Notice attached
- ~~Copy of rule or summary attached~~

✓ Publication in State Register
- 3/20/89 Date (30/25 days before adoption)

180-day deadline from:
- Effective date of law requiring rule (14.12) (both rules)
- 4/19/89 end of comment period (§ 14.26) (rules without hearing)
- ~~effective date of statutory authority (§ 14.29) (emergency rules)~~

~~Resolution Adopting~~
- ~~Date adopted~~

✓ Findings of Fact, Conclusions & Order Adopting
- 4/20/89 Date

✓ Written requests, submissions or comments (1)

✓ Declaration of attorney
- J. Strandberg Name of SAAG representing agency

✓ ~~Notice of Submission to Atty. Gen. (if applicable)~~ Certificate of Mailing (not)

~~Aff. of Mailing Notice to Atty. Gen. (if applicable)~~

SF-00006-05 (4/86)

DEPARTMENT : ATTORNEY GENERAL

STATE OF MINNESOTA

Office Memorandum

DATE : May 5, 1989

TO : PAUL STRANDBERG
Special Assistant Attorney General

FROM : MARTY J. CASSERLY
Special Assistant Attorney General

PHONE : 6-6839

SUBJECT : In the Matter of the Adopted Permanent Rules Relating to Minnesota Grown Labeling Statements

The above-referenced rule has been approved as to its legality by the Attorney General on May 5, 1989.

Enclosed is the agency's copy of the approved rule. This office has already filed two copies with the Secretary of State who will forward one copy to the Revisor of Statutes. The fourth is being retained by this division of the Attorney General's Office for its records.

Also enclosed are any petitions, requests, submission or comments received by the agency and any extra copies of documents which the agency submitted to the Attorney General.

In order for a permanent rule without a hearing to become effective, your agency must publish a notice of adoption in the State Register in accoradance with Minn. Stat. § 14.27. An emergency rule becomes effective five working days after approval by the Attorney General; however, the agency must publish a notice in the State Register in accordance with Minn. Stat. § 14.34.

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

MJC:klk
Enclosures

cc: Maryanne Hruby
Executive Director
Legislative Commission to Review
Administrative Rules

William Brown
Chief Administrative Law Judge
Office of Administrative Hearings

AG Copy

Department of Agriculture

Adopted Permanent Rules Relating to Minnesota Grown Labeling Statements

Rules as Adopted

1556.0100 AUTHORITY.

This chapter governs licensing and use of the "Minnesota grown" logo and labeling statement and are adopted by the commissioner under Minnesota Statutes, section 17.102.

1556.0110 DEFINITIONS.

Subpart 1. **Scope.** The definitions in this section apply to this chapter.

Subp. 2. **Agricultural products.** "Agricultural products" means livestock or livestock products, dairy products, poultry or poultry products, fish, fruit, vegetables, grains, bees, apiary products, and floral and nursery crops.

Subp. 3. **Commissioner.** "Commissioner" means the commissioner of agriculture or the commissioner's authorized representative.

Subp. 4. **Department.** "Department" means the Department of Agriculture.

Subp. 5. **Improper use.** "Improper use" means unauthorized use of the labeling statement or use of the labeling statement in violation of this chapter.

Subp. 6. **Processor.** "Processor" means an individual, partnership, cooperative association, or corporation that processes raw agricultural products and other food ingredients into food products or commercially slaughters or processess animals or poultry.

Subp. 7. **Produced in Minnesota.** "Produced in Minnesota" means dairy animals, poultry, or other livestock that were fed in Minnesota for at least 60 days prior to milking, processing, or slaughtering or fruits, vegetables, grains, or floral and nursery crops that have been grown in Minnesota.

Subp. 8. **Producer.** "Producer" means an individual, partnership, family farm, family farm corporation, authorized farm corporation, or cooperative association engaged in the production for sale of agricultural products.

Subp. 9. **Retailer.** "Retailer" means an individual, partnership, cooperative association, or corporation that purchases an agricultural product from a producer or wholesaler to sell the agricultural product to a consumer rather than to a person who will resell the product in any form.

Subp. 10. **Wholesaler.** "Wholesaler" means an individual, partnership, cooperative association, corporation, business trust, or unincorporated organization that purchases an agricultural product from a producer or another wholesaler to sell or supply the agricultural product to a retailer, industrial buyer, restaurant, or institution, or to sell it on behalf of one wholesaler to another wholesaler.

1556.0120 "MINNESOTA GROWN" AND "2,000 MILES FRESHER" LABELING STATEMENTS.

Subpart 1. **Eligible products.** The products listed in items A and B are eligible to be packaged with "Minnesota grown" and "2,000 miles fresher" labeling statements.

A. A raw agricultural product may be identified with the labeling statements if no less than 80 percent of the agricultural product was produced in Minnesota.

B. A processed agricultural product may be identified with the labeling statements if no less than 80 percent of the featured product component or at least 60 percent of the total product by weight was produced in Minnesota.

Subp. 2. **Use of the "Minnesota grown" and "2,000 miles fresher" labeling statements.** A producer licensed under part 1556.0160 may use the "Minnesota grown" and "2,000 miles fresher" labeling statements on an eligible agricultural product. A processor licensed under part 1556.0160 may use the "Minnesota grown" and "2,000 miles fresher" labeling statements on an eligible agricultural product if it was processed or

manufactured in a plant located partially or completely in Minnesota.

Subp. 3. **Use by retailers and wholesalers.** A retailer or wholesaler may use the "Minnesota grown" and "2,000 miles fresher" labeling statements without a license in order to display and advertise products that qualify for use of those statements.

