

Minnesota Attorney General: Administrative Rules Proceedings

Copyright Notice:

This material may be protected by copyright law (U.S. Code, Title 17). Researchers are liable for any infringement. For more information, visit www.mnhs.org/copyright.

Version 3
August 20, 2018

Our File No. 9971

RULE REVIEW CHECKLIST

DATE RULE RECEIVED Jan 3, 1984
DATE FOR REVIEW Jan 12, 1984
DATE DUE Jan 17, 1984

Adopted w/a hearing _____
Adopted w/o hearing ✓
Temporary rule _____

Approved 1-17-84 mjc Disapproved _____ Returned to Agency _____

Resubmitted _____ Due _____
Approved _____ Disapproved _____ Returned to Agency _____

Date filed w/Secretary of State _____ Revisor approved 1/5/84 disapproved _____

✓ Rule as Adopted

✓ Rule as Proposed

✓ Order Adopting 12.28.83 Date

N/A Notice of Intent to Solicit Outside Opinion

✓ Order for rulemaking
N/A date of Hearing

N/A Certificate of Board's Authorizing Resolution

✓ Notice of rulemaking
✓ Sufficiency includes brief "small biz" statement

✓ Affidavit of Mailing Notice or rulemaking
11.10.83 At least 30 days prior to ~~hearing~~/adoption

✓ Mailing list Certificate

✓ Publication in State Register
11.14.83 At least 30/~~20~~ days prior to ~~hearing~~/adoption

N/A Hearing Examiner's Report

Chief Hearing Examiner's Report(s)
_____ Approving H.E.'s Report
_____ Approving agency action

Agency's Findings of Fact

LCRAR Report or agency Affidavit

Certificate of Board's Resolution Adopting Rules

✓ Order Approving Incorporation by Reference

✓ Statement of Need and Reasonableness

N/A Petition for Adoption of a Rule

✓ Record (includes transcript or tape, exhibits, comments received by agency, requests for a hearing, and other relevant materials)

✓ Certificate of Compliance w/Rulemaking Procedures

N/A Affidavit of Mailing Notice of Submission to Attorney General

✓ Notice of Submission to the Attorney General

SF-00006-02

STATE OF MINNESOTA

Office Memorandum

DEPARTMENT OF AGRICULTURE

RECEIVED
JAN 3 1984
ATTORNEY GENERAL
ADMINISTRATIVE AGENCIES

TO : Judith Wehrwein
Administration - Finance Division
Office of the Attorney General

DATE: 12/30/83

FROM : Gerald Heil, Director
Planning Division

PHONE: 296-1486

SUBJECT: Review of Rule Governing Dairy Inspection Fees
Adopted Without a Public Hearing (3 MCAR S 1.1160)

The Department of Agriculture adopted the above-mentioned rule without a public hearing pursuant to Minnesota Statutes sections 14.21-14.28 (1982).

Attached to this memorandum are the documents required to be submitted to the Attorney General for review. A list of the documents is attached for your convenience.

The Department fulfilled the requirements of Laws of Minnesota 1983, chapter 188, subdivision 4, by informing small businesses of the expected impact of the rule. Such information was given in the "Notice of Intent to Adopt Rule Without Public Hearing." The requirements of subdivision 2 are dealt with in the Statement of Need and Reasonableness.

The Department did not publish a Notice to Solicit Outside Opinion. No written comments on the proposed rule were received during the thirty day comment period following the publication of the Rule as Proposed in the State Register, nor were any requests for a public hearing on the proposed rule received during this period. Since no person requested to be notified when these documents were submitted to the Office of the Attorney General, no Notice of Submission nor Affidavit of Mailing such Notice are part of this record. The Rule as Adopted does not differ from the Rule as Proposed; no changes were made.

It is my understanding that your office will submit one copy of this Rule as Adopted to the Revisor of Statutes for approval as to form in accordance with Laws of Minnesota 1983, chapter 210, section 2.

If you have any questions, please call me.

