

CHAPTER 1556

DEPARTMENT OF AGRICULTURE

MINNESOTA GROWN LABELING STATEMENTS

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1556.0100 AUTHORITY.

This chapter governs licensing and use of the "Minnesota grown" logo and labeling statement and are adopted by the commissioner under Minnesota Statutes, section 17.102.

Statutory Authority: *MS s 17.102 subd 6*

History: *13 SR 2896*

1556.0110 DEFINITIONS.

Subpart 1. **Scope.** The definitions in this section apply to this chapter.

Subp. 2. **Agricultural products.** "Agricultural products" means livestock or livestock products, dairy products, poultry or poultry products, fish, fruit, vegetables, grains, bees, apiary products, and floral and nursery crops.

Subp. 3. **Commissioner.** "Commissioner" means the commissioner of agriculture or the commissioner's authorized representative.

Subp. 4. **Department.** "Department" means the Department of Agriculture.

Subp. 5. **Improper use.** "Improper use" means unauthorized use of the labeling statement or use of the labeling statement in violation of this chapter.

Subp. 6. **Processor.** "Processor" means an individual, partnership, cooperative association, or corporation that processes raw agricultural products and other food ingredients into food products or commercially slaughters or processes animals or poultry.

Subp. 7. **Produced in Minnesota.** "Produced in Minnesota" means dairy animals, poultry, or other livestock that were fed in Minnesota for at least 60 days prior to milking, processing, or slaughtering or fruits, vegetables, grains, or floral and nursery crops that have been grown in Minnesota.

Subp. 8. **Producer.** "Producer" means an individual, partnership, family farm, family farm corporation, authorized farm corporation, or cooperative association engaged in the production for sale of agricultural products.

Subp. 9. **Retailer.** "Retailer" means an individual, partnership, cooperative association, or corporation that purchases an agricultural product from a producer or wholesaler to sell the agricultural product to a consumer rather than to a person who will resell the product in any form.

Subp. 10. **Wholesaler.** "Wholesaler" means an individual, partnership, cooperative association, corporation, business trust, or unincorporated organization that purchases an agricultural product from a producer or another wholesaler to sell or supply the agricultural product to a retailer, industrial buyer, restaurant, or institution, or to sell it on behalf of one wholesaler to another wholesaler.

Statutory Authority: *MS s 17.102 subd 6*

History: *13 SR 2896*

1556.0120 “MINNESOTA GROWN” AND “2,000 MILES FRESHER” LABELING STATEMENTS.

Subpart 1. Eligible products. The products listed in items A and B are eligible to be packaged with “Minnesota grown” and “2,000 miles fresher” labeling statements.

A. A raw agricultural product may be identified with the labeling statements if no less than 80 percent of the agricultural product was produced in Minnesota.

B. A processed agricultural product may be identified with the labeling statements if no less than 80 percent of the featured product component or at least 60 percent of the total product by weight was produced in Minnesota.

Subp. 2. Use of the “Minnesota grown” and “2,000 miles fresher” labeling statements. A producer licensed under part 1556.0160 may use the “Minnesota grown” and “2,000 miles fresher” labeling statements on an eligible agricultural product. A processor licensed under part 1556.0160 may use the “Minnesota grown” and “2,000 miles fresher” labeling statements on an eligible agricultural product if it was processed or manufactured in a plant located partially or completely in Minnesota.

Subp. 3. Use by retailers and wholesalers. A retailer or wholesaler may use the “Minnesota grown” and “2,000 miles fresher” labeling statements without a license in order to display and advertise products that qualify for use of those statements.

Statutory Authority: *MS s 17.102 subd 6*

History: *13 SR 2896*

1556.0130 “WILD RICE STATE GRAIN” LABELING STATEMENTS.

Subpart 1. Eligible products. Agricultural products containing wild rice may be identified with the labeling statement if no less than 80 percent of the wild rice contained in the product was produced in Minnesota.