1556.0130 "WILD RICE STATE GRAIN" LABELING STATEMENTS.

Subpart 1. **Eligible products.** Agricultural products containing wild rice may be identified with the labeling statement if no less than 80 percent of the wild rice contained in the product was produced in Minnesota.

Subp. 2. **Use of the "wild rice state grain" labeling statement.** A producer licensed under part 1556.0160 may use the "wild rice state grain" labeling statement on an eligible agricultural product. A processor licensed under part 1556.0160 may use the "wild rice state grain" labeling statement on an eligible agricultural product if it was processed or manufactured in a plant located partially or completely in Minnesota.

Subp. 3. **Use by retailers and wholesalers.** A retailer or wholesaler may use the "wild rice state grain" labeling statement without a license in order to display and advertise products that qualify for use of the labeling statement.

1556.0140 "CERTIFIED ORGANIC" LABELING STATEMENT.

Subpart 1. **Eligible products.** The products listed in items A and B are eligible to be packaged with the "certified organic" labeling statement. All products that carry the "certified organic" labeling statement must comply with Minnesota Statutes, sections 31.92 to 31.94 and parts 1555.0005 to 1555.0012.

A. A raw agricultural product may be identified with the labeling statement if no less than 80 percent of the product was produced in Minnesota on a production unit that has been certified as being organic by an organization designated by the

commissioner as a certifying organization. The entire product must comply with Minnesota Statutes, sections 31.92 to 31.94 and parts 1555.0005 to 1555.0012.

B. A processed product may be identified with the labeling statement if no less than 80 percent of the featured product component or at least 60 percent of the total product by weight consists of raw agricultural products produced in Minnesota on a production unit that has been certified as being organic by an organization designated by the commissioner as a certifying organization. The entire product must comply with Minnesota Statutes, sections 31.92 to 31.94 and parts 1555.0005 to 1555.0012.

Subp. 2. **Application to use the "certified organic" labeling statement.** A producer may apply for a license to use the "certified organic" labeling statement on an eligible agricultural product if the production unit has been certified as being organic by an organization designated by the commissioner as a certifying organization. A processor may apply for a license to use the "certified organic" labeling statement on an eligible agricultural product if it was processed in a plant located partially or completely in Minnesota.

Subp. 3. **Use by retailers and wholesalers.** A retailer or wholesaler may use the "certified organic" labeling statement without a license in order to display and advertise agricultural products that qualify for the use of the labeling statement.

1556.0150 OTHER LAW.

Compliance with this chapter does not exempt a producer, processor, retailer, or wholesaler from complying with other laws and rules relating to agricultural products and the labeling of agricultural products.

1556.0160 LICENSING; AUTHORIZATION.

Subpart 1. **Approval required.** Authorization to use labeling statements covered by this chapter is dependent upon approval of an application for their use by the commissioner,

with the exception of retailers and wholesalers, who may use the labeling statements without a license in order to display and advertise products that qualify for use of the labeling statements.

Subp. 2. **Application to use labeling statements.** An application to use labeling statements covered by this chapter must be made in writing, on a form provided by the department, and must reveal information considered necessary for the enforcement of the Minnesota grown marketing program.

The application form must be accompanied by a fee established in Minnesota Statutes, section 17.102. If an applicant is ineligible, the fee must be refunded. A separate application and fee is required for each labeling statement.

Subp. 3. **License to use labeling statements.** An applicant who has an application approved must receive a license valid for one year, beginning January 1. Licensees shall apply for renewal of each license before the expiration date of the current license. The commissioner shall charge a late fee, as established by Minnesota Statutes, section 17.102, for renewal of a license that has expired.

1556.0170 ENFORCEMENT.

The commissioner may make use of random or regular investigations or inspections to ensure the proper use of labeling statements covered by this chapter. The commissioner may investigate any use of the labeling statements if there is reason to believe improper use of a labeling statement exists. The person, firm, partnership, corporation, or association applying the labeling statement to a commodity must be able to supply documentation to show that the product being labeled meets eligibility requirements of the labeling program.

Many are somewhat discretionary but may be necessary.

STATE OF MINNESOTA
DEPARTMENT OF STATE
FILED

MAY 5 1989

Joan Anderson Growe

Secretary of State

9:52 AM

APPROVED AS TO FORM AND LEGALITY

May 5 19 89

HUBERT H. HUMPHREY, III
ATTORNEY GENERAL

BY M T Cassedy

SPECIAL ASSISTANT ATTORNEY GENERAL

Department of Agriculture

Proposed Permanent Rules Relating to Minnesota Grown Labeling Statements

Rules as Proposed (all new material)

1556.0100 AUTHORITY.

This chapter governs licensing and use of the "Minnesota grown" logo and labeling statement and are adopted by the commissioner under Minnesota Statutes, section 17.102.

1556.0110 DEFINITIONS.

Subpart 1. **Scope.** The definitions in this section apply to this chapter.

Subp. 2. **Agricultural products.** "Agricultural products" means livestock or livestock products, dairy products, poultry or poultry products, fish, fruit, vegetables, grains, bees, apiary products, and floral and nursery crops.

Subp. 3. **Commissioner.** "Commissioner" means the commissioner of agriculture or the commissioner's authorized representative.

Subp. 4. **Department.** "Department" means the Department of Agriculture.

Subp. 5. **Improper use.** "Improper use" means unauthorized use of the labeling statement or use of the labeling statement in violation of this chapter.

