



Office Memorandum

DATE: 1/6/09

TO: Kim Gunderson
Legislative Reference Library

FROM: Carol Milligan
Commissioner's Office

PHONE: 651-201-6606

SUBJECT: **Submittal of Statement of Need and Reasonableness**

As required by Minnesota Statutes, sections 14.23, enclosed is the Statement of Need and Reasonableness for amendments to rules governing the Minnesota grown logo. The Notice of Intent to Adopt Rules and the rules will be published in the *State Register* on 1/26/09.

Please feel free to call me if you have any questions.

**MINNESOTA DEPARTMENT OF AGRICULTURE
AGRICULTURE MARKETING SERVICES DIVISION**

STATEMENT OF NEED AND REASONABLENESS

**Proposed Amendments to Rules Governing Minnesota Grown Labeling Statements;
Minnesota Rules 1556.0110, subps. 1 and 7; 1556.0120, subp. 1; 1556.0145, subp. 1;
1556.0160, subps. 1 and 2; and 1556.0165, subps. 1, 2, 3 and 4.**

I. INTRODUCTION:

The subject of this rulemaking is the proposed adoption of amendments to the rules governing the use of the Minnesota grown logo and labeling statement. The purpose of the amendment is to clarify which agricultural products are eligible to use the Minnesota grown logo and to establish a new version of the Minnesota grown logo for Minnesota grown organic products. The statutory authority to adopt this amendment is M.S. 17.102. This statement was made available for public review on January 6, 2009.

II. DESCRIPTION OF CLASSES OF PEOPLE AFFECTED BY THE RULES.

The classes of people affected by the proposed rules are farmers, food processors, retailers and wholesalers who market Minnesota grown agricultural products. There are no costs of the proposed amendments. The classes of people who will benefit from the proposed rules are agricultural commodity groups, agricultural producers, and agriculture related businesses.

III. PROBABLE COST TO THE AGENCY AND EFFECT ON REVENUE.

The rule will not significantly affect revenue. It is expected that the agency will receive approximately \$1,000 in additional licensing fee revenues annually from firewood producers and producers of organic products (50 new licensed producers at \$20 per year).

These amendments do not result in any increased cost to the agency. The agency has authority to conduct on-site inspections to ensure that the logo is being used in accordance with applicable law and rule but in twenty years we have not had to do so. By clarifying the eligible products, these rules actually decrease the likelihood of agency enforcement activities related to misuse of the Minnesota Grown logo. Amended rules authorizing the new Minnesota grown organic logo require producers to be certified organic. Because those inspections are conducted by outside certification organizations in accordance with federal organic legislation, there is no expense to the agency.

IV. DETERMINATION OF A LESS COSTLY OR LESS INTRUSIVE METHOD.

It has been determined that there is no less costly or intrusive method of achieving the purpose of the propose rules.

V. DESCRIPTION OF ALTERNATIVE METHODS.

The department considered no alternative methods.

VI. PROBABLE COST OF COMPLYING.

The proposed rule amendments will not incur costs for farmers who choose to participate in the Minnesota Grown program. The Minnesota Grown program is a voluntary program designed to increase sales for Minnesota agricultural producers.

The proposed rules were submitted to the Department of Finance for consultation on the fiscal impact and benefit of the proposed rule on local units of government. Comments from the Department of Finance are attached.

In accordance with M.S. 14.127 the agency has determined that the cost of complying with the rule will not exceed \$25,000 for a business with less than 50 people or a city with less than 10 full time employees because it does not require any additional record keeping or reporting by businesses licensed to use the Minnesota Grown logo. The original license application and renewal forms are only 1 page each and neither requires supporting documentation that would cause additional expense to the business.

VII. PROBABLE COST OF NOT ADOPTING THE RULE.

There are no costs associated with not adopting the rule.

VIII. DIFFERENCES BETWEEN FEDERAL AND STATE REGULATIONS.

There are no federal rules related to the Minnesota Grown logo. The amended rules related to the Minnesota grown organic logo require licensed producers to comply with federal organic standards.

IX. PERFORMANCE BASED REGULATORY SYSTEMS

In developing the rules, the department considered and implemented the legislative policy supporting performance-based regulatory systems by consulting with a private industry advisory committee to ensure that the rule changes would increase the effectiveness of the agency's program and not impose any undue cost on either the regulated industry or the agency.

X. EFFORTS TO PROVIDE NOTICE TO PERSONS TO BE AFFECTED BY THE RULE.

The rules and notice of intent to adopt these rules without a public hearing will be sent to the following agricultural commodity groups who will be asked to share the rule with their membership:

Central Minnesota Vegetable Growers Association
Minnesota Apple Growers Association
Minnesota Association of Meat Processors
Minnesota Buffalo Association
Minnesota Christmas Tree Association
Minnesota Elk Breeders Association
Minnesota Fruit and Vegetable Growers Association
Minnesota Grape Growers Association
Minnesota Honey Producers Association
Minnesota Lamb and Wool Producers Association
Minnesota Nursery and Landscape Association
St. Paul Growers Association

The rule will also be provided to the Minnesota Department of Agriculture's Organic Advisory Task Force.

