

Minnesota Attorney General: Administrative Rules Proceedings

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Version 3
August 20, 2018

Our File No. 1056

RULE REVIEW CHECKLIST

DATE RULE RECEIVED 8-9-84
DATE FOR REVIEW _____
DATE DUE 8-23-84

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

Approved August 22, 1984 (CDS) Disapproved _____ Returned to Agency _____

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

Date filed w/Secretary of State 8-23-84 Revisor approved 8/13/84 disapproved _____

✓ Rule as Adopted

✓ Rule as Proposed

✓ Order Adopting 8.6.84 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

✓ Affidavit of Mailing Notice or rulemaking
7.3.84 At least ~~30~~ 25 days prior to ~~hearing~~/adoption

✓ Mailing list Certificate

✓ Publication in State Register
7.9.84 At least ~~30~~/20 25 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

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-00006-03

STATE OF MINNESOTA

DEPARTMENT OF AGRICULTURE

Office Memorandum

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

DATE: 08/10/84

FROM: Carol Milligan, Management Analyst
Planning Division

PHONE: 296-6906

SUBJECT: Review of Amendments to the Temporary Rules Governing Manufacturing Grade Milk Investment Reimbursement Program (3 MCAR §§ 1.1340-1.1348)

The Department of Agriculture adopted amendments to the above-mentioned temporary rules pursuant to Minnesota Statutes, Sections 14.29-14.36. Enclosed with this memorandum are the documents which are required to be submitted to the Attorney General for review prior to final approval of the rules. A list of the documents is attached for your convenience.

No written comments were received following the publication of the Rules as Proposed in the State Register, and the Department did not receive any requests from anyone to be notified when these documents were submitted to the Attorney General. The Rules as Adopted do not differ from the Rules as Proposed.

If you have questions, please contact me.

CM:cb

Attachment

cc: Jim Nichols, Commissioner
Rollin Dennistoun, Ph.D., Deputy Commissioner
Anne Kanten, Assistant Commissioner
Jon Murphy, Special Assistant Attorney General
Craig Lindeke, Office of Revisor of Statutes
Gerald Heil, Director, Planning Division
William Coleman, Director, Dairy Industries Division
Daryl Piltz, Dairy Industries Division

PLANNING DIVISION
DEPARTMENT OF AGRICULTURE

LIST OF ENCLOSED DOCUMENTS

A. Emergency Rules as Adopted (original and three copies). Each copy reflects amendments made in the rules since original publication.

B. Order Adopting Emergency Rules (two copies).

C. Order for Publication of Emergency Rules (one copy).

D. Notice of Intent to Adopt Emergency Rules (one copy).

E. Affidavit of Mailing Notice of Intent to Adopt Emergency Rules (one copy).

F. Mailing List Certificate (one copy).

G. Emergency Rules as Proposed (one copy).

H. Certificate of Compliance with Rulemaking Procedures (one copy).

SF-00006-02

STATE OF MINNESOTA

DEPARTMENT ATTORNEY GENERAL

Office Memorandum

TO : Jim Nichols
Commissioner of Agriculture

DATE: August 22, 1984

ATTN: Jon K. Murphy, Special Assistant Attorney General

FROM : Larry D. Starns LDS

PHONE: 297-3493
Special Assistant Attorney General

SUBJECT: In the Matter of the Proposed Amendments to the Emergency Rules of the Department of Agriculture Governing the Administration of the Manufacturing Grade Milk Investment Reimbursement Program 3 MCAR §§ 1.1340 - 1.1348)

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.

LDS:pm

Encs.

cc: Ms. Kathy Burek
Mr. Duane Harves

AG copy

Department of Agriculture
Dairy Industries Division

Adopted Emergency Rules Governing Manufactured Grade Milk Reimbursement Program

Emergency Rules as Adopted

3 MCAR S 1.1340 [Emergency] Purpose; authority.

Rules 3 MCAR SS 1.1340-1.1348 [Emergency] are prescribed by the commissioner pursuant to Minnesota Statutes, section 32.417, in order to establish an application process and payment procedures for investment reimbursements to aid limited resource producers in meeting certification requirements so that they may continue as producers of manufacturing grade milk.

3 MCAR S 1.1341 [Emergency] Definitions.

A. Scope. As used in 3 MCAR SS 1.1340-1.1348 [Emergency], the terms in this rule have the meanings given them.

B. Applicant. "Applicant" means a can producer who is a resident.

C. Application. "Application" means an information survey, financial information, an inspection report, a reimbursement request, and investment expenditure receipts submitted by a person to the commissioner for the purpose of obtaining an investment reimbursement.

D. Can producer. "Can producer" means a person who produces manufacturing grade milk for sale in cans.

E. Certification. "Certification" means the determination by the commissioner that a can producer's facility complies with standards.

F. Commissioner. "Commissioner" means the commissioner of agriculture or commissioner's designee.

G. Dairy sanitarian. "Dairy sanitarian" means an employee of the department responsible for departmental dairy inspection activities in an area of Minnesota.

H. Department. "Department" means the Department of

Agriculture.

I. Eligible applicant. "Eligible applicant" means a can producer who meets the criteria in 3 MCAR S 1.1342 [Emergency] A. and B.

J. Facility. "Facility" means equipment, building, or a portion of a building which is necessary in the production of manufacturing grade milk and is owned or operated by the can producer.

K. Hardship. "Hardship" means unforeseen circumstances which preclude the applicant from meeting a deadline stated in 3 MCAR SS 1.1344-1.1348 [Emergency].

L. Investment expenditure. "Investment expenditure" means the cost of capital improvements or equipment installed for the purpose of conforming to standards.

M. Investment reimbursement. "Investment reimbursement" means a partial refund of investment expenditures.

N. Labor. "Labor" means a person hired for the modification of a facility and for which a receipt or other evidence of an investment expenditure is available.