GH:dw

Attachment

cc: Craig Lindeke, Office of Revisor of Statutes
Rollin Dennistoun, Ph.D., Deputy Commissioner
Darryl L. Anderson, Assistant Commissioner
Jon Murphy, Special Assistant Attorney General
William Coleman, Director, Dairy Industries Division
Joe Komro, Director, Accounting Division

DEPARTMENT OF AGRICULTURE
PLANNING DIVISION

DAIRY INSPECTION FEES RULE (3 MCAR S 1.1160)

LIST OF ATTACHED DOCUMENTS

A. Rules as Adopted (original and three copies).

B. Order Adopting Rule (two copies).

C. Order for Notice of Intent to Adopt Rule Without Public Hearing (one copy).

D. Notice of Intent to Adopt Rule Without Public Hearing (one copy).

E. Affidavit of Mailing (one copy).

F. Mailing List Certificate (one copy).

G. Rule as Proposed (one copy).

H. Statement of Need and Reasonableness (one copy).

I. Certificate of Compliance (one copy).

SF-00006-02

STATE OF MINNESOTA

DEPARTMENT ATTORNEY GENERAL

Office Memorandum

TO : Jim Nichols, Commissioner of Agriculture DATE: 1/17/84

Attn: JON K. MURPHY, Special Assistant Attorney General

FROM : MARTHA J. CASSERLY PHONE: 296-4692
Special Assistant
Attorney General

SUBJECT: In the Matter of the Proposed Rule of the Department of Agriculture Governing Dairy Inspection Fees (3 MCAR, Sect. 1.1160)

Enclosed herewith are the rules you have submitted for approval. These rules have been approved by this office and filed with the Secretary of State. Please note that they have not been filed with the State Register. This must be done promptly by your agency.

Upon receipt and before transmittal to your agency, however, it is important that you recheck these rules as to:

1. Affixation of stamps of the Attorney General and Secretary of State;

2. Coverage by these stamps of all rules submitted; and

3. Inclusion of all pages to the rules in the approved set.

If you have any questions in this regard, please contact me.

Encs.
MJC/ls
cc: Ms. Kathy Burek
Mr. Duane Harves

AG copy

Department of Agriculture

Dairy Industry Division

Adopted Adoption of a Rule Governing Dairy Inspection Fees

Rule as Adopted

3 MCAR S 1.1160 Dairy inspection fees.

A. Purpose; authority. The purpose of this rule is to set dairy inspection service fees for Grade A dairy plant inspection, Grade A dairy farm inspection, and farm certification inspection for other than Grade A pursuant to Minnesota Statutes, section 32.394, subdivisions 8 and 8b, as amended by Laws of Minnesota 1983, chapter 300, section 20.

B. Fees. The fees for annual inspection by the commissioner of agriculture for Grade A dairy plants, Grade A dairy farms, and farm certification for other than Grade A are as follows:

1. Grade A dairy plant inspection, $400;

2. Grade A dairy farm inspection, $50; and

3. Farm certification inspection for other than Grade A, $25.

These fees are payable to the commissioner within 30 days of receipt of an invoice requesting payment.

STATE OF MINNESOTA
DEPARTMENT OF STATE
FILED
JAN 18 1984
2:10PM
Secretary of State

APPROVED AS TO FORM AND LEGALITY
January 17 1984
HUBERT H. HUMPHREY, III
ATTORNEY GENERAL
BY Martha J Cassedy
SPECIAL ASSISTANT ATTORNEY GENERAL

STATE OF MINNESOTA

DEPARTMENT OF AGRICULTURE

In the Matter of the Proposed
Rule of the Department of Agriculture
Governing Dairy Inspection Fees
(3 MCAR, Sect. 1.1160)

ORDER ADOPTING
RULES

Notice of the Commissioner's intent to adopt the above-entitled rules without a public hearing was published in the State Register on November 14, 1983, and was sent by United States mail to all persons on the list maintained by the department pursuant to Minnesota Statutes, Section 14.22 on November 10, 1983. After affording interested and affected persons an opportunity to submit comments for 30 days after Notice, receiving fewer than seven written requests for a public hearing within the 30 day comment period, reviewing and considering the comments, and determining the need for and reasonableness of the above-captioned rules,

NOW, THEREFORE, IT IS ORDERED that these rules identified as the Rules Governing Dairy Inspection Fees are adopted this 28 th day of December, 1983, pursuant to authority vested in me by Minnesota Statutes, Section 21.118.

STATE OF MINNESOTA

Rollin W. Dennistoun

JIM NICHOLS
COMMISSIONER OF AGRICULTURE

STATE OF MINNESOTA

DEPARTMENT OF AGRICULTURE

In the Matter of the Proposed Adoption
of a Rule of the Department of Agriculture
Governing Dairy Inspection Fees
(3 MCAR § 1.1160)

ORDER FOR NOTICE
OF INTENT TO ADOPT
RULES WITHOUT
PUBLIC HEARING

IT IS ORDERED this 24th day of October, 1983, that a Notice of Intent to Adopt Rules Without Public Hearing in the above-entitled matter be given to all persons who have registered their names with the Minnesota Department of Agriculture for that purpose and be published in the State Register.

