

2/7/94

STATE OF MINNESOTA
DEPARTMENT OF AGRICULTURE

IN THE MATTER OF THE PROPOSED)	
RULES OF THE DEPARTMENT OF)	
AGRICULTURE GOVERNING POULTRY)	STATEMENT OF NEED
AND EGGS MINNESOTA RULES PART)	AND REASONABLENESS
1520.0100 - 1520.7300, AND, BOTTLED)	
WATER AND WATER VENDING MACHINE)	
RULES 1550.3200, SUBPART 20)	

I. INTRODUCTION

The subject of this rulemaking is the proposed adoption by the Minnesota Department of Agriculture (MDA) of a rule governing poultry and eggs and purified water. These amendments are proposed for adoption pursuant to Minnesota Statutes, section 29.27 for poultry and egg rules and, section 31.11 for bottled water and water vending rules. As provided in Minnesota Statute, section 31.002, when practicable and consistent with state law, rules must conform with those promulgated under federal law.

The Department has determined that the proposed rules are non-controversial in nature because they are supported by the industry as providing statewide uniform poultry and egg standards and requirements for the operation of egg and poultry plants and equipment. The rules will maintain Minnesota's requirements in conformity with the Code of Federal Regulations, (CFR's). A comma was inadvertently omitted between two types of processes in the definition for purified water in the bottled water and water vending machine rules and to eliminate the possibility of confusion this Statement of Need and Reasonableness includes a corrected rule. Because of the non-controversial nature of this rule, the Department directed that the rulemaking proceedings be conducted in accordance with the statutory provisions governing the adoption of non-controversial rules, Minnesota Statutes, section 14.21 - 14.28. Accordingly, the rulemaking proceeding on the proposed rules are governed by that statute and no hearing will be conducted unless twenty-five (25) or more persons submit to the Department a written request for such a hearing.

M.S., sec. 14.11 is not applicable because this rule will not result in the expenditure of public money by local public bodies.

II. GENERAL OVERVIEW

The Minnesota Egg Law under sections 29.21 - 29.28 was amended in 1990 by the Minnesota Legislature. The many changes to the statute necessitates revising the present Poultry and Egg Rules to make them uniform with the law. This has been done by removing unnecessary language, revising temperatures and repealing parts no longer enforced by the Department and yet, keeping the rules uniform with federal regulations.

The bottled water and water vending machine rules were adopted on July 6, 1993. Under part 1550.3200, Definitions, subpart 20, Purified Water, a comma between the process of ion-exchange treatment and the process of reverse osmosis was inadvertently omitted. The addition of the comma will eliminate confusion.

In accordance with those requirements found in Minnesota Statute, section 14.23, this Statement of Need and Reasonableness was prepared and completed prior to the date of the proposed rule being published by the State Register.

III. NEED FOR AND REASONABLENESS OF THE PROPOSED RULE

1520.0100 AUTHORITY; PURPOSE
1520.0200 DEFINITIONS

Part 1520.0100 is being repealed since the Department has the authority by statute to regulate poultry and egg products. Many definitions in part 1520.0200 were also repealed as unnecessary language since the repealed definitions are defined by statute.

The term "Pack Date" is needed because it replaces the non-descriptive term code date in 1520.1900 and is reasonable since it better relates to industry usage and package labeling.

The 1990 amendments to the egg law require substantive changes to some parts of Minnesota Rules parts 1520.0100-1520.7300. However, this also gives the Department an opportunity to update the language in the entire rule and make it easier to read. Amendments to the following parts do not change the requirements or effect of the rule in anyway. They were done only to make the rule easier to read and understand.

1520.0300
1520.0700
1520.0800
1520.0900
1520.1000
1520.1100
1520.1200
1520.1400
1520.1500
1520.1700
1520.1800

1520.0400 EGG STORAGE AND REFRIGERATION

The changes to this part were needed to bring the rule into uniformity with the Minnesota Egg Law, Section 29.23, subd. 2, Equipment, and subd. 3, Egg Temperatures. Some of the language was dropped because it was unnecessary and outdated. The amendments to this part are reasonable because the language is now uniform with the law and understandable.

1520.0500 EGG CLEANING

1520.0600 CANDLING AND GRADING RECORDS

Most of the changes to these parts are being done to update the language of the rules. They do not change or add to the provisions of the rule. Under Part 1550.0500, subpart 4,C, the requirement was changed from five parts per million to two parts per million of iron to make the requirement uniform with federal requirements.