Subp. 6. **Processor.** "Processor" means an individual, partnership, cooperative association, or corporation that processes raw agricultural products and other food ingredients into food products or commercially slaughters or processess animals or poultry.

Subp. 7. **Produced in Minnesota.** "Produced in Minnesota" means dairy animals, poultry, or other livestock that were fed in Minnesota for at least 60 days prior to milking, processing, or slaughtering or fruits, vegetables, grains, or floral and nursery crops that have been grown in Minnesota.

Approved by Revisor CEL

Subp. 8. **Producer.** "Producer" means an individual, partnership, family farm, family farm corporation, authorized farm corporation, or cooperative association engaged in the production for sale of agricultural products.

Subp. 9. **Retailer.** "Retailer" means an individual, partnership, cooperative association, or corporation that purchases an agricultural product from a producer or wholesaler to sell the agricultural product to a consumer rather than to a person who will resell the product in any form.

Subp. 10. **Wholesaler.** "Wholesaler" means an individual, partnership, cooperative association, corporation, business trust, or unincorporated organization that purchases an agricultural product from a producer or another wholesaler to sell or supply the agricultural product to a retailer, industrial buyer, restaurant, or institution, or to sell it on behalf of one wholesaler to another wholesaler.

1556.0120 "MINNESOTA GROWN" AND "2,000 MILES FRESHER" LABELING STATEMENTS.

Subpart 1. **Eligible products.** The products listed in items A and B are eligible to be packaged with "Minnesota grown" and "2,000 miles fresher" labeling statements.

A. A raw agricultural product may be identified with the labeling statements if no less than 80 percent of the agricultural product was produced in Minnesota.

B. A processed agricultural product may be identified with the labeling statements if no less than 80 percent of the featured product component or at least 60 percent of the total product by weight was produced in Minnesota.

Subp. 2. **Use of the "Minnesota grown" and "2,000 miles fresher" labeling statements.** A producer licensed under part 1556.0160 may use the "Minnesota grown" and "2,000 miles fresher" labeling statements on an eligible agricultural product. A processor licensed under part 1556.0160 may use the "Minnesota grown" and "2,000 miles fresher" labeling statements on an eligible agricultural product if it was processed or

Approved
by Revisor _____

manufactured in a plant located partially or completely in Minnesota.

Subp. 3. **Use by retailers and wholesalers.** A retailer or wholesaler may use the "Minnesota grown" and "2,000 miles fresher" labeling statements without a license in order to display and advertise products that qualify for use of those statements.

1556.0130 "WILD RICE STATE GRAIN" LABELING STATEMENTS.

Subpart 1. **Eligible products.** Agricultural products containing wild rice may be identified with the labeling statement if no less than 80 percent of the wild rice contained in the product was produced in Minnesota.

Subp. 2. **Use of the "wild rice state grain" labeling statement.** A producer licensed under part 1556.0160 may use the "wild rice state grain" labeling statement on an eligible agricultural product. A processor licensed under part 1556.0160 may use the "wild rice state grain" labeling statement on an eligible agricultural product if it was processed or manufactured in a plant located partially or completely in Minnesota.

Subp. 3. **Use by retailers and wholesalers.** A retailer or wholesaler may use the "wild rice state grain" labeling statement without a license in order to display and advertise products that qualify for use of the labeling statement.

1556.0140 "CERTIFIED ORGANIC" LABELING STATEMENT.

Subpart 1. **Eligible products.** The products listed in items A and B are eligible to be packaged with the "certified organic" labeling statement. All products that carry the "certified organic" labeling statement must comply with Minnesota Statutes, sections 31.92 to 31.94 and parts 1555.0005 to 1555.0012.

A. A raw agricultural product may be identified with the labeling statement if no less than 80 percent of the product was produced in Minnesota on a production unit that has been certified as being organic by an organization designated by the

Approved by Revisor _____

commissioner as a certifying organization. The entire product must comply with Minnesota Statutes, sections 31.92 to 31.94 and parts 1555.0005 to 1555.0012.

B. A processed product may be identified with the labeling statement if no less than 80 percent of the featured product component or at least 60 percent of the total product by weight consists of raw agricultural products produced in Minnesota on a production unit that has been certified as being organic by an organization designated by the commissioner as a certifying organization. The entire product must comply with Minnesota Statutes, sections 31.92 to 31.94 and parts 1555.0005 to 1555.0012.

Subp. 2. **Application to use the "certified organic" labeling statement.** A producer may apply for a license to use the "certified organic" labeling statement on an eligible agricultural product if the production unit has been certified as being organic by an organization designated by the commissioner as a certifying organization. A processor may apply for a license to use the "certified organic" labeling statement on an eligible agricultural product if it was processed in a plant located partially or completely in Minnesota.

Subp. 3. **Use by retailers and wholesalers.** A retailer or wholesaler may use the "certified organic" labeling statement without a license in order to display and advertise agricultural products that qualify for the use of the labeling statement.

1556.0150 OTHER LAW.

Compliance with this chapter does not exempt a producer, processor, retailer, or wholesaler from complying with other laws and rules relating to agricultural products and the labeling of agricultural products.

1556.0160 LICENSING; AUTHORIZATION.

Subpart 1. **Approval required.** Authorization to use labeling statements covered by this chapter is dependent upon approval of an application for their use by the commissioner,

Approved
by Revisor _____

with the exception of retailers and wholesalers, who may use the labeling statements without a license in order to display and advertise products that qualify for use of the labeling statements.

Subp. 2. **Application to use labeling statements.** An application to use labeling statements covered by this chapter must be made in writing, on a form provided by the department, and must reveal information considered necessary for the enforcement of the Minnesota grown marketing program.