Subp. 2. Use of the “wild rice state grain” labeling statement. A producer licensed under part 1556.0160 may use the “wild rice state grain” labeling statement on an eligible agricultural product. A processor licensed under part 1556.0160 may use the “wild rice state grain” labeling statement on an eligible agricultural product if it was processed or manufactured in a plant located partially or completely in Minnesota.

Subp. 3. Use by retailers and wholesalers. A retailer or wholesaler may use the “wild rice state grain” labeling statement without a license in order to display and advertise products that qualify for use of the labeling statement.

Statutory Authority: *MS s 17.102 subd 6*

History: *13 SR 2896*

1556.0140 “CERTIFIED ORGANIC” LABELING STATEMENT.

Subpart 1. Eligible products. The products listed in items A and B are eligible to be packaged with the “certified organic” labeling statement. All products that carry the “certified organic” labeling statement must comply with Minnesota Statutes, sections 31.92 to 31.94 and parts 1555.0005 to 1555.0012.

A. A raw agricultural product may be identified with the labeling statement if no less than 80 percent of the product was produced in Minnesota on a production unit that has been certified as being organic by an organization designated by the commissioner as a certifying organization. The entire product must comply with Minnesota Statutes, sections 31.92 to 31.94 and parts 1555.0005 to 1555.0012.

B. A processed product may be identified with the labeling statement if no less than 80 percent of the featured product component or at least 60 percent of the total product by weight consists of raw agricultural products produced in Minnesota on a production unit that has been certified as being organic by an organization designated by the commissioner as a certifying organization. The entire product must comply with Minnesota Statutes, sections 31.92 to 31.94 and parts 1555.0005 to 1555.0012.

Subp. 2. **Application to use the "certified organic" labeling statement.** A producer may apply for a license to use the "certified organic" labeling statement on an eligible agricultural product if the production unit has been certified as being organic by an organization designated by the commissioner as a certifying organization. A processor may apply for a license to use the "certified organic" labeling statement on an eligible agricultural product if it was processed in a plant located partially or completely in Minnesota.

Subp. 3. **Use by retailers and wholesalers.** A retailer or wholesaler may use the "certified organic" labeling statement without a license in order to display and advertise agricultural products that qualify for the use of the labeling statement.

Statutory Authority: *MS s 17.102 subd 6*

History: *13 SR 2896*

1556.0150 OTHER LAW.

Compliance with this chapter does not exempt a producer, processor, retailer, or wholesaler from complying with other laws and rules relating to agricultural products and the labeling of agricultural products.

Statutory Authority: *MS s 17.102 subd 6*

History: *13 SR 2896*

1556.0160 LICENSING; AUTHORIZATION.

Subpart 1. **Approval required.** Authorization to use labeling statements covered by this chapter is dependent upon approval of an application for their use by the commissioner, with the exception of retailers and wholesalers, who may use the labeling statements without a license in order to display and advertise products that qualify for use of the labeling statements.

Subp. 2. **Application to use labeling statements.** An application to use labeling statements covered by this chapter must be made in writing, on a form provided by the department, and must reveal information considered necessary for the enforcement of the Minnesota grown marketing program.

The application form must be accompanied by a fee established in Minnesota Statutes, section 17.102. If an applicant is ineligible, the fee must be refunded. A separate application and fee is required for each labeling statement.

Subp. 3. **License to use labeling statements.** An applicant who has an application approved must receive a license valid for one year, beginning January 1. Licensees shall apply for renewal of each license before the expiration date of the current license. The commissioner shall charge a late fee, as established by Minnesota Statutes, section 17.102, for renewal of a license that has expired.

