

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

PLANNING DIVISION
DEPARTMENT OF AGRICULTURE

LIST OF ATTACHED DOCUMENTS

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

B. Order Adopting the Rule (two copies).

C. Notice of Intent to Solicit Outside Opinion.

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

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

F. Affidavit of Mailing Notice of Intent to Adopt a Rule Without Public Hearing (one copy).

G. Mailing List Certificate (one copy).

H. Rule as Proposed (one copy).

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

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

SF-00006-03

STATE OF MINNESOTA

DEPARTMENT OF AGRICULTURE

Office Memorandum

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

DATE: 09/20/84

FROM: Carol Milligan, Management Analyst CM
Planning Division

PHONE: 296-6906

SUBJECT: Review of Rules Governing Restricted Use Pesticides (Minnesota Rules 1505.1070 - 1505.1090)

The Department of Agriculture adopted amendments to the above-mentioned rules pursuant to Minnesota Statutes, Sections 14.22-14.28. 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.

The department fulfilled the requirements of Minnesota Statutes, section 14.115, subd. 4, by notifying small businesses of the expected impact of the rules. Such notice was given in the Notice of Intent to Adopt Rules Without Public Hearing. The requirements of subd. 2 are dealt with in the Statement of Need and Reasonableness.

No written comments were received following the publication of the Rules as Proposed in the State Register, the department did not receive any requests for a public hearing, nor did anyone request 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

RECEIVED
SEP 24 1984
ATTORNEY GENERAL
ADMINISTRATIVE AGENCIES

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 Bulger, Director, Agronomy Services Division
Mike Fresvik, Agronomy Services Division

Our File No. 1075

RULE REVIEW CHECKLIST

DATE RULE RECEIVED 9-24-84
DATE FOR REVIEW 10-3-84
DATE DUE 10-8-84

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

Approved 10/8/84 (CDS) Disapproved _____ Returned to Agency _____

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

Date filed w/Secretary of State 10-9-84 Revisor approved 9/24/84 disapproved _____

✓ Rule as Adopted

✓ Rule as Proposed

✓ Order Adopting 9.19.84 Date

✓ Notice of Intent to Solicit Outside Opinion SR . 4.9.84

✓ Order for rulemaking
N/A date of Hearing

N/A Certificate of Board's Authorizing Resolution

✓ Notice of rulemaking
✓ Sufficiency contains small biz statement.

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

✓ Mailing list Certificate

✓ Publication in State Register
8.20.84 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 contains small biz statement

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

DEPARTMENT ATTORNEY GENERAL

STATE OF MINNESOTA

Office Memorandum

TO : Jim Nichols
Commissioner, Department of Agriculture

DATE: October 9, 1984

ATTN: Jon Murphy
Special Assistant Attorney General

FROM : Larry D. Starns LDS
Special Assistant Attorney General

PHONE: 297-3493

SUBJECT: In the Matter of the Proposed Amendments to the Rules of the Department of Agriculture Governing Restricted Use Pesticides (Minnesota Rules 1505.1070-1505.1090)

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:slz

Encs.

cc: Ms. Kathy Burek
Mr. Duane Harves

AG copy

Department of Agriculture

Agronomy Services Division

Adopted Amendments to Rules Governing Pesticides

Rules as Adopted

1505.1070 RESTRICTED USE PESTICIDES.

Restricted use pesticides shall be those so classified by the administrator of the EPA. Additionally, all pesticide uses classified as restricted use by any other federal or state agency statutorily authorized to do said classification, as well as the pesticides listed in part 1505.1080, shall, for the purposes of the administration of parts 1505.0830 to 1505.1290, be classified as restricted use pesticides.

REPEALER. Minnesota Rules, part 1505.1090 is repealed.

STATE OF MINNESOTA
DEPARTMENT OF STATE
FILED
OCT - 9 1984
Joan Anderson Growe
Secretary of State 9:40 AM

APPROVED AS TO LEGALITY
October 8, 1984
HUBERT H. HUMPHREY, III
ATTORNEY GENERAL
BY Jerry D. Thoma
SPECIAL ASSISTANT ATTORNEY GENERAL

Rules as Proposed

1505.1070 RESTRICTED USE PESTICIDES.

Restricted use pesticides shall be those so classified by the administrator of the EPA. Additionally, all pesticide uses classified as restricted use by any other federal or state agency statutorily authorized to do said classification, as well as the pesticides listed in ~~parts~~ part 1505.1080 ~~and 1505.1090~~, shall, for the purposes of the administration of parts 1505.0830 to 1505.1290, be classified as restricted use pesticides.

REPEALER. Minnesota Rules, part 1505.1090 is repealed.

APPROVED IN THE
REVISOR OF STATUTES
OFFICE BY:

OFFICE OF THE REVISOR OF STATUTES

Proposed Rule

RD506

Agency: Department of Agriculture

Division: Agronomy Services Division

Agency Contact: Carol Milligan

Minnesota Rules: Part 1505.1070

Title: Proposed Amendments to Rules Governing Pesticides

Type of Rules: Permanent

Incorporations by Reference: None

Steven C. Cross
Revisor of Statutes

Craig E. Lindeke
Senior Assistant Revisor
Phone: 296-0946

Date: July 26, 1984

STATE OF MINNESOTA

DEPARTMENT OF AGRICULTURE

In the Matter of the Proposed Amendments To
The Rules of the Department of Agriculture
Governing Restricted Use Pesticides
(Minnesota Rules 1505.1070 -1505.1090)

ORDER ADOPTING
RULES

Notice of the Commissioner's intent to adopt the above-entitled amendments without a public hearing was published in the State Register on August 20, 1984, 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 August 15, 1984. After affording interested and affected persons an opportunity to submit comments for 30 days after Notice, receiving fewer than 25 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 amendments identified as the Amendments Governing Restricted Use Pesticides adopted this 19th day of September, 1984, pursuant to authority vested in me by Minnesota Statutes, section 18A.43.