The application form must be accompanied by a fee established in Minnesota Statutes, section 17.102. If an applicant is ineligible, the fee must be refunded. A separate application and fee is required for each labeling statement.

Subp. 3. **License to use labeling statements.** An applicant who has an application approved must receive a license valid for one year, beginning January 1. Licensees shall apply for renewal of each license before the expiration date of the current license. The commissioner shall charge a late fee, as established by Minnesota Statutes, section 17.102, for renewal of a license that has expired.

1556.0170 ENFORCEMENT.

The commissioner may make use of random or regular investigations or inspections to ensure the proper use of labeling statements covered by this chapter. The commissioner may investigate any use of the labeling statements if there is reason to believe improper use of a labeling statement exists. The person, firm, partnership, corporation, or association applying the labeling statement to a commodity must be able to supply documentation to show that the product being labeled meets eligibility requirements of the labeling program.

Approved
by Revisor _____

Office of the Revisor of Statutes

Administrative Rules

TITLE: Proposed Permanent Rules Relating to Minnesota Grown Labeling Statements

AGENCY: Department of Agriculture

MINNESOTA RULES: Chapter 1556

The attached rules are approved for publication in the State Register

Craig E. Lindeke
Senior Assistant Revisor

Department of Agriculture
Marketing Division

In the Matter of the Proposed Adoption of the Rule of the Department of Agriculture Governing Minnesota Grown Labeling Statements

NOTICE OF INTENT TO ADOPT A RULE WITHOUT A PUBLIC HEARING

Notice is hereby given that the Minnesota Department of Agriculture intends to adopt the above-entitled rule without a public hearing, following the procedures set forth in the Administrative Procedures Act for adopting rules without a public hearing in Minnesota Statutes, Sections 14.22-14.28. The statutory authority to adopt these amendments is Minnesota Statutes, Section 17.102, subd. 6.

All persons have 30 days in which to submit comment in support of or in opposition to the proposed rule or any part or subpart of the rule. Comment is encouraged. Each comment should identify the portion of the proposed rule addressed, the reason for the comment, and any change proposed.

Any person may make a written request for a public hearing on the rule within the 30-day comment period. If 25 or more persons submit a written request for a public hearing within the 30-day comment period, a public hearing will be held unless a sufficient number withdraw their request in writing. Any person requesting a public hearing should state their name and address, and is encouraged to identify the portion of the proposed rule addressed, the reason for the request, and any proposed change. If a public hearing is required, the department will proceed according to Minnesota Statutes, Sections 14.131 to 14.20.

Comments or written requests for a public hearing must be submitted to: Carol Milligan, Minnesota Department of Agriculture, 90 West Plato Boulevard, St. Paul, MN 55107, (612) 296-6906.

The proposed rule 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 rule as noticed.

A copy of the proposed rule is attached to this Notice.

A Statement of Need and Reasonableness that describes the need for and reasonableness of each provision of the proposed rule and identifies the data and information relied upon to support the proposed rule has been prepared and is available upon request from Ms. Milligan.

Use of Minnesota Grown labeling statements is voluntary, and therefore, this rule has no impact on small business as defined by Minnesota Statutes, section 14.115 unless they choose to use a labeling statement.

If no hearing is required, upon adoption of the final rule, the rule and the required supporting documents will be submitted to the Attorney General for review as to legality and form to the extent the form relates to legality. Any person may request notification of the date of submission to the Attorney General. 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 adopted rule must submit a written request to Ms. Milligan.

STATE OF MINNESOTA

March 1 1989
Date

Jim Nichols
Jim Nichols, Commissioner
Department of Agriculture

STATE OF MINNESOTA
DEPARTMENT OF AGRICULTURE

In the Matter of the Proposed Rule
of the Department of Agriculture
Governing Use of the Minnesota
Grown Labeling Statements

Statement of Need
and Reasonableness

Introduction

The subject of this rulemaking is the proposed adoption by the Minnesota Department of Agriculture of a rule governing use of the Minnesota Grown labeling statements. Minnesota Statutes, section 17.102, subd. 6, requires the commissioner to adopt rules authorizing and licensing the use of the labeling statements. Consulting with industry representatives has led us to believe that we can adopt these rules as noncontroversial in accordance with Minnesota Statutes, section 14.22 through 14.28.

Small Business Impact

Minnesota Grown labeling statements have been developed to provide an additional marketing tool for small agricultural producers and processors in Minnesota. The program is completely voluntary and the only reporting requirement is an annual license application. The application includes a license fee as stated in Minnesota Statutes, section 17.102. Additional small business considerations are not needed as the program exists to provide marketing opportunities for small agricultural businesses.

Need for and Reasonableness of the Proposed Rule

1556.0100
This part states the statutory authority for the rule.

1556.0110
The definitions are necessary to assure that the rule is clearly understood and consistently applied by those who must use it.

1556.0120
These labeling statements are necessary to make it possible for the widest possible variety of producers and processors to use the Minnesota Grown logo.

Subp. 1. The 80% requirement is necessary to assure that the labeling statements are only used on products produced in Minnesota and to allow for a reasonable variation which may be caused by unfavorable growing conditions or other uncontrollable circumstances. The requirements for processed products are also needed to assure that only Minnesota products are being identified with the logo and to give processors the extra flexibility they need in order to make use of the labeling statements.

Subp. 2. This subpart is necessary to clearly state who may use the labeling statements.