Statutory Authority: *MS s 17.102 subd 6*

History: *13 SR 2896*

1556.0170 ENFORCEMENT.

The commissioner may make use of random or regular investigations or inspections to ensure the proper use of labeling statements covered by this chapter. The commissioner may investigate any use of the labeling statements if there is reason to believe improper use of a labeling statement exists. The person, firm, partnership, corporation, or association applying the labeling statement to a com-

modity must be able to supply documentation to show that the product being labeled meets eligibility requirements of the labeling program.

Statutory Authority: *MS s 17.102 subd 6*

History: *13 SR 2896*

ORGANIC CERTIFICATION

1556.0200 PURPOSE.

Parts 1556.0200 to 1556.0227 are authorized by Minnesota Statutes, section 31.95, subdivision 4. The purpose of parts 1556.0200 to 1556.0227 is to provide a framework for verifying that a product is produced, processed, and distributed in compliance with established Minnesota organic standards, through a process that includes on-site inspection, record keeping, laboratory testing, and an audit trail.

Statutory Authority: *MS s 31.95*

History: *15 SR 11*

1556.0205 DEFINITIONS.

Subpart 1. Scope. The definitions in this part apply to parts 1556.0200 to 1556.0227.

Subp. 2. Audit trail. "Audit trail" means an unbroken chain of documentation that traces the growing, harvesting, handling, and processing history of a product from seed to sale.

Subp. 3. Certification. "Certification" means the process by which a certification organization verifies that a producer, processor, or handler meets Minnesota organic food law requirements under Minnesota Statutes, sections 31.92 to 31.94, and parts 1555.0005 to 1555.0012. Compliance must be determined through the use of questionnaires, affidavits, on-site inspections, laboratory tests, record audits, and other procedures.

Subp. 4. Certification committee. "Certification committee" means a panel or body consisting of at least three persons appointed by the designated certification organization to review applications for organic certification, oversee the site inspection process, supervise and manage records review and audit trail activities, and grant or reject certification status to applicants. At least one member of the committee must be knowledgeable about the product or facility that is to be inspected and certified.

Subp. 5. Certified organic. "Certified organic" means a label statement that indicates that a producer, product, or handler meets the requirements of Minnesota Statutes, sections 31.93 and 31.94, and parts 1555.0005 to 1555.0012, and that a designated certification organization or another certification program approved by the commissioner has verified compliance with those standards.

The term "certified" and any derivative of the term "certified" may only be used on a product whose organic production and handling history has been verified by a designated certification organization or by another certifying organization approved by the commissioner that certifies organic products.

Subp. 6. Department. "Department" means the Department of Agriculture.

Subp. 7. Designated certification organization. "Designated certification organization" means an organization made up of organic food growers, manufacturers, or sellers that has applied to the commissioner of agriculture and been appointed by the commissioner as an official certifying organization.

Subp. 8. Enterprise. "Enterprise" means the business and physical facilities of an applicant that are used to produce, process, or handle certified organic products.

Subp. 9. On-site inspection. "On-site inspection" means the process whereby a certification inspector visits and inspects the soil, growing conditions, records,

and facilities on an applicant's farm, ranch, or property, whether rented or owned by the applicant.

Subp. 10. **Producer.** "Producer" means a person who is responsible for growing or raising organic food.

Subp. 11. **Handler.** "Handler" means a person who sells, transports, stores, purchases, processes, packages, or in any other way handles organically produced agricultural products.

Statutory Authority: *MS s 31.95*

History: *15 SR 11*

1556.0207 CERTIFICATION PROCEDURE.

A certification applicant must apply for organic certification for a product or facility on forms provided by the department and available through a designated certification organization. The certification process must be completed no later than 60 days after the producer or handler has been contacted by the designated certification organization to initiate the certification process. If the certification committee determines that an applicant is ineligible for certification, a certified letter stating reasons for ineligibility must be sent to the applicant within ten days of the determination. This decision may be appealed under part 1556.0217.

Certification for producers and handlers must be renewed annually.

