

STATE OF MINNESOTA  
DEPARTMENT OF AGRICULTURE

IN THE MATTER OF THE PROPOSED )  
RULE OF THE DEPARTMENT OF )  
AGRICULTURE GOVERNING SELF- )  
SERVICE BEVERAGE DISPENSING INTO )  
MULTI-USE BOTTLES )

STATEMENT OF NEED  
AND REASONABLENESS

I. INTRODUCTION

The subject of this rulemaking is the proposed adoption by the Minnesota Department of Agriculture (MDA) of new rules governing the requirements for self-service beverage dispensing into multi-use bottles. The new rule is proposed for adoption pursuant to Minnesota Statutes, Section 34.09, which requires the MDA to adopt rules covering persons licensed under section 28A.04 who manufacture, sell or dispense soft drinks and other non-alcoholic beverages. 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 new rule is noncontroversial in nature because it is supported by industry and in conformity with federal regulations. Because of the noncontroversial nature of these rules, the Department directed that the rulemaking proceedings be conducted in accordance with the statutory provisions governing the adoption of noncontroversial rules, Minnesota Statutes, Section 14.22 to 14.28. Accordingly, the rulemaking proceedings on the new rule are governed by that statute and no hearing will be conducted on the new rule unless, on or before March 11, 1987, 25 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 notice of proposed adoption of a rule was published by the State Register.

II. GENERAL OVERVIEW

Minnesota Statutes, Section 34.09 was amended by the 1985-86 Legislature to require the Commissioner of Agriculture to promulgate rules governing persons who manufacture, sell or dispense soft drinks and other non-alcoholic beverages establishing minimum standards necessary to protect the public health and interest.

The Department has received a request from a manufacturer of beverage dispensing equipment to sell self-service beverage dispensers to retail markets in Minnesota. Since Minnesota Statute, Section 34.09 requires the Department to establish rules to govern those operations a compromise rule draft acceptable to all parties affected was written to meet the requirements of that Statute.

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

The need for and reasonableness of the proposed new rule governing self-service beverage dispensing into multi-use bottles follows:

Minnesota Rules, part 1550.3100 to 1550.3170.

#### 1550.3100 Applicability

This rule is necessary and reasonable in that it defines the extent of its coverage.

#### 1550.3110 Buildings and Premises

This rule is necessary and reasonable because the Minnesota Consolidated Licensing Statute found in Chapter 28A, Section 28A.04 requires a person who engages as a food handler to first obtain a license. That person must be determined to be fit to engage in any mode of food handling prior to the issuance of that license. Since this equipment dispenses a food product, it must, therefore, be located in an establishment licensed and inspected for food.

#### 1550.3120 Bottles and Bottle Closures

#### 1550.3130 Beverage Dispensing Equipment

These two rules are necessary in that they clearly define the minimum state requirements which a food handler must meet to remain in sanitary compliance in order to protect the public health. These rules clarify the sanitation and label requirements found in Minnesota Food Statutes, Chapter 31, and, therefore, are reasonable. The rules also are in conformity with Federal Regulations which this Department has adopted.

#### 1550.3140 Sign

This rule is necessary and reasonable in that its purpose is to require a business to post a sign with instructions for the sanitary operation of the dispensing equipment.

#### 1550.3150 Bottle Washing

This rule provides the necessary and reasonable minimum requirements for the handling of beverage bottles and defines the use of "sterile containers in packaging beverages for home consumption" as found in Minnesota Statute, Section 34.09. Instructions are necessary to provide the consumer information regarding the proper operation of the bottle washer.

#### 1550.3160 Equipment Sink

All equipment must be maintained in a sanitary condition for it to provide a wholesome food product. This rule, therefore, is necessary and reasonable in that it requires a firm to provide an adequate size sink with hot and cold running water with three compartments for periodic washing, rinsing and sanitizing of equipment.

#### 1550.3170 Customer Hand-wash Sink

It is reasonable and necessary that a food handler which provides self-service beverage equipment to also provide a hand-wash sink where a consumer can wash their hands prior to and following the filling of bottles.

The adoption of these new rules will meet the minimum requirements required by Minnesota Statute, Section 34.09 which requires rules to protect the public health. These rules must include but are not limited to, sanitary practices involving beverage plants, beverage dispensing equipment and the use of sterile containers in packaging beverages for home consumption.

The rules also are in conformity to federal regulations and, therefore, do not pose any barrier to trade between states.

#### IV. SMALL BUSINESS IMPACT OF THE PROPOSED RULE

As prescribed by Minnesota Statutes, Section 14.115, subdivisions 1 and 2, the Department has considered the degree of impact the proposed rule will have on small businesses and the alternative methods for lessening that impact.

The Department has determined there will be no impact on small businesses through the implementation of these rules since a food handler must first purchase the self-service beverage dispensing equipment prior to entering this form of business and the purchase of such equipment is not a direct requirement to be in food handling nor a requirement to be licensed as a food handler.

Also, since the requirements set by these rules are minimum requirements to protect the public health and interest, any alternative method to reduce any impact would be contrary to the objectives set by Minnesota Statute, Section 34.09 which requires rules to be promulgated by the Department to include sanitary practices involving beverage manufacturing plants, beverage dispensing equipment and the use of sterile containers in packaging beverages for home consumption.