STATE OF MINNESOTA

Jim Nichols

COMMISSIONER OF AGRICULTURE

Department of Agriculture

Dairy Industry Division

In the Matter of the Proposed Adoption of a Rule Governing Dairy Inspection Fees (3 MCAR § 1.1160)

Notice of Intent to Adopt Rules Without a Public Hearing

Notice is hereby given that the Minnesota Department of Agriculture proposes to adopt the above-entitled rules without a public hearing. The Commissioner of Agriculture has determined that the proposed adoption of these rules will be noncontroversial in nature and has elected to follow the procedures set forth in Minnesota Statutes, Sections 14.21-14.28 (1982).

Persons interested in these rules shall have 30 days to submit comment on the proposed rules. The proposed rules may be modified if the modifications are supported by the data and views submitted to the department and do not result in a substantial change in the proposed language.

Unless seven or more persons submit written requests for a public hearing on the proposed rules within the 30-day comment period, a public hearing will not be held. In the event a public hearing is required, the department will proceed according to the provisions of Minnesota Statutes, Sections 14.11-14.20 (1982). If a public hearing is requested, identification of the particular objection, the suggested modifications to the proposed language, and the reasons or data relied on to support the suggested modifications is desired.

Persons who wish to submit comments or a written request for a public hearing should submit such comments or request to: Gerald Heil, Minnesota Department of Agriculture, 90 West Plato Boulevard, St. Paul, MN 55107, (612) 296-1486.

Authority to adopt these rules is contained in Minnesota Statutes, Section 32.394 and Laws of Minnesota 1983, chapter 300, section 20. Additionally, a Statement of Need and Reasonableness that describes the need for and reasonableness of each provision of the proposed rules and identifies the data and information relied upon to support the proposed rules has been prepared and is available upon request from Mr. Heil.

Upon adoption of the final rules without a public hearing, the proposed rules, this Notice, the Statement of Need and Reasonableness, all written comments received, and the final Rules as Adopted will be delivered to the Attorney General for review as to form and legality, including the issue of substantial change. Persons who wish to be advised of the submission of this material to the Attorney General, or who wish to receive a copy of the final rules as adopted, should submit a written statement of such request to Mr. Heil.

The Commissioner is authorized by Laws of Minnesota 1983, chapter 300 section 20 and Minnesota Statutes section 32.394 to adjust and set fees for the inspection of Grade A dairy plants and farms, and for farm certification for other than Grade A farms. This proposed rule serves two functions. First of all, by adjusting Grade A dairy plant and farm inspection fees the department will be able to meet expenses for the inspection and certification of these facilities. Secondly, by setting a certification fee for farms other than grade A, the department will be able to implement an informational and inspection program consistent with the purpose of Laws of Minnesota 1983, chapter 232, section 2, and the rules adopted for that program.

Fees for Grade A dairy plants and farms have not been adjusted since 1978. The new fee schedule will permit the department to continue the above listed services at current levels; if the proposed rules are not adopted, the

department would be forced to reduce levels of service.

Grade A dairy processors and producers benefit from the services enabled by the fees because the inspection and certification activities are required for Minnesota Grade A dairy products to move uninterrupted into interstate commerce.

Farm certification for other than Grade A is a new inspection and informational program created by Minnesota's adoption of federal guidelines governing the production of milk other than Grade A. This certification program is necessary to prevent the embargo of Minnesota manufacturing grade milk and milk products by other states by ensuring that the products are produced according to federal quality standards.

These proposed fees for Grade A dairy plants, farms, and for farms other than Grade A will be assessed on large dairy processors as is customary in the dairy industry, and therefore will have no affect on Grade A and other than Grade A producers that are small businesses.

Please be advised that Minnesota Statutes, Chapter 10A requires each lobbyist to register with the State Ethical Practices Board within five (5) days after he or she commences lobbying. A lobbyist is defined in Minnesota Statutes, Section 10A.01, subdivision 11 (Supp. 1979) as any individual:

(a) Engaged for pay or other consideration, or authorized by another individual or association to spend money, who spends more than five hours in any month or more than $250.00, not including his own travel expenses and membership dues, in any year, for the purpose of attempting to influence legislative or administrative action by communicating or urging others to communicate with public officials; or

(b) Who spends more than $250.00, not including his own traveling expenses and membership dues, in any year for the purpose of attempting to influence legislative or administrative action by communicating or urging others to communicate with public officials.

