

STATE OF MINNESOTA
DEPARTMENT OF AGRICULTURE

IN THE MATTER OF THE PROPOSED)	
REPEAL OF THE RULE OF THE)	STATEMENT OF NEED
DEPARTMENT OF AGRICULTURE)	AND REASONABLENESS
GOVERNING FOOD VENDING MACHINES)	
MINNESOTA RULES PARTS 4635.0300)	
TO 4635.1000)	

I. Introduction

The department proposes to repeal Minnesota Rule, parts 4635.0300 - 4635.1000, and replace it with a new rule governing food vending machines. Proposed rule, parts 1550.5000 - 1550.5130 governing food vending machines was submitted to the Attorney General for review and approval on July 20, 1990, but it was subsequently withdrawn on advice by the Attorney General to be resubmitted with the repeal of the current rule. This is being done to assure that there are not conflicting rules in force at the same time. The department intends to proceed in accordance with Minnesota Statutes, Sections 14.21 - 14.28 governing adoption of noncontroversial rules.

Prior to 1971, licenses to operate vending machines were issued jointly by the Departments of Health and Agriculture, and so the current rule was adopted by The Department of Health. With the creation of the Consolidated Food Licensing Law, Minnesota Statutes Chapter 28A, this responsibility was placed solely with the Department of Agriculture. Therefore, in accordance with Minnesota Statute, section 15.039, the rule was also transferred to the department at that time. The Department of Health agrees that the Department of Agriculture has the authority to repeal the current rule. (See attachment A)

In accordance with Minnesota Statutes, section 14.23, this Statement of Need and Reasonableness was completed prior to publication of the proposed repealer in the *State Register*.

II. Need For and Reasonableness of the Proposed Repeal

It is necessary and reasonable to repeal this rule to assure that vending machine licensees are not governed by conflicting rules. This rule was adopted during the early 1960's, and since that time technology and knowledge of food safety standards have changed dramatically. Repeal of the current rule and adoption of a new rule will allow the department to enforce current standards that help assure wholesome food for consumers.

III. Small Business Impact

The proposed repeal would have no impact on small business. The impact of the new proposed rule was covered in the Statement of Need and Reasonableness for that rule.

NT: Health

Attachment A.

DATE: August 2, 1990

TO: Christie Eller, special assistant attorney general
Office of the Attorney General
Administrative Division

FROM: *Michael C. R.*
Sister Mary Madonna Ashton
Commissioner of Agriculture

PHONE: 623-5000

SUBJECT: Adoption and repeal of rules governing inspection and
licensure of vending machines

In 1971, pursuant to Minnesota Statutes, section 28A.09, subdivision 1, paragraph (a), authority to inspect and license vending machines was placed under the jurisdiction of the Commissioner of Agriculture. The Department of Agriculture has solely undertaken this responsibility since 1971.

This responsibility has been reflected in interagency agreements between the Department of Health and the Department of Agriculture since that time. The attached interagency agreement approved in April 1990 confirms this.

In accordance with Minnesota Statutes, section 15.039, subdivision 3, any rulemaking to implement statutory responsibilities was also transferred to the Department of Agriculture.

The authority to adopt and repeal rules about the licensure and inspection of vending machines lies with the Department of Agriculture. I thus have no objection to the Department of Agriculture repealing parts 4635.0100, and 4635.0300 to 4635.1000 in conjunction with the adoption of proposed parts 1550.5000 to 1550.5130.

CC. Jim Nichols, Commissioner of Agriculture
Carol Milligan, Department of Agriculture
Charles Schneider, EFS section, MDH
Dr. Raymond Thron, Environmental Health Division, MDH
Paul Zerby, Office of Attorney General-Health Division
Jane Nelson, EH Division
Kathy Harrington, Office of the Revisor