Subp. 3. This subpart is necessary to clearly state that retailers and wholesalers may use the labeling statements without a license as stated in Minnesota Statutes, section 17.102.

1556.0130

It is reasonable to have separate labeling statement for wild rice produced and processed in Minnesota because it provides the industry with an additional marketing tool to use to protect its market from outside competition. The labeling statement tells consumers that wild rice is the official state grain of Minnesota and provides the consumer with a method to distinguish Minnesota wild rice from wild rice produced elsewhere.

Subp. 1. The 80% requirement is necessary to assure that the labeling statements are only used on products produced in Minnesota and to allow for a reasonable variation which may be caused by unfavorable growing conditions or other uncontrollable circumstances. The requirements for processed products are also needed to assure that only Minnesota products are being identified with the logo and to give processors the extra flexibility they need in order to make use of the labeling statements.

Subp. 2. This subpart is necessary to clearly state who may use the labeling statements.

Subp. 3. This subpart is necessary to clearly state that retailers and wholesalers may use the labeling statements without a license as stated in Minnesota Statutes, section 17.102.

1556.0140

A "certified organic" labeling statement is necessary to satisfy the requirements stated in Minnesota Statutes, Section 17.102, subd. 1.

Subp. 1. The 80% requirement is necessary to assure that the labeling statements are only used on products produced in Minnesota and to allow for a reasonable variation which may be caused by unfavorable growing conditions or other uncontrollable circumstances. The requirements for procesed products are also needed to assure that only Minnesota products are being identified with the logo and to give processors the extra flexibility they need in order to make use of the labeling statements. It is necessary for producers to be certified by an agency designated by the commissioner in order to maintain constant standards for all producers and to insure the integrity of the labeling statement.

Subp. 2. This subpart is necessary to clearly state who may use the labeling statements.

Subp. 3. This subpart is necessary to clearly state that retailers and wholesalers may use the labeling statements without a license as stated in Minnesota Statutes, section 17.102.

1556.0150

This part states that compliance with these rules does not exempt a labeling statement user from complying with other laws and rules.

1556.0160

The commisisoner's approval is necessary to satisfy requirements stated in Minnesota Statutes, Section 17.102.

1556.0170

This part is necessary to insure that the labeling statements are being used in accordance with these rules.

In the Matter of the Proposed Adoption of the Rule of the Department of Agriculture Governing Minnesota Grown Labeling Statements

AFFIDAVIT OF MAILING THE NOTICE OF INTENT TO ADOPT A RULE WITHOUT A PUBLIC HEARING

STATE OF MINNESOTA)
) ss.
COUNTY OF RAMSEY)

Marie Skerbitz, being sworn, says:

That on the 15th day of March, 1989, at the City of St. Paul, County of Ramsey, State of Minnesota, I mailed the attached Notice of Intent to Adopt a Rule without a Public Hearing by depositing in the State of Minnesota Central Mail System for United States mailing a copy thereof, with postage prepaid, to all persons and associations who have requested, persuant to Minnesota Statutes, sections 14.14, subdivision 1.a. and 14.22 or 14.30, that their names be placed on the Minnesota Department of Agriculture rulemaking mailing list.

Marie Skerbitz
Mail Room Clerk

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

Subscribed and sworn to before me this 15th day of March, 1989.

Diane M. Windham

1505.2130 UNDERGROUND BULK PESTICIDE STORAGE.

Subpart 1. **New underground bulk pesticide storage prohibited.** After July 1, 1989, no new underground bulk pesticide storage is allowed. This prohibition does not apply to catch basins, containment areas, or sediment traps, used for the temporary collection of pesticides from transfer and loading areas under part 1505.2070, or to underground storage, dip, or other tanks used to contain pesticides used in the wood preservatives industry.

Subp. 2. **Existing and exempted underground bulk pesticide storage.** Underground bulk pesticide storage tanks in use as of July 1, 1989, or those tanks exempted from subpart 1 must conform with all applicable statutes and rules enforced by the Minnesota Pollution Control Agency, and must perform and provide to the commissioner upon request a leak certification test for each underground bulk pesticide storage tank.

1505.2140 ABANDONED CONTAINERS.

Subpart 1. **Abandonment.** Storage containers and other containers used at a storage facility to hold bulk pesticide or pesticide rinsate are considered abandoned containers under this part if they have been out of service for more than six months because of a weakness or leak, or have been out of service for any reason for more than one year.

Subp. 2. **Underground containers.** Abandoned underground tanks in place at previously existing facilities must be thoroughly cleaned and removed from the ground.

Subp. 3. **Aboveground containers.** Abandoned aboveground containers must be thoroughly cleaned. All hatches on the containers must be removed and all valves or connections must be removed.

1505.2150 EXEMPTIONS.

Subpart 1. **Mobile containers.** The secondary containment requirements of part 1505.2080 do not apply to rail cars, nurse tanks, other mobile containers, or mini-bulk containers which are located at the bulk pesticide storage facility for less than ten consecutive days incidental to loading bulk pesticide containers.

Subp. 2. **Alternate technology.** The commissioner may exempt any person from a requirement under this part if compliance is not technically feasible, but only if the commissioner finds that the alternative measures provide substantially similar protection to the ground and surface water of the state. A person requesting an exemption shall submit to the commissioner in writing a request for an exemption detailing the alternative measures proposed. The commissioner has 45 days to analyze the facts presented and grant the exemption or advise the person of an unsatisfactory review and detail all changes necessary to achieve compliance.

EFFECTIVE DATE. Parts 1505.2010 to 1505.2150 are effective July 1, 1989.