The statute provides certain exceptions. Questions should be directed to the Ethical Practices Board, 40 State Office Building, St. Paul, MN 55155, (612) 296-5615.

One free copy of this Notice and the proposed rules are available and may be obtained by contacting Mr. Heil.

STATE OF MINNESOTA

Date: October 24, 1983

Jim Nichols

Commissioner of Agriculture

In the Matter of a Proposed Rule
of the Department of Agriculture
Governing Dairy Inspection Fees
(3 MCAR S 1.1160)

AFFIDAVIT OF
MAILING

STATE OF MINNESOTA)
) ss.
COUNTY OF RAMSEY)

Diane Windham, being first duly sworn, deposes and says:

That on the 10th day of November, 19 83, at the City of St. Paul, County of Ramsey, State of Minnesota, he/she served the attached notice by depositing in the State of Minnesota Central Mail System for United States mailing at said City of St. Paul, a copy thereof, properly enveloped, with postage prepaid, on all persons and associations who have requested that their names be placed on file with the Minnesota Department of Agriculture for the purpose of receiving notice of the proposed adoption of rules by this Department.

Diane Windham

Subscribed and sworn to before me
this 10th day of November, 19 83.

Christine Canaday

Christine Canaday
NOTARY PUBLIC — MINNESOTA
RAMSEY COUNTY
My commission expires June 25, 1986

LAND OF QUALITY FOODS

STATE OF MINNESOTA
DEPARTMENT OF AGRICULTURE

90 W. PLATO BOULEVARD
SAINT PAUL, MN 55107
Telephone: (612) 296-1486

November 10, 1983

TO: Individuals, Firms and Organizations on the Minnesota Department of Agriculture Rulemaking List

FROM: Gerald Heil, Director GH
Planning Division

SUBJ: Publication of Proposed Rule of the Department of Agriculture Governing Dairy Inspection Fees

Due to the fact that the original copy of the above-named rule provided to the State Register was mislaid, the proposed rule was not published on November 7, 1983 as our memorandum mailed to you on November 4, 1983 indicated.

The State Register staff will publish the proposed rule on November 14, 1983. This means that the public comment period will extend from that date until December 14, 1983.

Thank you for your understanding of this inadvertent error.

GH:dw

cc: Rollin Dennistoun, Deputy Commissioner
Bill Coleman, Director, Dairy Industries Division
Julie Smendzuik-O'Brien, Planning Division

In the Matter of a Proposed Rule
of the Department of Agriculture Governing
Dairy Inspection Fees
(3 MCAR S 1.1160)

AFFIDAVIT OF
MAILING

STATE OF MINNESOTA)
) ss.
COUNTY OF RAMSEY)

Diane M. Windham, being first duly sworn, deposes and says:

That on the 4th day of November, 1983, at the City of St. Paul, County of Ramsey, State of Minnesota, he/she served the attached Notice of Intent to Adopt Rules Without a Public Hearing by depositing in the State of Minnesota Central Mail System for United States mailing at said City of St. Paul, a copy thereof, properly enveloped, with postage prepaid, on all persons and associations who have requested that their names be placed on file with the Minnesota Department of Agriculture for the purpose of receiving notice of the proposed adoption of rules by this Department.

Diane M. Windham

Subscribed and sworn to before me
this 4th day of November, 1983.

Margaret E. Reed

MARGARET E. REED
NOTARY PUBLIC — MINNESOTA
DAKOTA COUNTY
My commission expires Jan. 22, 1986

STATE OF MINNESOTA

COUNTY OF RAMSEY

CERTIFICATE

In the Matter of a Proposed Rule
of the Department of Agriculture Governing
Dairy Inspection Fees
(3 MCAR S 1.1160)

I hereby certify that the list of persons, associations, and other interested groups who have requested, pursuant to Minn. Stat. § 14.14, subd. 1, that their names be placed on file with and maintained by the Minnesota Department of Agriculture for the purpose of receiving notice of the proposed adoption of rules by this Department is accurate and complete as of 9:00 A.m., this 4th day of November, 1983.

Julie Amendzik-O'Brien

4 MCAR § 15.050 Contract approval.

Contracts entered into by Class A, B, and C licensees and their contractors for goods and services are subject to prior approval by the commission. Contracts and subcontracts must include affirmative action plans establishing goals and timetables consistent with Minnesota Statutes, chapter 363. All Class A, B, and C licensees must submit copies of any written contracts and subcontracts to the commission. The commission shall approve or disapprove contracts and subcontracts within 30 days, as computed pursuant to Minnesota Statutes, section 645.15, after submission.