O. Limited resource producer. "Limited resource producer" means a can producer whose yearly net income is less than $9,000.

P. Manufacturing grade milk. "Manufacturing grade milk" means milk produced for processing and manufacturing into products for human consumption but not subject to the grade A requirements of Minnesota Statutes, chapter 32 and 3 MCAR SS 1.1149-1.1154.

Q. Modification. "Modification" means a change in the production facility required for certification of the facility.

R. Net income. "Net income" means federally adjusted gross income.

S. Person. "Person" means an individual, partnership, family farm, family farm corporation, or authorized farm corporation engaged in manufacturing grade milk production.

T. Plant representative. "Plant representative" means a field service employee or other employee of a receiving dairy plant who is responsible for quality control.

U. Qualified applicant. "Qualified applicant" means an eligible applicant who is determined a limited resource producer in accordance with 3 MCAR S 1.1344 [Emergency] F.

V. Resident. "Resident" means a person who was producing manufacturing grade milk in Minnesota in cans, for sale, on or before June 2, 1983.

W. Standards. "Standards" means the recommended federal standards for manufacturing grade milk as adopted by Minnesota.

3 MCAR S 1.1342 [Emergency] Eligibility.

A. Residency. An applicant must be a resident currently engaged in the production of milk.

B. Financial need. An applicant must be a limited resource producer.

3 MCAR S 1.1343 [Emergency] Notice of available funds.

The commissioner shall publish notice of the availability of investment reimbursement funds in the State Register and mail the notice to can producers of record on or before July 30, 1984. The notice must contain at least the following: the purpose of the investment reimbursement program; the method of applying for the investment reimbursement; the criteria for eligibility; a statement of expenditures not eligible for reimbursement as stated in 3 MCAR S 1.1346 [Emergency] C.; a statement of when investment reimbursements will be made and the deadlines for filing application documents; and a statement that the maximum allowable investment reimbursement is $100 for the first $500 or fraction thereof, and ten percent of the next $2,000 of net investment expenditures.

3 MCAR S 1.1344 [Emergency] Application procedure.

A. Information survey. An information survey must be completed and submitted. The applicant must request that a plant representative conduct the information survey and submit results to the department on or before April 1, 1985. The information survey must be completed on forms provided by the department and must contain at least the following:

1. the producer's name and address, including county,

township, and section;

2. the date and time of survey;

3. the size of the dairy herd and amount of daily production;

4. the frequency of milk pickups and the name and address of the receiving dairy plant;

5. production and marketing intentions after July 1, 1985;

6. the producer's intent to apply for an investment reimbursement; and

7. any other information determined by the commissioner to be reasonably related to the certification process for manufacturing grade milk.

B. Review. Based on the information survey, the commissioner shall determine eligible applicants using the criteria in 3 MCAR S 1.1342 [Emergency] A.

C. Financial information. On or before April 1, 1985, an eligible applicant must submit to the department a copy of the eligible applicant's federal income tax return for the previous year or a written, signed, and notarized statement declaring that the eligible applicant did not file a return for the previous year.

Exhibit 3 MCAR S 1.1344 [Emergency] D.2.-1 (side 1) [see Repealer.]

Exhibit 3 MCAR S 1.1344 [Emergency] D.2.-1 (side 2) [see Repealer.]

D. Incomplete financial information. In the event that incomplete financial information is received, the department shall notify the eligible applicant, specifying the deficiencies. The eligible applicant shall have until April 1, 1985, or 15 days from the postmarked date of the notice, whichever is later, to complete the financial information. If the financial information is not completed in the prescribed time, the eligible applicant will not be considered for an investment reimbursement unless the eligible applicant shows hardship in accordance with 3 MCAR S 1.1347 [Emergency].

E. Determination of qualified applicants. The commissioner

shall review the financial information submitted by the eligible applicant and determine whether the eligible applicant is a limited resource producer. If the eligible applicant is a limited resource producer, the eligible applicant is qualified.

3 MCAR S 1.1345 [Emergency] Certification.

A. Certification inspection. On completion of all facility modifications, the qualified applicant shall notify the plant representative. The plant representative shall review the modifications and determine if the modified facility is ready for a certification inspection. If it is ready, the plant representative shall notify the dairy sanitarian to arrange for a certification inspection of the facility.

B. Inspection report. An inspection report must evidence all modifications and is the basis for determining the can producer's compliance with standards. The dairy sanitarian shall give the original of the inspection report to the qualified applicant, retain one copy, and send one copy each to the plant representative and the commissioner.

3 MCAR S 1.1346 [Emergency] Request for payment.

A. Submission of request for payment. After the completion of a successful certification inspection, the qualified applicant must file with the department a request for payment accompanied by all receipts for investment expenditures, dated and signed, if applicable. These materials must be received by the commissioner on or before April 15, 1985.

B. Request for payment. The request for payment must be a typed or legibly printed letter containing the following:

1. the qualified applicant's name and address;

2. the date of the request;

3. the date of the certification inspection; and

4. a brief statement requesting payment for investment expenditures under the manufacturing grade milk investment reimbursement program.

C. Receipts for investment expenditures. The qualified applicant may submit receipts for all investment expenditures

made for the facility modification with the exception of the following items:

1. bulk tank unit;
2. hose port and concrete pad;
3. milk lines;
4. milk pumps;
5. pressurized hot water systems;
6. a waste disposal system more elaborate than one necessary to handle waste associated with the cleaning of milk handling equipment; and
7. labor costs in excess of ten percent of the total investment reimbursement approved by the commissioner.

D. Incomplete requests or receipts. In the event that a request or a receipt is incomplete, the department shall return the request or receipt to the qualified applicant specifying the deficiencies. The applicant shall have until April 15, 1985, or 15 days from the postmarked date of the notice, whichever is later, to complete the request or receipt, unless the qualified applicant shows hardship in accordance with 3 MCAR S 1.1347 [Emergency].

