

8/2/93

1

Department : Agriculture

STATE OF MINNESOTA
Office Memorandum

Date : July 15, 1993

To : Maryanne Hruby, Director
LCRAR

From : Carol Milligan *CM*
Agriculture Planning Division

Phone : 296-6906

Subject : **Rule Governing The Home-Grown Labeling Of Fruit and Raw Vegetables**

As required by Minnesota Statutes, sections 14.131 and 14.23, attached is the Statement of Need and Reasonableness for the above-captioned rule. The Notice of Intent to Adopt and the rule will be published in the *State Register* on 8/2/93.

Attachment

STATE OF MINNESOTA
DEPARTMENT OF AGRICULTURE

IN THE MATTER OF THE PROPOSED)	
RULES OF THE DEPARTMENT OF)	STATEMENT OF NEED
AGRICULTURE GOVERNING HOME)	AND REASONABLENESS
GROWN FRUIT AND RAW VEGETABLES)	
MINNESOTA RULE PART 1550.3050)	

I. INTRODUCTION

The subject of this rulemaking is the proposed adoption by the Minnesota Department of Agriculture (MDA) of a rule governing raw fruit and raw vegetables labeled or advertised as "Home Grown" and offered for sale in Minnesota. This rule is proposed for adoption pursuant to Minnesota Statutes, section 31.11 which authorizes the MDA to promulgate and amend rules for the efficient administration and enforcement of the Minnesota Food Law. As provided in Minnesota Statute, section 31.002, when practicable and consistent with state law, these rules must conform with those promulgated under federal law.

The Department has determined that the proposed rule is non-controversial in nature because it is supported by industry as providing a statewide requirement for raw fruits and raw vegetables using the term "Home Grown" on labels or advertisements to designate the place of origin. This rule will also maintain Minnesota's requirements in conformity with the Code of Federal Regulations, (CFR's). 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 rule is 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.

II. GENERAL OVERVIEW

This proposed rule is a truth in labeling requirement for raw fruit and raw vegetables being offered for sale in Minnesota by persons who use the term "Home Grown" indiscriminately without telling the buyer where the product was actually grown. The Food and Drug Administration does not require place or country of origin, however, any label representation that expresses or implies geographical origin that is false or misleading is a violation of part 101.18(c) of the Code of Federal Regulations. The U.S. Department of Agriculture requires Country of Origin for all imported meat and poultry products.

The MDA has circulated copies of this proposed rule for comments to interested persons through the various food

associations and within the division. The few comments received were favorable.

In accordance with the 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 published by the State Register.

III. NEED FOR AND REASONABLENESS OF THE PROPOSED RULE

1550.3050 HOME GROWN FRUIT AND RAW VEGETABLES

There is a need for this rule to provide truth in labeling and advertisement for raw fruit and raw vegetables where the food handler has used the term "Home Grown" without informing the buyer where the food was grown. This rule is reasonable because the term "Home Grown" is not required by law or regulation on raw fruit or vegetables and therefore is information the seller is using as a sales gimmick. This rule will require the seller to inform the buyer where the raw fruit and raw vegetables have been grown and will correct any misrepresentation when that term is used.


IV. SMALL BUSINESS IMPACT OF THE PROPOSED RULES

As prescribed by Minnesota Statute, section 14.115, subd. 1 and 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 business will be minimally affected by this rule because the term "Home Grown" is not required for a label or in the advertisement of raw fruits and vegetables. Since the term is not required in labeling or advertising it will not affect small business unless used.

There will be an increased cost to any small business which uses the term "Home Grown" since it will trigger the required place of origin both on any labeling or in all advertisements. The requirement for place of origin will provide the buyer truthful information as to where the product was grown. The adoption of the rule provides a uniform requirement statewide and is uniform with existing federal regulation. The rule was reviewed and accepted by food handlers and will provide for truth in labeling.

7-1-93
Date


Elton R. Redalen
Commissioner