Department of Agriculture
Dairy Industry Division

Proposed Adoption of a Rule Governing Dairy Inspection Fees

Notice of Intent to Adopt Rules without a Public Hearing

Notice is hereby given that the Minnesota Department of Agriculture proposes to adopt the above-entitled rules without a public hearing. The Commissioner of Agriculture has determined that the proposed adoption of these rules will be noncontroversial in nature and has elected to follow the procedures set forth in Minnesota Statutes, Sections 14.21-14.28 (1982).

Persons interested in these rules shall have 30 days to submit comment on the proposed rules. The proposed rules may be modified if the modifications are supported by the data and views submitted to the department and do not result in a substantial change in the proposed language.

Unless seven or more persons submit written requests for a public hearing on the proposed rules within the 30-day comment period, a public hearing will not be held. In the event a public hearing is required, the department will proceed according to the provisions of Minnesota Statutes, Sections 14.11-14.20 (1982). If a public hearing is requested, identification of the particular objection, the suggested modifications to the proposed language, and the reasons or data relied on to support the suggested modifications is desired.

Persons who wish to submit comments or a written request for a public hearing should submit such comments or request to: Gerald Heil, Minnesota Department of Agriculture, 90 West Plato Boulevard, St. Paul, MN 55107, (612) 296-1486.

Authority to adopt these rules is contained in Minnesota Statutes, Section 32.394 and Laws of Minnesota 1983, chapter 300, section 20. Additionally, a Statement of Need and Reasonableness that describes the need for and reasonableness of each provision of the proposed rules and identifies the data and information relied upon to support the proposed rules has been prepared and is available upon request from Mr. Heil.

Upon adoption of the final rules without a public hearing, the proposed rules, this Notice, the Statement of Need and Reasonableness, all written comments received, and the final Rules as Adopted will be delivered to the Attorney General for review as to form and legality, including the issue of substantial change. Persons who wish to be advised of the submission of this material to the Attorney General, or who wish to receive a copy of the final rules as adopted, should submit a written statement of such request to Mr. Heil.

The Commissioner is authorized by Laws of Minnesota 1983, chapter 300 section 20 and Minnesota Statutes section 32.394 to adjust and set fees for the inspection of Grade A dairy plants and farms, and for farm certification for other than Grade A farms. This proposed rule serves two functions. First of all, by adjusting Grade A dairy plant and farm inspection fees the department will be able to meet expenses for the inspection and certification of these facilities. Secondly, by setting a certification fee for farms other than grade A, the department will be able to implement an informational and inspection program consistent with the purpose of Laws of Minnesota 1983, chapter 232, section 2, and the rules adopted for that program.

Fees for Grade A dairy plants and farms have not been adjusted since 1978. The new fee schedule will permit the department to continue the above listed services at current levels; if the proposed rules are not adopted, the department would be forced to reduce levels of service.

Grade A dairy processors and producers benefit from the services enabled by the fees because the inspection and certification activities are required for Minnesota Grade A dairy products to move uninterrupted into interstate commerce.

KEY: PROPOSED RULES SECTION — Underlining indicates additions to existing rule language. ~~Strike outs~~ indicate deletions from existing rule language. If a proposed rule is totally new, it is designated "all new material." ADOPTED RULES SECTION — Underlining indicates additions to proposed rule language. ~~Strike outs~~ indicate deletions from proposed rule language.

Farm certification for other than Grade A is a new inspection and informational program created by Minnesota's adoption of federal guidelines governing the production of milk other than Grade A. This certification program is necessary to prevent the embargo of Minnesota manufacturing grade milk and milk products by other states by ensuring that the products are produced according to federal quality standards.

These proposed fees for Grade A dairy plants, farms, and for farms other than Grade A will be assessed on large dairy processors as is customary in the dairy industry, and therefore will have no affect on Grade A and other than Grade A producers that are small businesses.

Please be advised that Minnesota Statutes, Chapter 10A requires each lobbyist to register with the State Ethical Practices Board within five (5) days after he or she commences lobbying. A lobbyist is defined in Minnesota Statutes, Section 10A.01, subdivision 11 (Supp. 1979) as any individual:

(a) Engaged for pay or other consideration, or authorized by another individual or association to spend money, who spends more than five hours in any month or more than $250.00, not including his own travel expenses and membership dues, in any year, for the purpose of attempting to influence legislative or administrative action by communicating or urging others to communicate with public officials; or

(b) Who spends more than $250.00, not including his own traveling expenses and membership dues, in any year for the purpose of attempting to influence legislative or administrative action by communicating or urging others to communicate with public officials.