3 MCAR S 1.1347 [Emergency] Hardship.

Late financial information, request for payment, or receipt for investment expenditures may not be considered by the commissioner unless the eligible or qualified applicant shows hardship causing the delay. Any claim of hardship must be submitted in writing to the department. The commissioner shall evaluate and determine the reasonableness of any claim of hardship.

3 MCAR S 1.1348 [Emergency] Approval; payment.

A. Verification; approval. All requests and receipts for investment reimbursements submitted in support of an application are subject to verification and approval by the commissioner.

B. Schedule for payments. After the commissioner's approval, investment reimbursements must be made for investment expenditures in accordance with Minnesota Statutes, section

32.417. All investment reimbursements must be made by June 30, 1985.

Repealer. Exhibit 3 MCAR S 1.1344 [Emergency] D.2.-1 (side 1) and Exhibit 3 MCAR S 1.1344 [Emergency] D.2.-1 (side 2) are repealed.

STATE OF MINNESOTA
DEPARTMENT OF STATE
FILED
AUG 23 1984
Joan Anderson Growe
Secretary of State

3:28 PM

APPROVED AS TO LEGALITY
August 22, 1984
HUBERT H. HUMPHREY, III
ATTORNEY GENERAL
BY
SPECIAL ASSISTANT ATTORNEY GENERAL

Emergency Rules as Proposed

3 MCAR S 1.1340 [Emergency] Purpose; authority.

Rules 3 MCAR SS 1.1340-1.1348 [Emergency] are prescribed by the commissioner pursuant to ~~Laws of Minnesota 1983, chapter 232, section 2~~ Minnesota Statutes, section 32.417, in order to establish an application process and payment procedures for investment reimbursements to aid limited resource producers in meeting certification requirements so that they may continue as producers of manufacturing grade milk.

3 MCAR S 1.1341 [Emergency] Definitions.

A. Scope. As used in 3 MCAR SS 1.1340-1.1348 [Emergency], the terms in this rule have the meanings given them.

B. Applicant. "Applicant" means a can producer who is a resident.

C. Application. "Application" means an information survey, financial information, an inspection report, a reimbursement request, and investment expenditure receipts submitted by a person to the commissioner for the purpose of obtaining an investment reimbursement.

D. Can producer. "Can producer" means a person who produces manufacturing grade milk for sale in cans.

E. Certification. "Certification" means the determination by the commissioner that a can producer's facility complies with standards.

F. Commissioner. "Commissioner" means the commissioner of agriculture or commissioner's designee.

G. Dairy sanitarian. "Dairy sanitarian" means an employee of the department responsible for departmental dairy inspection activities in an area of Minnesota.

H. Department. "Department" means the Department of Agriculture.

I. Eligible applicant. "Eligible applicant" means a can producer who meets the criteria in 3 MCAR S 1.1342 [Emergency] A. and B.

J. Facility. "Facility" means equipment, building, or a

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portion of a building which is necessary in the production of manufacturing grade milk and is owned or operated by the can producer.

K. Hardship. "Hardship" means unforeseen circumstances which preclude the applicant from meeting a deadline stated in 3 MCAR SS 1.1344-1.1348 [Emergency].

L. Investment expenditure. "Investment expenditure" means the cost of capital improvements or equipment installed for the purpose of conforming to standards.

M. Investment reimbursement. "Investment reimbursement" means a partial refund of investment expenditures.

N. Labor. "Labor" means a person hired for the modification of a facility and for which a receipt or other evidence of an investment expenditure is available.

O. Limited resource producer. "Limited resource producer" means a can producer whose yearly net income is less than $6,000 ~~and whose net worth is not in excess of $75,000~~ $9,000.

P. Manufacturing grade milk. "Manufacturing grade milk" means milk produced for processing and manufacturing into products for human consumption but not subject to the grade A requirements of Minnesota Statutes, chapter 32 and 3 MCAR SS 1.1149-1.1154.

Q. Modification. "Modification" means a change in the production facility required for certification of the facility.

R. Net income. "Net income" means federally adjusted gross income ~~minus taxes~~.

~~S. Net worth. "Net worth" means the sum of all assets minus all liabilities of the applicant and the applicant's spouse, if applicable, determined using generally accepted accounting principles.~~

~~T. Noncertifiable. "Noncertifiable" means unable to meet standards for the production of manufacturing grade milk.~~

~~U.~~ Person. "Person" means an individual, partnership, family farm, family farm corporation, or authorized farm corporation engaged in manufacturing grade milk production.

~~V.~~ T. Plant representative. "Plant representative" means a

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field service employee or other employee of a receiving dairy plant who is responsible for quality control.

~~W.~~ U. Qualified applicant. "Qualified applicant" means an eligible applicant who is determined a limited resource producer in accordance with 3 MCAR S 1.1344 [Emergency] F.

~~X.~~ V. Resident. "Resident" means a person who was producing manufacturing grade milk in Minnesota in cans, for sale, on or before June 2, 1983.

~~Y.~~ W. Standards. "Standards" means the recommended federal standards for manufacturing grade milk as adopted by Minnesota.

3 MCAR S 1.1342 [Emergency] Eligibility.

A. Residency. An applicant must be a resident currently engaged in the production of ~~manufacturing-grade~~ milk ~~for-sale in-cans~~.

B. ~~Noncertifiable.--An-applicant's-facilities-must-be noncertifiable.~~

~~C.~~ Financial need. An applicant must be a limited resource producer.

