

STATE OF MINNESOTA
DEPARTMENT OF AGRICULTURE

IN THE MATTER OF THE PROPOSED)
AMENDMENTS TO THE RULES OF THE)
DEPARTMENT OF AGRICULTURE GOVERN-) STATEMENT OF NEED
ING THE CANDLING AND GRADING OF) AND REASONABLENESS
EGGS (3 MCAR SS 1.0389 - 1.0400))

This statement of need and reasonableness addresses the proposed amendments and the impact that these amendments will have on small businesses.

A. Change in the Definition of "Dirty".

3 MCAR S 1.0389 G.

Rules 3 MCAR SS 1.0389 - 1.0400, for which this amendment is proposed, were adopted with the purpose of preserving and protecting the public's health by regulating the grading, candling, cleaning, breaking, buying and selling of eggs and egg products. Before the promulgation of the rules in September, 1982, particularly rule 3 MCAR S 1.0389 entitled, "Definitions," the Department lacked clear definitions for its egg rules. The 1982 amendments created the current regulatory definitions stated in 3 MCAR S 1.0389, A through L, except G. (See Attachment A, Section 2(a).)

The Commissioner, having authority to promulgate rules governing the candling and grading of eggs pursuant to Minnesota Statutes Sections 29.23 and 29.27, elected to adopt the federal standards, effective October, 1981, to meet Minnesota's needs. The federal standards must be adopted by Minnesota, because Minnesota is in the position of being a net exporter of eggs. Thus, in order for Minnesota producers to be able to sell their eggs in other states, the eggs must meet quality standards set by the federal agency which is empowered to establish egg standards for interstate commerce. The federal standards were adopted, in whole, in September, 1982, with the exception of the federal definition for "dirty". That definition for "dirty" was inadvertently omitted from the rules as adopted at that time.

The federal definition of "dirty" is necessary to the implementation of a complete set of rules consistent with current federal standards for the candling and grading of eggs. Furthermore, without rules governing the candling and grading of eggs consistent with, or more stringent than the federal regulations, the U. S. Department of Agriculture inspectors will not inspect the eggs of producers desiring to participate in the interstate market. The result of this would be a substantial reduction in the available markets for eggs produced in excess of Minnesota's consumption capacity.

The amendment is reasonable because without it, or a more restrictive definition of "dirty", rules 3 MCAR SS 1.0389 - 1.0400 are useless. The protection and expectations of consumers will not be fully met and the market availability for processors and producers will shrink considerably. The amendment is further reasonable because it is consistent with the statutory objectives outlined in Minnesota Statutes Section 17.03, Subdivisions 1 and 3, which charge the Commissioner of Agriculture with the duty to develop agricultural industries and cooperate with federal agencies in the development

of agricultural resources in Minnesota.

B. Change "Should" to "Must"

3 MCAR S 1.0400.

This proposed amendment is one of style and form designed to bring these rules (3 MCAR SS 1.0389 - 1.0400) in conformance with Minnesota Statutes Section 14.07 et. seq.

C. Small Business Impact of the Proposed Amendment

As prescribed by Laws of Minnesota 1983, chapter 188, section 1, Subdivisions 1 and 2, the Department has considered the degree of impact the proposed amendments will have on small egg processors and producers, and alternative methods for lessening the impact on these small businesses.

The Department has determined that all small processors and producers will be affected, because implementation of the federal definition of "dirty" will result in additional eggs being rejected. Whether the amount of eggs rejected will be significant in terms of income loss is not known at this time.

In considering the alternative methods of enforcement and compliance required under chapter 188, subd. 2, the Department has concluded that these alternatives are either inapplicable or contrary to the objectives sought by 3 MCAR SS 1.0389 - 1.0400. The Department cannot provide for less stringent compliance or simplification of compliance, as called for in subd. 2(a) and

(c), because before USDA will inspect farms and plants wishing to participate in the federal program, Minnesota must have standards equal to, or more stringent than, the federal regulations. By the same rationale, the exemption of small processors and producers is not a viable alternative under 2(e). The alternative methods called for in 2(b) and (d) are inapplicable, and therefore, were not considered.

The egg production industry as a whole has recognized the need for the adoption of the federal standards and is currently in belief that these standards are in effect as a result of the Department's recent amendment 3 MCAR SS 1.0389 - 1.0400, in September of 1982. Though the full extent of income lost as a result of the proposed amendment cannot be gauged, it is clear that in the absence of the market created by adopting the federal standards, the only market available to Minnesota processors and producers would be within the state. With the current level of production, or an increase therein, the Minnesota market would soon become congested, thereby spawning fierce competition among processors and producers. This occurrence would ultimately eliminate many small egg processors and producers. Therefore, upon a careful consideration of the negative and positive effects, the Department has concluded that in the long term small businesses will be benefited by the change proposed.