The statute provides certain exceptions. Questions should be directed to the Ethical Practices Board, 40 State Office Building, St. Paul, MN 55155, (612) 296-5615.

One free copy of this Notice and the proposed rules are available and may be obtained by contacting Mr. Heil.

Jim Nichols, Commissioner
Department of Agriculture

Rule as Proposed (all new material)

3 MCAR § 1.1160 Dairy inspection fees.

A. Purpose; authority. The purpose of this rule is to set dairy inspection service fees for Grade A dairy plant inspection, Grade A dairy farm inspection, and farm certification inspection for other than Grade A pursuant to Minnesota Statutes, section 32.394, subdivisions 8 and 8b, as amended by Laws of Minnesota 1983, chapter 300, section 20.

B. Fees. The fees for annual inspection by the commissioner of agriculture for Grade A dairy plants, Grade A dairy farms, and farm certification for other than Grade A are as follows:

1. Grade A dairy plant inspection, $400;
2. Grade A dairy farm inspection, $50; and
3. Farm certification inspection for other than Grade A, $25.

These fees are payable to the commissioner within 30 days of receipt of an invoice requesting payment.

SUPREME COURT

Decisions Filed Friday, November 4, 1983

Compiled by Wayne O. Tschimperle, Clerk

C0-82-911 Lawrence F. Cooper, Relator, v. Robert J. Younkin, d/b/a Allied Disposal, Respondent, and Western National Mutual Insurance Company, Respondent.

Minn. Stat. § 176.061, subds. 5 and 6 (1982), do not entitle a workers' compensation carrier to subrogation against proceeds received by the employee in the settlement of his claim pursuant to uninsured motorist coverage maintained by the employer.

Rule as Proposed (all new material)

3 MCAR S 1.1160 Dairy inspection fees.

A. Purpose; authority. The purpose of this rule is to set dairy inspection service fees for Grade A dairy plant inspection, Grade A dairy farm inspection, and farm certification inspection for other than Grade A pursuant to Minnesota Statutes, section 32.394, subdivisions 8 and 8b, as amended by Laws of Minnesota 1983, chapter 300, section 20.

B. Fees. The fees for annual inspection by the commissioner of agriculture for Grade A dairy plants, Grade A dairy farms, and farm certification for other than Grade A are as follows:

1. Grade A dairy plant inspection, $400;

2. Grade A dairy farm inspection, $50; and

3. Farm certification inspection for other than Grade A, $25.

These fees are payable to the commissioner within 30 days of receipt of an invoice requesting payment.

APPROVED IN THE REVISOR OF STATUTES OFFICE BY:

OFFICE OF THE REVISOR OF STATUTES

Proposed Rule

RD432

Agency: Department of Agriculture

Division: Planning Division

Agency Contact: Julie Smendzuik-O'Brien

Rule Numbers: 3 MCAR S 1.1160

Title: Proposed Rule Setting Dairy Inspection Fees.

Type of Rules: Permanent

Incorporations by Reference: None

Duplication of Statutory Language: None

The attached rules are approved as to form.

Steven C. Cross
Revisor of Statutes

Craig E. Lindeke
Assistant Revisor
Phone: 296-0946
Date: October 20, 1983

STATE OF MINNESOTA
DEPARTMENT OF AGRICULTURE

IN THE MATTER OF THE PROPOSED
RULE OF THE DEPARTMENT OF
AGRICULTURE GOVERNING DAIRY
INSPECTION FEES (3 MCAR S 1.1160)

STATEMENT OF NEED
AND REASONABLENESS

I. INTRODUCTION

The subject of this rulemaking is the proposed adoption by the Minnesota Department of Agriculture of a rule adjusting and setting fees for the inspection of Grade A dairy plants and farms, and for farm certification for other than Grade A dairy farms. This rule is proposed for adoption pursuant to Laws of Minnesota 1983, chapter 300, section 20 and Minnesota Statutes section 32.394 (subds. 8 and 8b), which authorizes the commissioner to adjust and set fees for dairy inspection and certification services.