Statutory Authority: *MS s 31.95*

History: *15 SR 11*

1556.0209 CERTIFICATION REQUIREMENTS.

Subpart 1. **Separation of product.** A producer or handler of both organic and nonorganic products on the same farm, ranch, or property shall demonstrate the ability to keep the products separate.

Subp. 2. **Farm certification documentation.** If possible, the certification committee shall certify whole farms. However, individual fields or parts of fields may be certified. Documentation for whole farm or field certification must be in the form of a detailed field history for a minimum of each of the previous three years. The field history for each field must include:

A. field identification, whether owned or leased, size, and crop currently being produced in that field;

B. crop and spray plan for an applicant's nonorganic fields that are adjacent to organic fields;

C. specific crops planted in each field for each of the previous three years;

D. soil building activities used on each organic field;

E. amount and source of fertilization materials used on each organic field;

F. methods of weed control;

G. pest control problems in the field, during transportation and in storage or processing facilities and what actions were taken to solve the problem; and

H. how crops are harvested, transported, stored, dried, and protected from insects, contamination, and deterioration.

Subp. 3. **On-site inspection.** On-site inspections are required and include physical inspection of the enterprise. The enterprise's records must be reviewed at this time. If necessary, laboratory tests must be ordered. If a second on-site inspection becomes necessary, it must be done at the producer's or handler's expense.

The applicant shall sign an affidavit in the presence of a notary or two wit-

nesses attesting to the fact that all of the information supplied to the certification inspector is true and correct at the time of the on-site inspection. The certification committee shall inform the applicant in writing within 60 days of the on-site inspection whether certification status is granted. If status as a certified enterprise is denied, the certification committee shall provide written reasons for the denial by certified letter. This decision may be appealed in accordance with part 1556.0217.

Subp. 4. Record keeping. In order to establish an audit trail, record keeping requirements include:

A. field-by-field fertilization, cropping, and pest management histories; lot, bin, or shipment numbers and dates; and an indication of field of origin if a crop is produced on more than one field and, if both organic and nonorganic methods are used to produce, process, or manufacture the same product, records demonstrating that there has been no possibility of commingling of the products;

B. if both certified organic and noncertified products are produced by an applicant, records demonstrating that no commingling has occurred during harvest, storage, processing, transportation, packaging, or sale;

C. for livestock, records of all feed rations, including supplements, and their sources. Sources of young stock, if purchased off-farm, breeding, medication, and veterinary care history must be recorded. Any livestock to which necessary medications have been administered must be segregated or otherwise clearly identified. This also applies to animal products produced by or from that stock. There must be no possibility of interchange between certified organic and noncertified organic or conventional livestock products on a farm or in a processing or manufacturing facility; and

D. records of all laboratory analyses performed, including soil tests, plant tissue tests, bacteria counts, and residue tests for toxic contaminants in soil, water, crops, livestock products, or manufactured goods.

Handler's records must be held for three years and include purchase orders, invoices, and inventory, shipping, and processing records. Applicants must provide the designated certification organization with updates and changes in their crop management practices during the time that certification is in effect.

Statutory Authority: *MS s 31.95*

History: *15 SR 11*

1556.0211 CERTIFICATION INSPECTORS.

All certification inspectors must be impartial and independent, and must meet the following requirements:

A. The inspector may not be a party to a transaction involving the sale or distribution of products of the applicant being inspected.

B. The inspector may not be an employee of, or have any direct financial interest in, a company that is a party to a transaction involving the products of the applicant being inspected.

C. Advice provided by the inspector is limited to helping the applicant meet Minnesota certification standards and improving organic production techniques. Private consultation with the inspected applicant for an additional fee at any time within the certification year constitutes grounds not only for dismissing the inspector, but for revoking the applicant's right to certification.

D. The inspector may not have worked for the applicant being inspected in any capacity in the year before the inspection and may not work for the applicant in the two years following the inspection.