3 MCAR S 1.1343 [Emergency] Notice of available funds.

The commissioner shall publish notice of the availability of investment reimbursement funds in the State Register and mail the notice to can producers of record on or before ~~February 1~~ July 30, 1984. The notice must contain at least the following: the purpose of the investment reimbursement program; the method of applying for the investment reimbursement; the criteria for eligibility; a statement of expenditures not eligible for reimbursement as stated in 3 MCAR S 1.1346 [Emergency] C.; a statement of when investment reimbursements will be made and the deadlines for filing application documents; and a statement that the maximum allowable investment reimbursement is $100 for the first $500 or fraction thereof, and ten percent of the next $2,000 of net investment expenditures.

3 MCAR S 1.1344 [Emergency] Application procedure.

A. Information survey. An information survey must be completed and submitted ~~prior-to-the-filing-of-the-financial~~

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~~data-form~~. The applicant must request that a plant representative conduct the information survey and submit results to the department on or before ~~May 1, 1984~~ April 1, 1985. The information survey must be completed on forms provided by the department and must contain at least the following:

1. the producer's name and address, including county, township, and section;

2. the date and time of survey;

3. the size of the dairy herd and amount of daily production;

4. the frequency of milk pickups and the name and address of the receiving dairy plant;

5. production and marketing intentions after July 1, 1985;

6. the producer's intent to apply for an investment reimbursement; and

~~7. the availability of a milkhouse or milkroom;~~

~~8. the size and location of a milkhouse or milkroom, if any;~~

~~9. the type of construction of the milkhouse or milkroom including lighting, walls, and ceiling construction, floor construction, doors, windows, and screen construction, and the adequacy of sewage disposal;~~

~~10. construction plans, if any, for a milkhouse or milkroom including location, size, construction materials, and potential builder;~~

~~11. the condition of milking utensils and equipment;~~

~~12. the type and size of a milk cooler and its operating condition;~~

~~13. the number and condition of cans;~~

~~14. the total number of cans needed for proper storage of milk;~~

~~15. the type of barn including size and arrangement;~~

~~16. the adequacy of lighting, ventilation, floor, gutters, walls, ceilings, pens and alleyways, yard, and loafing area;~~

~~17. the water supply type, location, and quality; and~~

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~~18.~~ any other information determined by the commissioner to be reasonably related to the certification process for manufacturing grade milk.

B. ~~Preliminary~~ Review. Based on the information survey, the commissioner shall determine eligible applicants using the criteria in 3 MCAR S 1.1342 [Emergency] A. ~~and B.~~

C. ~~Notification of eligible applicants.--The commissioner shall notify all eligible applicants on or before June 1, 1984.~~

~~B.~~ Financial information. On or before ~~July 1, 1984~~ April 1, 1985, an eligible applicant must submit to the department ~~the following financial information:~~

~~1.~~ a copy of the eligible applicant's federal income tax return for ~~1983~~ the previous year or a written, signed, and notarized statement declaring that the eligible applicant did not file a return for ~~1983, and~~ the previous year.

~~2.--a completed net worth statement, in the form set forth in Exhibit 3 MCAR S 1.1344 [Temporary] B.2. 1.~~

Exhibit 3 MCAR S 1.1344 [Emergency] D.2.-1 (side 1) [see Repealer.]

Exhibit 3 MCAR S 1.1344 [Emergency] D.2.-1 (side 2) [see Repealer.]

~~E.~~ D. Incomplete financial information. In the event that incomplete financial information is received, the department shall notify the eligible applicant, specifying the deficiencies. The eligible applicant shall have until ~~July 1, 1984~~ April 1, 1985, or 15 days from the postmarked date of the notice, whichever is later, to complete the financial information. If the financial information is not completed in the prescribed time, the eligible applicant will not be considered for an investment reimbursement unless the eligible applicant shows hardship in accordance with 3 MCAR S 1.1347 [Emergency].

~~F.~~ E. Determination ~~and notification~~ of qualified applicants. The commissioner shall review the financial information submitted by the eligible applicant and determine whether the eligible applicant is a limited resource producer.

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If the eligible applicant is a limited resource producer, the eligible applicant is qualified ~~and the commissioner shall notify the qualified applicant by mail on or before August 1, 1984~~.

3 MCAR S 1.1345 [Emergency] Certification.

A. Certification inspection. On completion of all facility modifications, the qualified applicant shall notify the plant representative. The plant representative shall review the modifications and determine if the modified facility is ready for a certification inspection. If it is ready, the plant representative shall notify the dairy sanitarian to arrange for a certification inspection of the facility.

B. Inspection report. An inspection report must evidence all modifications and is the basis for determining the can producer's compliance with standards. The dairy sanitarian shall give the original of the inspection report to the qualified applicant, retain one copy, and send one copy each to the plant representative and the commissioner.

3 MCAR S 1.1346 [Emergency] Request for payment.

A. Submission of request for payment. After the completion of a successful certification inspection, the qualified applicant must file with the department a request for payment accompanied by all receipts for investment expenditures, dated and signed, if applicable. These materials must be received by the commissioner on or before April ~~1~~ 15, 1985.

B. Request for payment. The request for payment must be a typed or legibly printed letter containing the following:

1. the qualified applicant's name and address;
2. the date of the request;
3. the date of the certification inspection; and
4. a brief statement requesting payment for investment expenditures under the manufacturing grade milk investment reimbursement program.

C. Receipts for investment expenditures. The qualified applicant may submit receipts for all investment expenditures

REVISOR'S OFFICE

made for the facility modification with the exception of the following items:

1. bulk tank unit;
2. hose port and concrete pad;
3. milk lines;
4. milk pumps;
5. pressurized hot water systems;
6. a waste disposal system more elaborate than one necessary to handle waste associated with the cleaning of milk handling equipment; and
7. labor costs in excess of ten percent of the total investment reimbursement approved by the commissioner.