Rulemaking on the proposed rule was authorized by the Department on October 24, 1983. Prior to the authorization of rulemaking, the Department determined that the proposed adoption of this rule would be noncontroversial in nature. Because the proposed rule is noncontroversial in nature, the Department directed that the proceedings on the proposed rule be conducted in accordance with the statutory provisions governing the adoption of noncontroversial rules, Minnesota Statutes, sections 14.21-14.28. Thus, no hearing will be conducted on the proposed rule unless on or before December 7, 1983, seven or more persons submit to the Department a written request for a hearing. In accordance with the requirements of Minnesota Statutes, section 14.23, this Statement of Need and Reasonableness was completed prior to November 7, 1983, when the proposed rule was noticed in the State Register.

II. HISTORY OF DAIRY INSPECTION FEES IN MINNESOTA

The inspection program is just one aspect of a comprehensive Grade A dairy program conducted by the Minnesota Department of Agriculture. The Grade A dairy program was designed to provide an informational and inspection service to dairy processors and producers in order to ensure the quality of Grade A milk products. Funding for this program was originally available through the shared efforts of the processor, consumer, and the Department. This "share the burden" concept developed over time to the point that the processor, through licensing and inspection fees, would be responsible for a substantial portion of the program's cost. The processor in turn, could pass on all or part of its expenses from the licensing and inspection fees to the consumer. The extent to which the processor passed on its expenses was held in check by what the market would bear.

Although the statute provides that the commissioner can adjust Grade A plant and farm inspection fees annually, the Department has only adjusted fees on the average every five years since the program began almost 25 years ago. The last adjustment occurred in 1978 by commissioner's order. Laws of Minnesota, chapter 301, section 91 amended Minnesota Statutes section 16A.128, subds. 1 and 2 to require that fees of this nature be set through the Administrative Procedures Act.

Farm certification for other than Grade A is a new inspection and informational program for Minnesota. Due to the potential that Minnesota manufacturing grade milk might again be embargoed by recipient states as occurred in early 1983, Minnesota adopted the federal guidelines governing the production of milk other than Grade A by legislative action in 1983 (Chapter 232).

III. NEED AND REASONABLENESS

This statement of need and reasonableness addresses the proposed rule and the impact it will have on small businesses.

A. Adjust Grade A dairy plant and farm inspection fees from $350 to $400 and from $40 to $50, respectively, and set fees for farm certification for other than Grade A farms at $25.

3 MCAR S 1.1160

Fees for Grade A dairy plants and farms have not been adjusted since 1978. These adjustments proposed in this rule are needed in order for the Department to continue providing inspection service, informational mailings, and test sampling, and to erase a $90,000 deficit resulting from the inadequacy of the current fee schedule in covering the costs of these services. The services funded, in part, by these inspection fees are essential to the dairy processor's and producer's continued participation in the Grade A market. Through the inspection service the Department is able to determine whether the processor's or producer's facilities and methods conform to federally adopted standards for production of Grade A milk and milk products. The Department's informational mailings are intended to be a continuing educational program for dairy processors and producers. Through these mailings the processors and producers are kept abreast of technical changes in production, sanitation, and export requirements. The test samplings ensure that the milk or milk product is of Grade A quality. All of these services are designed to meet the needs and expectations of both producer and consumer.

The proposed Grade A fees are reasonable in that they are incremental, representing only an average yearly increase of 6% over the past 4 years. The fees are to be assessed on dairy processors, all of which have gross earnings in excess of $4,000,000. There is no impact on small producers, because the processors absorb these expenses as the cost of doing business in the state.

The fee for certification for other than Grade A farms is needed to ensure that bulk and can producers of manufacturing grade milk are in compliance with the federal standards adopted by Minnesota by statute during the 1983 legislative session. Certification inspections on a regular basis are essential to the producer's staying in business. Since July 1, 1983, the Department has expended $50,000 in informational mailings and meetings concerning the new certification process. In addition to funding the inspection process, the fee charged producers will be used to offset this educational expense.

This fee is reasonable because like the Grade A fees it too will be assessed against the processors and will enable the Department to provide the services necessary for bulk and can producers to remain in business. In the absence of a well funded certification program, verification of the producers compliance with the federal standard is virtually impossible. Minnesota Statutes 32.394, subd. 8b permits the fee to be set at up to one-half the fee for Grade A dairy farm inspection, and it is anticipated that the proposed fee will cover the cost of inspection, attendant administrative overhead of the Department and set up a reserve fund as is practice of the Minnesota Department of Finance.

Estimates of revenue to be generated by the proposed fees and approval of fee increases by the Minnesota Department of Finance are contained in Attachment A.