Department of Agriculture

Proposed Permanent Rules Relating to Minnesota Grown Labeling Statements

Notice of Intent to Adopt a Rule Without a Public Hearing

NOTICE IS HEREBY GIVEN that the Minnesota Department of Agriculture intends to adopt the above-entitled rule without a public hearing, following the procedures set forth in the Administrative Procedures Act for adopting rules without a public hearing in *Minnesota Statutes*, Sections 14.22-14.28. The statutory authority to adopt these amendments is *Minnesota Statutes*, Section 17.102, subd. 6.

All persons have 30 days in which to submit comment in support of or in opposition to the proposed rule or any part or subpart of the rule. Comment is encouraged. Each comment should identify the portion of the proposed rule addressed, the reason for the comment, and any change proposed.

Any person may make a written request for a public hearing on the rule within the 30-day comment period. If 25 or more persons submit a written request for a public hearing within the 30-day comment period, a public hearing will be held unless a sufficient number withdraw their request in writing. Any person requesting a public hearing should state their name and address, and is encouraged to identify the portion of the proposed rule addressed, the reason for the request, and any proposed change. If a public hearing is required, the department will proceed according to *Minnesota Statutes*, Sections 14.131 to 14.20.

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.

Comments or written requests for a public hearing must be submitted to: Carol Milligan, Minnesota Department of Agriculture, 90 West Plato Boulevard, St. Paul, MN 55107, (612) 296-6906.

The proposed rule 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 rule as noticed.

A copy of the proposed rule is attached to this Notice.

A Statement of Need and Reasonableness that describes the need for and reasonableness of each provision of the proposed rule and identifies the data and information relied upon to support the proposed rule has been prepared and is available upon request from Ms. Milligan.

Use of Minnesota Grown labeling statements is voluntary, and therefore, this rule has no impact on small buisness as defined by *Minnesota Statutes*, section 14.115 unless they choose to use a labeling statement.

If no hearing is required, upon adoption of the final rule, the rule and the required supporting documents will be submitted to the Attorney General for review as to legality and form to the extent the form relates to legality. Any person may request notification of the date of submission to the Attorney General. 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 adopted rule must submit a written request to Ms. Milligan.

Dated: 1 March 1989

Jim Nichols, Commissioner
Department of Agriculture

Rules as Proposed (all new material)

1556.0100 AUTHORITY.

This chapter governs licensing and use of the "Minnesota grown" logo and labeling statement and are adopted by the commissioner under Minnesota Statutes, section 17.102.

1556.0110 DEFINITIONS.

Subpart 1. **Scope.** The definitions in this section apply to this chapter.

Subp. 2. **Agricultural products.** "Agricultural products" means livestock or livestock products, dairy products, poultry or poultry products, fish, fruit, vegetables, grains, bees, apiary products, and floral and nursery crops.

Subp. 3. **Commissioner.** "Commissioner" means the commissioner of agriculture or the commissioner's authorized representative.

Subp. 4. **Department.** "Department" means the Department of Agriculture.

Subp. 5. **Improper use.** "Improper use" means unauthorized use of the labeling statement or use of the labeling statement in violation of this chapter.

Subp. 6. **Processor.** "Processor" means an individual, partnership, cooperative association, or corporation that processes raw agricultural products and other food ingredients into food products or commercially slaughters or processess animals or poultry.

Subp. 7. **Produced in Minnesota.** "Produced in Minnesota" means dairy animals, poultry, or other livestock that were fed in Minnesota for at least 60 days prior to milking, processing, or slaughtering or fruits, vegetables, grains, or floral and nursery crops that have been grown in Minnesota.

Subp. 8. **Producer.** "Producer" means an individual, partnership, family farm, family farm corporation, authorized farm corporation, or cooperative association engaged in the production for sale of agricultural products.

Subp. 9. **Retailer.** "Retailer" means an individual, partnership, cooperative association, or corporation that purchases an agricultural product from a producer or wholesaler to sell the agricultural product to a consumer rather than to a person who will resell the product in any form.

Subp. 10. **Wholesaler.** "Wholesaler" means an individual, partnership, cooperative association, corporation, business trust, or unincorporated organization that purchases an agricultural product from a producer or another wholesaler to sell or supply the agricultural product to a retailer, industrial buyer, restaurant, or institution, or to sell it on behalf of one wholesaler to another wholesaler.

1556.0120 "MINNESOTA GROWN" AND "2,000 MILES FRESHER" LABELING STATEMENTS.

Subpart 1. **Eligible products.** The products listed in items A and B are eligible to be packaged with "Minnesota grown" and "2,000 miles fresher" labeling statements.

A. A raw agricultural product may be identified with the labeling statements if no less than 80 percent of the agricultural product was produced in Minnesota.

B. A processed agricultural product may be identified with the labeling statements if no less than 80 percent of the featured product component or at least 60 percent of the total product by weight was produced in Minnesota.

Subp. 2. **Use of the "Minnesota grown" and "2,000 miles fresher" labeling statements.** A producer licensed under part 1556.0160 may use the "Minnesota grown" and "2,000 miles fresher" labeling statements on an eligible agricultural product. A processor licensed under part 1556.0160 may use the "Minnesota grown" and "2,000 miles fresher" labeling statements on an eligible agricultural product if it was processed or manufactured in a plant located partially or completely in Minnesota.

Subp. 3. **Use by retailers and wholesalers.** A retailer or wholesaler may use the "Minnesota grown" and "2,000 miles fresher" labeling statements without a license in order to display and advertise products that qualify for use of those statements.