D. Incomplete requests or receipts. In the event that a request or a receipt is incomplete, the department shall return the request or receipt to the qualified applicant specifying the deficiencies. The applicant shall have until April ~~1~~ 15, 1985, or 15 days from the postmarked date of the notice, whichever is later, to complete the request or receipt, unless the qualified applicant shows hardship in accordance with 3 MCAR S 1.1347 [Emergency].

3 MCAR S 1.1347 [Emergency] Hardship.

Late financial information, request for payment, or receipt for investment expenditures may not be considered by the commissioner unless the eligible or qualified applicant shows hardship causing the delay. Any claim of hardship must be submitted in writing to the department. The commissioner shall evaluate and determine the reasonableness of any claim of hardship.

3 MCAR S 1.1348 [Emergency] Approval; payment.

A. Verification; approval. All requests and receipts for investment reimbursements submitted in support of an application are subject to verification and approval by the commissioner.

B. Schedule for payments. After the commissioner's approval, investment reimbursements must be made for investment expenditures in accordance with ~~Laws of Minnesota 1983, chapter~~

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~~232,-section-2~~ Minnesota Statutes, section 32.417. All investment reimbursements must be made by June 30, 1985.

Repealer. Exhibit 3 MCAR S 1.1344 [Emergency] D.2.-1 (side 1) and Exhibit 3 MCAR S 1.1344 [Emergency] D.2.-1 (side 2) are repealed.

APPROVED IN THE
REVISOR OF STATUTES
OFFICE BY:

OFFICE OF THE REVISOR OF STATUTES

Proposed Rule

RD543E

Agency: Department of Agriculture

Division:

Agency Contact: Carol Milligan 296-6906

Minnesota Rules: 3 MCAR SS 1.1340-1.1348

Title: Proposed Emergency Rules Governing Manufactured Grade Milk Reimbursement Program

Type of Rules: Emergency

Incorporations by Reference: None

Steven C. Cross
Revisor of Statutes

Craig E. Lindeke
Senior Assistant Revisor
Phone: 296-0946
Date: June 14, 1984

STATE OF MINNESOTA

DEPARTMENT OF AGRICULTURE

In the Matter of the Proposed Amendments to the Emergency Rules of the Department of Agriculture Governing the Administration of the Manufacturing Grade Milk Investment Reimbursement Program (3 MCAR §§ 1.1340 - 1.1348)

ORDER ADOPTING EMERGENCY RULES

The above-entitled matter was published in the State Register on July 9, 1984, as proposed emergency rules pursuant to Minnesota Statutes section 14.30. After affording interested and affected persons an opportunity to submit written data and views for at least 25 days after the publication date, reviewing and considering the data and views, and determining that the above-captioned rules are needed and reasonable.

NOW THEREFORE, IT IS ORDERED that these rules identified as the emergency Rules Governing the Administration of the Manufacturing Grade Milk Investment Reimbursement Program are adopted this 6th day of August, 1984, pursuant to authority vested in me by Minnesota Statutes, section 32.417.

STATE OF MINNESOTA

Jim Nichols
Commissioner of Agriculture

STATE OF MINNESOTA

DEPARTMENT OF AGRICULTURE

In the Matter of the Proposed Amendments to the Emergency Rules Governing the Administration of the Manufacturing Grade Milk Investment Reimbursement Program (3 MCAR §§ 1.1340 - 1.1348)

ORDER FOR PUBLICATION OF EMERGENCY RULES

IT IS ORDERED this 25 day of June, 1984 that the proposed emergency rules in the above-entitled matter be published in the State Register.

STATE OF MINNESOTA

Jim Nichols

Jim Nichols
Commissioner of Agriculture

Department of Agriculture

Dairy Industries Division

In the Matter of the Proposed Amendments to the Emergency Rules Governing Administration of the Manufacturing Grade Milk Investment Reimbursement Program

Notice of Intent to Amend Emergency Rules

Notice is hereby given that the Minnesota Department of Agriculture proposes to amend the above entitled emergency rules. The Commissioner of Agriculture will follow the procedures set forth in Minnesota Statutes, sections 14.29-14.36 in amending these rules.

Persons interested in these emergency rules shall have 25 days from the date the rules are published in the State Register to submit comments on the proposed amendments. The proposed amendments may be modified if the modifications are supported by the data and views submitted to the department.

Persons who wish to submit oral or written comments should submit the comments to: Gerald Heil, Minnesota Department of Agriculture, 90 West Plato Boulevard, St. Paul, Minnesota 55107, (612) 296-1486.

Authority to adopt this rule is contained in Minnesota Statutes, section 32.417. The Commissioner is authorized by this section to adopt emergency rules for administration of the manufacturing grade milk investment reimbursement program. The investment reimbursement program is intended to help can producers meet federal and state certification requirements for manufacturing grade milk by providing financial assistance.

The Minnesota Department of Agriculture is amending the Rules Administering the Investment Reimbursement Program for dairy producers who upgrade their facilities to meet the 1983 Milk Quality Standards. The Department finds it is necessary to make changes in the existing rules to allow for extended time to apply and to change the process of application to reflect actual conditions in the dairy industry. The Department is of the opinion that the magnitude of changes necessary for many dairy producers who ship milk in cans has not been fully understood, and therefore, additional time to apply is necessary.

Upon adoption of the amendments to the emergency rules, this Notice, all written comments received, and the emergency Rules as Adopted, will be delivered to the Attorney General for review as to form and legality.

In accordance with Laws of Minnesota Statutes, Section 32.417, these emergency rules will be effective until July 1, 1985.

One free copy of this Notice and the proposed emergency rules may be obtained by contacting Mr. Heil. Persons who wish to be notified by mail that the proposed emergency rule has been submitted to the Attorney General or who wish to receive a copy of the emergency rule as adopted should also contact Mr. Heil.

