

STATE OF MINNESOTA
DEPARTMENT OF AGRICULTURE

THE MATTER OF THE PROPOSED)
RULE OF THE DEPARTMENT OF)
AGRICULTURE GOVERNING RETAIL)
FOOD STORE PLAN REVIEW FEES)
(MINNESOTA RULES PART)
1547.0110, SUBPART 2))

STATEMENT OF NEED
AND REASONABLENESS

I. INTRODUCTION

The subject of this rulemaking is the proposed adoption by the Minnesota Department of Agriculture (MDA) of a subpart to rule governing a fee for the review and approval of plans for new construction, remodeling or conversion of a facility to a retail food store. This subpart is proposed for adoption pursuant to Minnesota Statutes, section 31.11, subdivision 2 which requires the MDA to adopt rules that set this fee.

The department has determined that the proposed rule is noncontroversial in nature because industry has been notified that plans must be reviewed and approved and that such review is costly. Industry does support this subpart of the rule as a part of the uniform retail food store rules statewide. 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, sections 14.21 to 14.28. Accordingly, the rulemaking proceedings on the proposed subpart of the rule are governed by that statute and no hearing will be conducted on the proposed amendment unless twenty-five or more persons submit to the department a written request for such a 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 subpart to the rule was published in the State Register.

II. GENERAL OVERVIEW

The department adopted retail food store rules on July 4, 1988, governing facilities, equipment, food handling and sanitation in retail food stores under parts 1547.0001 to 1547.0112. The rules were adopted with the support of the food industry as being uniform sanitation rules statewide.

Part 1547.0110 states in part that before construction or major remodeling of a retail food store, and when an existing structure is converted to use as a retail food store, properly prepared plans and specifications must be submitted to the Department of Agriculture for review and approval. The plans and specifications must show the proposed layout, arrangement, mechanical plans, construction materials of work areas, and the type and model of proposed fixed equipment and facilities. Minnesota Statutes, section 28A.04 requires all firms operating any food facility to obtain a license prior to doing business. Section 28A.07 states that prior to the issuance of a license, appropriate inspections will be made to determine fitness of the firm to do business. Plan reviews by the department prior to construction of retail food stores aids in the prevention of post construction problems which could delay the licensing of a retail food store.

The department went before the 1989 Legislature with a request to hire a Food Standards Compliance Officer who would have the special ability to read and approve plans, blueprints and facility specifications of retail food stores and to work in close relationship with contractors and industry. Part of our requirement in the hiring of a plan review person was the adoption of this proposed rule. The legislature passed the legislation in 1989 and the person was hired in August.

I. NEED FOR AND REASONABLENESS OF THE PROPOSED RULE

1547.0110 Subpart 2, Plan Review Fee

The 1989 Legislature adopted legislation which gives the department the power to promulgate a rule which would establish a fee to cover cost of the plan review and approval expense. The fee as set in this subpart 2 meets the need for the rule and are reasonable because they are based on the square footage of any new construction and are assessed one time. The review of blueprints and specifications will aid in eliminating deficiencies and improper installations while protecting the public health through compliance to the standards set by the retail food store rules.

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 subpart to the rule will have on small businesses and the alternative methods for lessening that impact.

The department has determined that small food stores will be affected by this rule only if they are preparing for new construction. The fee is based on the square footage of any new construction, new remodeling or the conversion of a facility to a retail food store and the fee is assessed only one time for any one set of plans. Plan review as required helps to eliminate deficiencies and improper installations before any construction and will prevent needless delays and excessive expenses to both the owner and builder.