XI. NEED FOR AND REASONABLENESS FOR THE PROPOSED RULE:

1556.0110, subp.2

This rule is necessary to ensure that firewood and Christmas tree wreaths are included in the list of eligible products for use of the Minnesota grown logo and because our industry advisory committee tells us that the word "greenhouse" is more accurate and less confusing than the word "floral" that it is replacing. These producers are currently being granted licenses to use the Minnesota grown logo but to eliminate questions the definitions found in the rules should be more precise. The rule is reasonable because products such as wreaths and firewood are made from plants grown and harvested in Minnesota.

1556.0110, subp. 7.

This rule is necessary because trees, shrubs, greenhouse crops and perennials have growing cycles that are different than most agricultural crops. The more specific definitions will make it easier for producers to understand and easier for regulators to enforce. The rule is reasonable because it does not require any additional reporting requirements for the affected producers.

1556.0120, subp.1

This rule is necessary to ensure that firewood being labeled with the Minnesota grown logo does not include any firewood harvested in another state. The 100% requirement is necessary because firewood from other states can become a carrier of pests such as the Emerald Ash Borer that could pose a substantial threat to Minnesota's trees. The rule is reasonable because it does not require any additional reporting requirements for the affected producers.

1556.0145, subp.1

This rule is necessary to ensure that firewood being labeled with the Minnesota grown logo does not include any firewood harvested in another state. The 100% requirement is necessary because firewood from other states can become a carrier of pests such as the Emerald Ash Borer that could pose a substantial threat to Minnesota's trees. The rule is reasonable because it does not require any additional reporting requirements for the affected producers.

1556.0160, subp. 1.

This rule is necessary in order to keep wording of this rule consistent with other agency rules requiring approval by the commissioner. The rule is reasonable because it does not require any additional reporting requirements for the affected producers.

1556.0160, subp. 2.

This rule is necessary to ensure that the Minnesota grown organic label will only be used by producers who are in compliance with federal laws governing use of the term "organic". The rule is reasonable because affected producers are only required to submit a copy or other evidence of current organic certification.

1552.0165, subp. 1.

This rule is necessary because it clearly defines what products are eligible to use the new Minnesota grown organic logo and because the use of the term "organic" requires compliance with federal organic standards. The rule is reasonable because it does not impose any requirements on affected producers beyond what the federal organic standards already require.

1552.0165, subp. 2.

This rule is necessary to ensure a clear understanding of which producers and processors are allowed to use the new Minnesota grown organic logo. The rule is reasonable because it is consistent with existing rules for the other versions of the Minnesota grown labeling statements.

1552.0165, subp. 3.

This rule is necessary in order to remain in compliance with state statutes requiring that the Minnesota grown logo is available for use by retailers and wholesalers without obtaining a license. The rule is reasonable because it is consistent with existing rules for the other versions of the Minnesota grown labeling statements.

1552.0165, subp. 4.

This rule is necessary to ensure a clear understanding of how affected producers, processors, retailers and wholesalers may use the logo. The rule is reasonable because it is consistent with existing rules for the other versions of the Minnesota grown labeling statements and because it gives affected entities the maximum amount of flexibility in adapting the labeling statement for use within their marketing plans and existing packaging.

ALTERNATIVE FORMAT: Upon request, this Statement can be made available in an alternative format, such as large print, Braille, or cassette tape. To make a request, contact Carol Milligan at Minnesota Department of Agriculture, 625 Robert Street North, St. Paul, MN 55155, 651/201-6606, and fax: 651/297-5522. TDD users may call the Department of Agriculture at 800/627-3529.



Office Memorandum

Date: December 18, 2008

To: Carol Milligan, Rulemaking Coordinator,
Minnesota Department of Agriculture

From: Kara Arzamendia, Executive Budget Officer

Subject: M.S. 17.102 Review of Proposed Rules 1556 Governing Minnesota Grown Labeling.

BACKGROUND

The Minnesota Department of Agriculture (MDA) proposes Minnesota Rules, 1556, Governing Minnesota Grown Labeling Statements. Pursuant to M.S. 17.102, the Department has asked the Commissioner of Minnesota Management & Budget (MMB) to help evaluate the fiscal impact and fiscal benefit of the proposed rule on local units of government.

EVALUATION

On behalf of the Commissioner of MMB, I reviewed the proposed rules and related Statement of Need and Reasonableness (SONAR). My evaluation is summarized below:

1. The amendment clarifies which agricultural products are eligible to use the Minnesota grown logo and to establish a new version of the logo for Minnesota grown organic products. Specifically, this rule ensures that firewood being labeled with the Minnesota grown logo does not include any firewood harvested in another state.
2. According to MDA, the rule change will not significantly affect revenue. It is estimated that MDA will receive \$1,000 in licensing fee revenues as a result of these changes.
3. Amended rules authorize that the new Minnesota grown organic logo require producers to be certified organic. Because this inspection for certification is done outside of MDA according to federal organic legislation, there is no expense to the agency.
4. In accordance with M.S. 14.127, MDA has determined that the cost of complying with the rule will not exceed \$25,000 for a business with less than 50 people or a city with less than 10 FTEs because it does not require any additional record keeping or reporting by businesses licensed to use the Minnesota Grown Logo.
5. The rules and notice of intent to adopt these rules will be sent to agricultural commodity groups and provided to the Minnesota Department of Agriculture's Organic Advisory Task Force.

Based on this information, I believe the proposed rule will have no apparent fiscal impact on local units of government.