STATE OF MINNESOTA

Date: June 25, 1984

Jim Nichols

Jim Nichols

Commissioner of Agriculture

In the Matter of the Proposed Amendments to the Emergency Rules of the Department of Agriculture Governing the Administration of the Manufacturing Grade Milk Investment Reimbursement Program (3 MCAR SS 1.1340-1.1348)

AFFIDAVIT OF MAILING

STATE OF MINNESOTA)
) ss.
COUNTY OF RAMSEY)

Joyce Walkosz, being first duly sworn, deposes and says:

That on the 3rd day of July, 1984, at the City of St. Paul, County of Ramsey, State of Minnesota, he/she served the attached Notice of Intent to Adopt Emergency Rules 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
NOTARY PUBLIC-MINNESOTA
RAMSEY COUNTY
MY COMMISSION EXPIRES NOVEMBER 1, 1990

Joyce Walkosz

Subscribed and sworn to before me this 3rd day of July, 1984.

Diane M. Windham

STATE OF MINNESOTA

COUNTY OF RAMSEY

CERTIFICATE

In the Matter of the Proposed Amendments to the Emergency Rules
of the Department of Agriculture Governing
the Administration of the Manufacturing Grade Milk
Investment Reimbursement Program
(3 MCAR SS 1.1340-1.1348)

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 3rd day of July, 1984.

Carol Milligan

PROPOSED RULES

Pursuant to Minn. Stat. of 1982, §§ 14.22, an agency may propose to adopt, amend, suspend or repeal rules without first holding a public hearing, as long as the agency determines that the rules will be noncontroversial in nature. The agency must first publish a notice of intent to adopt rules without a public hearing, together with the proposed rules, in the *State Register*. The notice must advise the public:

1. that they have 30 days in which to submit comment on the proposed rules;
2. that no public hearing will be held unless 25 or more persons make a written request for a hearing within the 30-day comment period;
3. of the manner in which persons shall request a hearing on the proposed rules; and
4. that the rule may be modified if the modifications are supported by the data and views submitted.

If, during the 30-day comment period, 25 or more persons submit to the agency a written request for a hearing of the proposed rules, the agency must proceed under the provisions of §§ 14.14-14.20, which state that if an agency decides to hold a public hearing, it must publish a notice of intent in the *State Register*.

Pursuant to Minn. Stat. §§ 14.29 and 14.30, agencies may propose emergency rules under certain circumstances. Proposed emergency rules are published in the *State Register* and, for at least 25 days thereafter, interested persons may submit data and views in writing to the proposing agency.

Department of Agriculture
Dairy Industries Division

Proposed Emergency Rules Governing Manufactured Grade Milk Reimbursement Program

Notice of Intent to Amend Emergency Rules

Notice is hereby given that the Minnesota Department of Agriculture proposes to amend the above entitled emergency rules. The Commissioner of Agriculture will follow the procedures set forth in Minnesota Statutes, sections 14.29-14.36 in amending these rules.

Persons interested in these emergency rules shall have 25 days from the date the rules are published in the *State Register* to submit comments on the proposed amendments. The proposed amendments may be modified if the modifications are supported by the data and views submitted to the department.

Persons who wish to submit oral or written comments should submit the comments to: Gerald Heil, Minnesota Department of Agriculture, 90 West Plato Boulevard, St. Paul, Minnesota 55107, (612) 296-1486.

Authority to adopt this rule is contained in Minnesota Statutes, section 32.417. The Commissioner is authorized by this section to adopt emergency rules for administration of the manufacturing grade milk investment reimbursement program. The investment reimbursement program is intended to help can producers meet federal and state certification requirements for manufacturing grade milk by providing financial assistance.

The Minnesota Department of Agriculture is amending the rules administering the investment reimbursement program for dairy producers who upgrade their facilities to meet the 1983 Milk Quality Standards. The Department finds it is necessary to make changes in the existing rules to allow for extended time to apply and to change the process of application to reflect actual conditions in the dairy industry. The Department is of the opinion that the magnitude of changes necessary for many dairy producers who ship milk in cans has not been fully understood, and therefore, additional time to apply is necessary.

Upon adoption of the amendments to the emergency rules, this notice, all written comments received, and the emergency rules as adopted, will be delivered to the Attorney General for review as to form and legality.

In accordance with Laws of Minnesota Statutes, Section 32.417, these emergency rules will be effective until July 1, 1985.

One free copy of this notice and the proposed emergency rules may be obtained by contacting Mr. Heil. Persons who wish to be notified by mail that the proposed emergency rule has been submitted to the Attorney General or who wish to receive a copy of the emergency rule as adopted should also contact Mr. Heil.

June 25, 1984

Jim Nichols
Commissioner of Agriculture

Emergency Rules as Proposed

3 MCAR § 1.1340 [Emergency] Purpose; authority.

Rules 3 MCAR §§ 1.1340-1.1348 [Emergency] are prescribed by the commissioner pursuant to ~~Laws of Minnesota 1983, chapter 232, section 2~~ Minnesota Statutes, section 32.417, in order to establish an application process and payment procedures for investment reimbursements to aid limited resource producers in meeting certification requirements so that they may continue as producers of manufacturing grade milk.

3 MCAR § 1.1341 [Emergency] Definitions.

A. Scope. As used in 3 MCAR §§ 1.1340-1.1348 [Emergency], the terms in this rule have the meanings given them.

B. Applicant. "Applicant" means a can producer who is a resident.

C. Application. "Application" means an information survey, financial information, an inspection report, a reimbursement request, and investment expenditure receipts submitted by a person to the commissioner for the purpose of obtaining an investment reimbursement.

D. Can producer. "Can producer" means a person who produces manufacturing grade milk for sale in cans.

E. Certification. "Certification" means the determination by the commissioner that a can producer's facility complies with standards.

F. Commissioner. "Commissioner" means the commissioner of agriculture or commissioner's designee.

G. Dairy sanitarian. "Dairy sanitarian" means an employee of the department responsible for departmental dairy inspection activities in an area of Minnesota.