1556.0130 "WILD RICE STATE GRAIN" LABELING STATEMENTS.

Subpart 1. **Eligible products.** Agricultural products containing wild rice may be identified with the labeling statement if no less than 80 percent of the wild rice contained in the product was produced in Minnesota.

Subp. 2. **Use of the "wild rice state grain" labeling statement.** A producer licensed under part 1556.0160 may use the "wild rice state grain" labeling statement on an eligible agricultural product. A processor licensed under part 1556.0160 may use the "wild rice state grain" labeling statement on an eligible agricultural product if it was processed or manufactured in a plant located partially or completely in Minnesota.

Subp. 3. **Use by retailers and wholesalers.** A retailer or wholesaler may use the "wild rice state grain" labeling statement without a license in order to display and advertise products that qualify for use of the labeling statement.

1556.0140 "CERTIFIED ORGANIC" LABELING STATEMENT.

Subpart 1. **Eligible products.** The products listed in items A and B are eligible to be packaged with the "certified organic" labeling statement. All products that carry the "certified organic" labeling statement must comply with *Minnesota Statutes*, sections 31.92 to 31.94 and parts 1555.0005 to 1555.0012.

A. A raw agricultural product may be identified with the labeling statement if no less than 80 percent of the product was produced in Minnesota on a production unit that has been certified as being organic by an organization designated by the commissioner as a certifying organization. The entire product must comply with *Minnesota Statutes*, sections 31.92 to 31.94 and parts 1555.0005 to 1555.0012.

B. A processed product may be identified with the labeling statement if no less than 80 percent of the featured product component or at least 60 percent of the total product by weight consists of raw agricultural products produced in Minnesota on a production unit that has been certified as being organic by an organization designated by the commissioner as a certifying organization. The entire product must comply with *Minnesota Statutes*, sections 31.92 to 31.94 and parts 1555.0005 to 1555.0012.

Subp. 2. **Application to use the "certified organic" labeling statement.** A producer may apply for a license to use the "certified organic" labeling statement on an eligible agricultural product if the production unit has been certified as being organic by an organization designated by the commissioner as a certifying organization. A processor may apply for a license to use the "certified organic" labeling statement on an eligible agricultural product if it was processed in a plant located partially or completely in Minnesota.

Subp. 3. **Use by retailers and wholesalers.** A retailer or wholesaler may use the "certified organic" labeling statement without a license in order to display and advertise agricultural products that qualify for the use of the labeling statement.

1556.0150 OTHER LAW.

Compliance with this chapter does not exempt a producer, processor, retailer, or wholesaler from complying with other laws and rules relating to agricultural products and the labeling of agricultural products.

1556.0160 LICENSING; AUTHORIZATION.

Subpart 1. **Approval required.** Authorization to use labeling statements covered by this chapter is dependent upon approval of an application for their use by the commissioner, with the exception of retailers and wholesalers, who may use the labeling statements without a license in order to display and advertise products that qualify for use of the labeling statements.

Subp. 2. **Application to use labeling statements.** An application to use labeling statements covered by this chapter must be made

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.

in writing, on a form provided by the department, and must reveal information considered necessary for the enforcement of the Minnesota grown marketing program.

The application form must be accompanied by a fee established in *Minnesota Statutes*, section 17.102. If an applicant is ineligible, the fee must be refunded. A separate application and fee is required for each labeling statement.

Subp. 3. **License to use labeling statements.** An applicant who has an application approved must receive a license valid for one year, beginning January 1. Licensees shall apply for renewal of each license before the expiration date of the current license. The commissioner shall charge a late fee, as established by *Minnesota Statutes*, section 17.102, for renewal of a license that has expired.

1556.0170 ENFORCEMENT.

The commissioner may make use of random or regular investigations or inspections to ensure the proper use of labeling statements covered by this chapter. The commissioner may investigate any use of the labeling statements if there is reason to believe improper use of a labeling statement exists. The person, firm, partnership, corporation, or association applying the labeling statement to a commodity must be able to supply documentation to show that the product being labeled meets eligibility requirements of the labeling program.

Department of Education

Proposed Permanent Rules Relating to Curriculum, Youth Service-Learning, and Youth Service Activities

Notice of Hearing

NOTICE IS HEREBY GIVEN that a public hearing concerning the proposed rules captioned above will be held at Room 716 Capitol Square Building, St. Paul, on April 25, 1989 commencing at 9:00 a.m., and continuing until all interested persons have had an opportunity to be heard. The rule proposed for adoption would require school districts to provide opportunities for Youth Service and Youth Service-Learning for elementary and secondary school students. A copy of the proposed rule is attached hereto.

Following the agency's presentation at the hearing, all interested or affected persons will have an opportunity to ask questions and make statements. Statements may be made orally and written material may be submitted.

The proposed rules may be modified as a result of the hearing process. Therefore, if you are affected in any manner by the proposed rules, you are urged to participate in the rule hearing process.

Whether or not an appearance is made at the hearing, written material may be submitted to the Administrative Law Judge (ALJ),

Howard L. Kaibel, Jr.
Administrative Law Judge
Office of Administrative Hearings
500 Flour Exchange Building
310 Fourth Avenue South
Minneapolis, Minnesota 55415
612-341-7608

either before the hearing or within five working days after the public hearing ends. Those statements will be recorded in the hearing record. The ALJ may, at the hearing, order that the comment period be kept open for a longer period not to exceed 20 calendar days. Comments received during the comment period shall be available for review at the Office of Administrative Hearings. The agency and interested persons may respond in writing within three business days after that comment period ends to any new information submitted. No additional evidence may be submitted during the three-day period. The rule hearing procedure is governed by *Minnesota Statutes*, §§ 14.14-14.20 (1988) and by *Minnesota Rules* parts 1400.0200 to 1400.1200 (1987). Questions about the rule hearing procedure may be directed to the ALJ.