1520.1300 QUALITY STANDARDS

This part was amended to keep the Department uniform with federal regulation. Other changes do not change the requirements of the rule but will update the rule and make it easier to read and understand.

1520.1600 LABELING

There were many changes to the wording needed in this part to make it more understandable to an egg handler. Also, the proper label requirements set by the Federal Fair Label and Packaging Act as well as the special handling statements set by Minnesota Statute are indicated in this part. The requirements are reasonable because they do not require any information that is not now required by the state or federal.

1520.1900 PACKING AND QUALITY ASSURANCE DATE

1520.2000 USE OF WORD FRESH

Just as it is necessary for the egg handler to know what is proper labeling for eggs offered for sale, it is important that the consumer also understands the label. These parts are needed to better explain dating requirements for egg handlers and retailers.

Some egg handlers use the term "Fresh" on their cartons and to limit the use of the term, it was defined and given an expiration date. These parts are reasonable because the language was changed only to better clarify the requirements and provide the necessary information to inform the consumer. The changes will also produce a meaningful standard for the term fresh.

1520.5200 DEFINITIONS

1520.6500 SPECIFIC PROVISIONS FOR PARTICIPATING DEALERS.

The changes to these parts are needed to revise the part numbers listed to denote repeal of Part 1520.7300 which is no longer enforced by the Department because it is regulated by the Board of Animal Health.

1520.2100 to 1520.5100 PROCESSING OF LIQUID AND FROZEN EGGS FOR RESALE

These parts are to be repealed out of the Poultry and Egg Rules since the Department no longer inspects the process of liquid and frozen eggs. The U.S. Department of Agriculture now has jurisdiction over these egg handlers and their establishments.

1520.7300 FEES AND CHARGES

This part is to be repealed because MDA no longer sets or charges fees for participation in the National Poultry Improvement Plan. This portion of coverage is now done by the Board of Animal Health.

1550.3200, Subp. 20 PURIFIED WATER.

A comma between two separate processes was inadvertently left out.

IV. SMALL BUSINESS IMPACT OF THE REPEAL OF THE CURRENT RULE AND ADOPTION OF THE PROPOSED RULES

As prescribed by Minnesota Statute, section 14.115, subd 2, the Department has considered the degree of impact the proposed rules will have on small businesses and the alternative methods for lessening that impact.

The Department has determined that small businesses will be affected by amending the rule relating to the poultry and eggs because the amendments will set new standards of operation needed to bring the rule into uniformity with the Minnesota Egg Law, Chapter 29. The addition of the comma to the bottled water and water vending rules will not affect small business.

The Department has taken the following methods into consideration for reducing the impact on small poultry and egg handlers.

(a) We have taken the possible less stringent compliance into consideration and since most requirements are those found in Minnesota Statute or as part of federal requirements, the amendments are already required by statute. Any other alternative would be contrary to good public health shell egg safety for consumers.

(b) Less stringent deadlines for compliance were also taken into consideration. Again, to not jeopardize the public health of consumers and to maintain uniformity with the statute, the only reduction in compliance action will be undertaken with any required new labeling by allowing a sixty day time period to use up old labels and cartons and to make up new labeling to meet the present rule.


(c) The Egg Law was amended because of a potential foodborne illness from Salmonella enteritidis, a micro organism which passes through the chicken's ovary and oviduct and directly into the shell egg. The amendments for the rule to the statute will reflect the present Egg Law requirements. Other changes to the rule were to simplify the language and to better define the requirements. Most amendments are minimal requirements to produce a wholesome safe egg and any further simplification would destroy uniformity and jeopardize the public health of consumers.

(d) Established performance standards for small businesses in replacement of operational standards would be contrary to statute and would again jeopardize the public health because the amendments are already minimal by statute.

(e) The Egg Law does not provide for exemptions of egg handlers from the requirements of the statute. The rule mirrors the statute and provides uniformity with both the statute and with federal.

The Department will allow any small business the time to bring equipment, facility and labeling into compliance. All egg handlers are already in compliance because the statute was amended in 1990. Poultry and egg handlers were notified of the changes to the Poultry and Egg Rules and were allowed to participate in the rulemaking process. Very few comments were received and those received were favorable to the rule change.

1-18-94
Date


Elton R. Redalen
Commissioner

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