H. Department. "Department" means the Department of Agriculture.

I. Eligible applicant. "Eligible applicant" means a can producer who meets the criteria in 3 MCAR § 1.1342 [Emergency] A. and B.

J. Facility. "Facility" means equipment, building, or a portion of a building which is necessary in the production of manufacturing grade milk and is owned or operated by the can producer.

K. Hardship. "Hardship" means unforeseen circumstances which preclude the applicant from meeting a deadline stated in 3 MCAR §§ 1.1344-1.1348 [Emergency].

L. Investment expenditure. "Investment expenditure" means the cost of capital improvements or equipment installed for the purpose of conforming to standards.

M. Investment reimbursement. "Investment reimbursement" means a partial refund of investment expenditures.

N. Labor. "Labor" means a person hired for the modification of a facility and for which a receipt or other evidence of an investment expenditure is available.

O. Limited resource producer. "Limited resource producer" means a can producer whose yearly net income is less than ~~$6,000 and whose net worth is not in excess of $75,000~~ $9,000.

P. Manufacturing grade milk. "Manufacturing grade milk" means milk produced for processing and manufacturing into products for human consumption but not subject to the grade A requirements of Minnesota Statutes, chapter 32 and 3 MCAR §§ 1.1149-1.1154.

Q. Modification. "Modification" means a change in the production facility required for certification of the facility.

R. Net income. "Net income" means federally adjusted gross income ~~minus taxes~~.

S. ~~Net worth. "Net worth" means the sum of all assets minus all liabilities of the applicant and the applicant's spouse, if applicable, determined using generally accepted accounting principles.~~

~~T. Noncertifiable. "Noncertifiable" means unable to meet standards for the production of manufacturing grade milk.~~

~~U.~~ Persons. "Person" means an individual, partnership, family farm, family farm corporation, or authorized farm corporation engaged in manufacturing grade milk production.

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.

~~V.~~ T. Plant representative. "Plant representative" means a field service employee or other employee of a receiving dairy plant who is responsible for quality control.

~~W.~~ U. Qualified applicant. "Qualified applicant" means an eligible applicant who is determined a limited resource producer in accordance with 3 MCAR § 1.1344 [Emergency] F.

~~X.~~ V. Resident. "Resident" means a person who was producing manufacturing grade milk in Minnesota in cans, for sale, on or before June 2, 1983.

~~Y.~~ W. Standards. "Standards" means the recommended federal standards for manufacturing grade milk as adopted by Minnesota.

3 MCAR § 1.1342 [Emergency] Eligibility.

A. Residency. An applicant must be a resident currently engaged in the production of ~~manufacturing grade milk for sale in cans.~~

B. ~~Noncertifiable. An applicant's facilities must be noncertifiable.~~

~~C.~~ Financial need. An applicant must be a limited resource producer.

3 MCAR § 1.1343 [Emergency] Notice of available funds.

The commissioner shall publish notice of the availability of investment reimbursement funds in the *State Register* and mail the notice to can producers of record on or before ~~February 1~~ July 30, 1984. The notice must contain at least the following: the purpose of the investment reimbursement program; the method of applying for the investment reimbursement; the criteria for eligibility; a statement of expenditures not eligible for reimbursement as stated in 3 MCAR § 1.1346 [Emergency] C.; a statement of when investment reimbursements will be made and the deadlines for filing application documents; and a statement that the maximum allowable investment reimbursement is $100 for the first $500 or fraction thereof, and ten percent of the next $2,000 of net investment expenditures.

3 MCAR § 1.1344 [Emergency] Application procedure.

A. Information survey. An information survey must be completed and submitted ~~prior to the filing of the financial data form.~~ The applicant must request that a plant representative conduct the information survey and submit results to the department on or before ~~May 1, 1984~~ April 1, 1985. The information survey must be completed on forms provided by the department and must contain at least the following:

1. the producer's name and address, including county, township, and section;
2. the date and time of survey;
3. the size of the dairy herd and amount of daily production;
4. the frequency of milk pickups and the name and address of the receiving dairy plant;
5. production and marketing intentions after July 1, 1985;
6. the producer's intent to apply for an investment reimbursement; and
7. ~~the availability of a milkhouse or milkroom;~~
8. ~~the size and location of a milkhouse or milkroom, if any;~~
9. ~~the type of construction of the milkhouse or milkroom including lighting, walls, and ceiling construction, floor construction, doors, windows, and screen construction, and the adequacy of sewage disposal;~~
10. ~~construction plans, if any, for a milkhouse or milkroom including location, size, construction materials, and potential builder;~~
11. ~~the condition of milking utensils and equipment;~~
12. ~~the type and size of a milk cooler and its operating condition;~~
13. ~~the number and condition of cans;~~
14. ~~the total number of cans needed for proper storage of milk;~~
15. ~~the type of barn including size and arrangement;~~
16. ~~the adequacy of lighting, ventilation, floor, gutters, walls, ceilings, pens and alleyways, yard, and loafing area;~~
17. ~~the water supply type, location, and quality; and~~

~~18.~~ any other information determined by the commissioner to be reasonably related to the certification process for manufacturing grade milk.

B. ~~Preliminary~~ Review. Based on the information survey, the commissioner shall determine eligible applicants using the criteria in 3 MCAR § 1.1342 [Emergency] A. ~~and B.~~

C. ~~Notification of eligible applicants. The commissioner shall notify all eligible applicants on or before June 1, 1984.~~

~~D.~~ Financial information. On or before ~~June 1, 1984~~ April 1, 1985, an eligible applicant must submit to the department ~~the following financial information:~~

~~1.~~ a copy of the eligible applicant's federal income tax return for ~~1983~~ the previous year or a written, signed, and notarized statement declaring that the eligible applicant did not file a return for ~~1983; and~~ the previous year.