Statutory Authority: *MS s 31.95*

History: *15 SR 11*

1556.0213 TRAINING OF CERTIFICATION INSPECTORS.

Certification inspectors must receive training in organic certification procedures and other related issues from a training course approved by the designated certification organization and the department. Certification inspectors are also required to pass a test approved by the designated certification organization and the department to become an approved certification inspector.

Statutory Authority: *MS s 31.95*

History: *15 SR 11*

1556.0215 DECERTIFICATION.

Certification must be revoked for a violation of Minnesota Statutes, sections 31.92 to 31.94, parts 1555.0005 to 1555.0012, or parts 1556.0200 to 1556.0227. The certified producer or handler must be notified by registered mail of the decision and the specific reasons for the revocation. The decision may be appealed in accordance with part 1556.0217.

The department must be notified in writing by the designated certification organization of all certifications and decertifications by the first of each month.

Statutory Authority: *MS s 31.95*

History: *15 SR 11*

1556.0217 COMPLAINTS AND APPEALS.

Complaints should be directed to the office of the designated certification organization and the organization must be given 30 days to respond to the complaint.

If an applicant wishes to contest a determination made by the designated certification organization, a letter of appeal must be filed with the certification committee within ten business days of the contested determination.

The burden of proof of injustice rests with the applicant filing the appeal. Requests and notices of appeal must be made in writing and accompanied by supporting documentation. The certification committee has 30 days to make findings on the contested issue. If the applicant filing the appeal feels that undue financial harm will occur due to the length of time taken by the appeal process, the applicant may request an expedited hearing. The certification committee has 15 days to respond to the complaint with a written decision and the reasons for it.

If the applicant objects to the certification committee's decision, the applicant may appeal the decision to the Department of Agriculture. The department has 30 days to concur or overturn the certification committee's decision. The department's decision may be appealed under the Minnesota Administrative Procedure Act.

Statutory Authority: *MS s 31.95*

History: *15 SR 11*

1556.0221 DATA PRIVACY.

In submitting data required by parts 1556.0200 to 1556.0227, the applicant may:

A. clearly mark any portions that, in the applicant's opinion, are trade secrets, commercial, or financial information; and

B. submit the marked material separately from other material.

Statutory Authority: *MS s 31.95*

History: *15 SR 11*

1556.0223 FAIR LABOR PRACTICES.

An operator of a certified organic enterprise shall comply with applicable

federal, state, and local laws concerning minimum wages or other compensation, workers' compensation insurance, working conditions, sanitary facilities, rest periods, safety conditions, housing, and arbitration.

Statutory Authority: *MS s 31.95*

History: *15 SR 11*

1556.0225 FAIR TRADE PRACTICES.

Fair trade practices require that a certified organic enterprise may not:

- A. pass off goods or services as those of another;
- B. cause the likelihood of confusion or of misunderstanding as to the source, sponsorship, approval, or certification of goods or services;
- C. cause the likelihood of confusion or of misunderstanding as to affiliation, connection, or association with, or certification by another;
- D. use deceptive representations or designations of geographic origin in connection with goods or services;
- E. represent that goods or services have sponsorship, approval, characteristics, ingredients, uses, benefits, or quantities that they do not have or that a person has a sponsorship, approval, status, affiliation, or connection that the person does not have;
- F. represent that goods or services are of a particular standard, quality, or grade if they are of another; and
- G. disparage the goods, services, or business of another by false or misleading representation of fact.

Statutory Authority: *MS s 31.95*

History: *15 SR 11*

1556.0227 LABELING.

A product that is labeled certified organic or with any derivative of that term must meet organic standards contained in parts 1555.0005 to 1555.0012. If a product is labeled "certified organic" or with any derivative of that term, the name of the certifying person or organization must be stated on the label.

A handler of certified organic products shall maintain records that allow the product to be traced to its origin and show proof of compliance with the standards indicated on the product's label.

Statutory Authority: *MS s 31.95*

History: *15 SR 11*