B. Small business impact of the proposed rule.

As prescribed by Laws of Minnesota 1983, chapter 188, section 1, subds. 1 and 2, the Department has considered the degree of impact the proposed changes will have on small Grade A dairy processors and producers. The Department has determined that only the Grade A producers are small businesses within the statutory definition of section 1, subd. 1 and they will not be affected. The producer's inspection fee is assessed against and paid by the larger Grade A plants (processors). The same situation is the case for producers of manufacturing grade milk. These fees will also be assessed against processors who do not meet the statutory definition of small businesses.

ATTACHMENT A

MINNESOTA DEPARTMENT OF AGRICULTURE
MILK INSPECTION SERVICE ACCOUNT
FEE REVIEW FOR F.Y. 1984

	Grade A	Dairy Plant	Other Than Grade A
Present Fee	$ 40.00	$ 350.00	$ -0-
Number Paying Fee	10,300	14	15,000 (1)
Estimated Revenue	$412,000	$ 4,900	$ -0-
Less: Anticipated Costs	$573,500	$ 5,600	$200,000
Current Difference	($161,500)	$ (700)	($200,000)
Accumulated Difference	($1,700)	$ (700)	($200,000)
Fee Requested	$ 50.00	$ 400.00	$ 25.00
Additional Revenue	$103,000	$ 700	$375,000
Adjusted Accumulated Difference	$101,300	$ -0-	$175,000
Reserve At Year End (2)	$175,000 (2)	$ -0- (2)	$175,000 (2)

(1) Other than Grade A Inspection would begin to have fees deposited during F.Y. 1984. It is estimated that for F.Y. 1985 this budget may expand to the Grade A level.

(2) Reserve at Year End is the amount that is felt should always be available for reserve purposes to enable the account to respond to changing demands, cash flow, and layoff costs.

Prepared By: Accounting Division
Date: June 13, 1983

ATTACHMENT A

Minnesota State Department of Agriculture
90 West Plato Boulevard, St. Paul, Minnesota 55107

OFFICE OF THE COMMISSIONER

Telephone: (612) 297-2200

ORDER FOR ADJUSTMENT OF FEES

Pursuant to the authority vested in me under Minnesota Statutes 32.394, Subdivision 8, as amended by Laws of Minnesota for 1983, Chapter 300, Section 20, I hereby find the need to set fees and hereby order that the fees be set for the production of Grade A milk. These fees are effective on or after June 15, 1983, and are payable by the processor to the Commissioner of Agriculture.

SCHEDULE OF FEES

Fee Description	Fee
Grade A Dairy Plant Inspection Fee	$ 400.00
Grade A Farm Inspection Fee	$ 50.00

Dated: June 13, 1983

Jim Nichols
Commissioner of Agriculture

Approved: Commissioner of Finance
by
Date 6-15-83

STATE OF MINNESOTA
DEPARTMENT OF STATE
FILED
JUN 15 1983
Joan Anderson Growe
Secretary of State

ATTACHMENT A

Minnesota State Department of Agriculture
90 West Plato Boulevard, St. Paul, Minnesota 55107

OFFICE OF THE COMMISSIONER

Telephone: (612) 297-2200

ORDER FOR ADJUSTMENT OF FEES

Pursuant to the authority vested in me under Minnesota Statutes 32.394, Subd. 8 and 8b as amended by Laws of Minnesota for 1983, Chapter 300, Section 20, I hereby find the need to set fees and hereby order that the fees be set for a farm certification inspection for the production of other than Grade A milk. These fees are effective on or after June 15, 1983, and are payable by the processor requesting this inspection to the Commissioner of Agriculture.

SCHEDULE OF FEES

Fee Description	Fee
Farm Certification Inspection Fee for other than Grade A	$ 25.00

Dated: June 13, 1983

Jim Nichols
Commissioner of Agriculture

Approved: Commissioner of Finance
by Warren G. Young
Date 6-15-83

STATE OF MINNESOTA
DEPARTMENT OF STATE
FILED
JUN 15 1983
Joan Anderson Growe
Secretary of State

AN EQUAL OPPORTUNITY EMPLOYER

In the Matter of the Proposed
Adoption of a Rule of the
Department of Agriculture
Governing Dairy Inspection Fees
(3 MCAR SS 1.1160)

STATEMENT OF
COMPLIANCE WITH
RULEMAKING PROCEDURES

I, (Special Assistant Attorney General) Jon K. Murphy, do hereby declare that I have examined the rules and all related documents and that, based on my examination and my personal familiarity with the applicable procedures, the Administrative Procedure Act, the rules of the Office of Administrative Hearings, and the rules of the Attorney General have been followed. Any exceptions are noted below.

Special Assistant Attorney General

Date: 1/3/84