~~2. a completed net worth statement, in the form set forth in Exhibit 3 MCAR § 1.1344 [Temporary] D.2.-1.~~

Exhibit 3 MCAR § 1.1344 [Emergency] D.2.-1. (side 1) [see Repealer.]

Exhibit 3 MCAR § 1.1344 [Emergency] D.2.-1 (side 2) [see Repealer.]

~~E.~~ D. Incomplete financial information. In the event that incomplete financial information is received, the department shall notify the eligible applicant, specifying the deficiencies. The eligible applicant shall have until ~~July 1, 1984~~ April 1, 1985, or 15 days from the postmarked date of the notice, whichever is later, to complete the financial information. If the financial information is not completed in the prescribed time, the eligible applicant will not be considered for an investment reimbursement unless the eligible applicant shows hardship in accordance with 3 MCAR § 1.1347 [Emergency].

~~F.~~ E. Determination ~~and notification~~ of qualified applicants. The commissioner shall review the financial information submitted by the eligible applicant and determine whether the eligible applicant is a limited resource producer. If the eligible applicant is a limited resource producer, the eligible applicant is qualified ~~and the commissioner shall notify the qualified applicant by mail on or before August 1, 1984.~~

3 MCAR § 1.1345 [Emergency] Certification.

A. Certification inspection. On completion of all facility modifications, the qualified applicant shall notify the plant representative. The plant representative shall review the modifications and determine if the modified facility is ready for a certification inspection. If it is ready, the plant representative shall notify the dairy sanitarian to arrange for a certification inspection of the facility.

B. Inspection report. An inspection report must evidence all modifications and is the basis for determining the can producer's compliance with standards. The dairy sanitarian shall give the original of the inspection report to the qualified applicant, retain one copy, and send one copy each to the plant representative and the commissioner.

3 MCAR § 1.1346 [Emergency] Request for payment.

A. Submission of request for payment. After the completion of a successful certification inspection, the qualified applicant must file with the department a request for payment accompanied by all receipts for investment expenditures, dated and signed, if applicable. These materials must be received by the commissioner on or before April ~~1~~ 15, 1985.

B. Request for payment. The request for payment must be a typed or legibly printed letter containing the following:

1. the qualified applicant's name and address;

2. the date of the request;

3. the date of the certification inspection; and

4. a brief statement requesting payment for investment expenditures under the manufacturing grade milk investment reimbursement program.

C. Receipts for investment expenditures. The qualified applicant may submit receipts for all investment expenditures made for the facility modification with the exception of the following items:

1. bulk tank unit;

2. hose port and concrete pad;

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3. milk lines;

4. milk pumps;

5. pressurized hot water systems;

6. a waste disposal system more elaborate than one necessary to handle waste associated with the cleaning of milk handling equipment; and

7. labor costs in excess of ten percent of the total investment reimbursement approved by the commissioner.

D. Incomplete requests or receipts. In the event that a request or a receipt is incomplete, the department shall return the request or receipt to the qualified applicant specifying the deficiencies. The applicant shall have until April ~~1~~ 15, 1985, or 15 days from the postmarked date of the notice, whichever is later, to complete the request or receipt, unless the qualified applicant shows hardship in accordance with 3 MCAR § 1.1347 [Emergency].

3 MCAR § 1.1347 [Emergency] Hardship.

Late financial information, request for payment, or receipt for investment expenditures may not be considered by the commissioner unless the eligible or qualified applicant shows hardship causing the delay. Any claim of hardship must be submitted in writing to the department. The commissioner shall evaluate and determine the reasonableness of any claim of hardship.

3 MCAR § 1.1348 [Emergency] Approval; payment.

A. Verification; approval. All requests and receipts for investment reimbursements submitted in support of an application are subject to verification and approval by the commissioner.

B. Schedule for payments. After the commissioner's approval, investment reimbursements must be made for investment expenditures in accordance with ~~Laws of Minnesota 1983, chapter 232, section 2~~ Minnesota Statutes, section 32.417. All investment reimbursements must be made by June 30, 1985.

Repealer. Exhibit 3 MCAR § 1.1344 [Emergency] D.2.-1 (side 1) and Exhibit 3 MCAR § 1.1344 [Emergency] D.2.-1 (side 2) are repealed.

Department of Energy and Economic Development

Proposed Rules Governing Tax Credit Certification

Notice of Intent to Adopt Rules without a Public Hearing

Notice is hereby given that the Department of Energy and Economic Development proposes to adopt the above-entitled rules without a public hearing. The Commissioner of Energy and Economic Development has determined that the proposed adoption of these rules will be noncontroversial in nature and has elected to utilize the provisions of Minn. Stat. §§ 14.21 to 14.28.

Persons interested in these rules shall have 30 days to submit comments in support of or in opposition to the rules. Each comment should identify the portion of the proposed rule addressed, the reason for the comment, and any change proposed. The proposed rules may be modified if the modifications are supported by the data and views submitted to the agency and do not result in a substantial change.

No public hearing will be held unless 25 or more persons make a written request for a hearing within the 30-day comment period. In the event a public hearing is required, the agency will proceed according to the provisions of Minn. Stat. §§ 14.14, subd. 1.

Persons who wish to submit comments or a written request for a public hearing should submit them to:

Charles A. Schaffer, Director
Program of Business Information
MN Dept. of Energy & Economic Development
900 American Center
150 East Kellogg Boulevard
St. Paul, MN 55101
612/296-0617

Any person requesting a public hearing should state his/her name and address, identify the portion of the proposed rule addressed, the reason for the request and any change proposed and send this information to the above address.

In the Matter of the Proposed Amendments to the Emergency Rules Governing Administration of the Manufacturing Grade Milk Investment Reimbursement Program (3 MCAR §§ 1.1340-1.1348)

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: 8/8/84