Notice is hereby given that a Statement of Need and Reasonableness is now available for review at the agency and at the Office of Administrative Hearings. This Statement of Need and Reasonableness includes a summary of all the evidence and argument which the agency anticipates presenting at the hearing justifying both the need for and the reasonableness of the proposed rules. Copies of the Statement of Need and Reasonableness may be reviewd at the agency or the Office of Administrative Hearings and copies may be obtained from the Office of Administrative Hearings at the cost of reproduction.

The agency intends to present a summary of the Statement of Need and Reasonableness at the hearing and will answer questions raised by interested persons. You are therefore urged to review the Statement of Need and Reasonableness before the hearing. Additional copies will be available at the hearing.

STATE OF MINNESOTA

DEPARTMENT OF AGRICULTURE

IN THE MATTER OF THE PROPOSED ADOPTION OF THE RULE OF THE MINNESOTA DEPARTMENT OF AGRICULTURE GOVERNING MINNESOTA GROWN LABELING STATEMENTS

FINDINGS OF FACT, CONCLUSIONS AND ORDER ADOPTING RULE WITHOUT PUBLIC HEARING

Notice of the Commissioner's intent to adopt the above-entitled rule was published in the State Register on March 20, 1989, and was sent by United States mail to all persons on the list maintained by the department pursuant to Minnesota Statutes, section 14.14, subd. 1a and 14.22 on March 15, 1989. The Statement of Need and Reasonableness was prepared before the notice of intent to adopt a rule without a public hearing was mailed to all persons on the rulemaking mailing list and published in the State Register and was available to the public.

All persons were given the opportunity to submit comments on the rule for 30 days after notice of proposed rulemaking. No requests for a public hearing on the rule were received by the department.

No requests for notice of submission to the attorney general were received by the department.

The above-captioned rule is needed and reasonable.

NOW, THEREFORE, IT IS ORDERED that the rule identified as the Rule Governing Minnesota Grown Labeling Statements is adopted this 20th day of April 1989, pursuant to authority vested in me by Minnesota Statutes, section 17.102, subd. 6.

STATE OF MINNESOTA

Jim Nichols

JIM NICHOLS
COMMISSIONER OF AGRICULTURE

In the Matter of the Adoption of the
Rule of the Minnesota Department
of Agriculture Governing Minnesota
Grown Labeling Statements

DECLARATION
OF COUNSEL

I, Paul Strandberg, Special Assistant Attorney General, do hereby declare that I have examined the above-captioned rule and the supporting rulemaking record, and that, based on my examination, the Administrative Procedure Act and Minnesota Rules, Chapter 2010 have been followed. Any exceptions are listed below. For Attorney General billing purposes, the four-digit docket client code is 0986.

Paul Strandberg
Special Assistant Attorney General

Date: 4/20/89

In the Matter of the Proposed Adoption
of the Rule of the Department of
Agriculture Governing Minnesota Grown
Labeling Statements

CERTIFICATE OF
MAILING LIST

STATE OF MINNESOTA)
) ss.
COUNTY OF RAMSEY)

Carol Milligan, being sworn, says:

I hereby certify that the list of persons and associations who have requested, pursuant to Minn. Statutes, sections 14.14, subd. 1a, and 14.22 or 14.30, that their names be placed on the Minnesota Department of Agriculture rulemaking mailing list is accurate, complete and current as of this 15th day of March, 1989.

Carol Milligan
Carol Milligan
Management Analyst

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

Subscribed and sworn to before me
this 15th day of March, 1989.

Diane M. Windham

SF-00006-05 (4/86)

DEPARTMENT : OF AGRICULTURE

STATE OF MINNESOTA

Office Memorandum

DATE : April 25, 1989

TO : Rita Desmond
Administration – Finance Division
Office of the Attorney General

FROM : Carol Milligan, Management Analyst
Planning Division

Rec'd 4/26/89

PHONE : 296–6906

SUBJECT : Review of Proposed Rule Governing Minnesota Grown Labeling Statements

The Department of Agriculture adopted the above–mentioned rule pursuant to Minnesota Statutes, sections 14.22–14.28 Enclosed with this memorandum are the documents which are required to be submitted to the Attorney General for review prior to final approval of the rule. A list of the documents is attached for your convenience.

If you have questions, please contact me.

CM:cb

Attachment

cc: Jim Nichols, Commissioner
Herb Halvorson, Assistant Commissioner
Paul Strandberg, Special Assistant Attorney General
Craig Lindeke, Office of Revisor of Statutes
Gerald Heil, Planning Division
Ralph Groschen, Marketing Division
Paul Hugunin, Marketing Division

PLANNING DIVISION
DEPARTMENT OF AGRICULTURE

LIST OF ATTACHED DOCUMENTS

A. Rule as Proposed.

B. Notice of Intent to Adopt a Rule Without Public Hearing.

C. Statement of Need and Reasonableness.

D. Affidavit of Mailing Notice of Intent to Adopt a Rule Without Public Hearing.

E. Certification of Mailing List.

F. State Register Photocopy of Notice of Intent.

G. Rule as Adopted (Original and three copies).

H. Findings of Fact and Conclusions, and Order Adopting.

I. Comments Received.

J. Declaration of Counsel.