STATE OF MINNESOTA

Jim Nichols

JIM NICHOLS
COMMISSIONER
DEPARTMENT OF AGRICULTURE

Department of Agriculture

Planning Division

Notice of Intent to Solicit Outside Opinion Regarding Proposed Amendments to the Rules Governing Pesticide Control (Minnesota Rules §§1505.0830 - 1505.1290)

Notice is hereby given that the Minnesota Department of Agriculture is seeking information or opinions from sources outside the agency in preparing to amend existing rules governing pesticide control. The promulgation of these rules is authorized by Minnesota Statutes, section 18A.43, which permits the department to adopt and enforce such rules as are necessary to carry out the provisions of Minnesota Statutes sections 18A.21 - 18A.48.

The Department requests information and comments concerning the subject matter of these rules. Interested or affected persons or groups may submit statements of information or comment orally or in writing. Written statements of information and comment may be addressed to:

Mr. Gerald Heil

Minnesota Department of Agriculture

90 West Plato Boulevard

St. Paul, MN 55107

Oral statements of information and comment will be received during regular business hours over the telephone at (612) 296-1486, and in person at the above address.

All statements of information and comment must be received by April 25, 1984. Any written material received by the Department shall become part of the hearing record.

4/3, 1984

Jim Nichols
Commissioner

Department of Agriculture
Planning Division

Outside Opinion Sought Regarding Proposed Amendments to the Rules Governing Pesticide Control (Minnesota Rules §§ 1505.0830-1505.1290)

Notice is hereby given that the Minnesota Department of Agriculture is seeking information or opinions from sources outside the agency in preparing to amend existing rules governing pesticide control. The promulgation of these rules is authorized by Minnesota Statutes, section 18A.43, which permits the department to adopt and enforce such rules as are necessary to carry out the provisions of Minnesota Statutes sections 18A.21-18A.48.

The Department requests information and comments concerning the subject matter of these rules. Interested or affected persons or groups may submit statements of information or comment orally or in writing. Written statements of information and comment may be addressed to:

Mr. Gerald Heil
Minnesota Department of Agriculture
90 West Plato Boulevard
St. Paul, MN 55107

Oral statements of information and comment will be received during regular business hours over the telephone at (612) 296-1486, and in person at the above address.

All statements of information and comment must be received by April 25, 1984. Any written material received by the Department shall become part of the hearing record.

April 2, 1984

Jim Nichols
Commissioner

Health Department
Emergency Medical Services Section

Emergency Medical Services Licensure Application for Stillwater, Minnesota

As of April 9, 1984, a complete application for a basic life support transportation service was submitted by Lakeview Memorial Hospital Association, Inc. (i.e., Lakeview Emergency Medical Services), to operate a base of operation at 919 West Anderson Street, Stillwater, Minnesota.

This notice is given pursuant to Minnesota Statutes 1979, Section 144.802, which requires in part that the Commissioner of Health shall publish the notice in the *State Register* at the applicant's expense; and in a newspaper in the municipality in which the service will be provided.

Each municipality, county, community health services agency, and any other interested person wishing to comment on this application may submit comments to the Metropolitan Health Board, 300 Metro Square Building, 7th and Robert, St. Paul, MN. 55101, Attn: Tom Chapel, 612/291-6357. The comments must reach the Health Systems Agency before May 9, 1984, or be submitted at the public hearing which will be held in Stillwater.

After a public hearing has been held, the Health Systems Agency shall recommend that the Commissioner of Health grant or deny a license or recommend that a modified license be granted. The Health Systems Agency shall make the recommendations and reasons available to any individual requesting them.

Within 30 days of receipt of the recommendation to the Commissioner of Health, the Commissioner shall grant or deny the license to this applicant.

STATE OF MINNESOTA

DEPARTMENT OF AGRICULTURE

In the Matter of the Proposed Amendments
to the Rules of the Department of Agriculture
Governing Restricted Use Pesticides

(Minnesota Rules 1505.1070 - 1505.1090)

ORDER FOR NOTICE
OF INTENT TO ADOPT
RULES WITHOUT
PUBLIC HEARING

IT IS ORDERED this 6th day of August, 1984, 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

Agronomy Services Division

In the Matter of the Proposed Amendments to the Rules Governing Restricted Use Pesticides (Minnesota Rules 1505.1070 - 1505.1090).

Notice of Intent to Amend Rules Without a Public Hearing

Notice is hereby given that the Minnesota Department of Agriculture proposes to amend the above-entitled rules without a public hearing. The Commissioner of Agriculture has determined that the proposed adoption of these amendments 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 are encouraged to submit comment in support of or in opposition to the proposed amendments, and shall have 30 days to do so. Each comment should identify the portion of the proposed amendments addressed, the reason for the comment, and any change proposed. The proposed amendments 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 25 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. Persons requesting a public hearing should state their name and address, and are encouraged to identify the portion of the proposed rules addressed, the reason for the request, and any proposed change. 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).

Persons who wish to submit comments or a written request for a public hearing should submit them 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 18A.43, Subd. 1. Additionally, a Statement of Need and Reasonableness that describes the need for and reasonableness of each provision of the proposed amendments and identifies the data and information relied upon to support the proposed amendments has been prepared and is available upon request from Mr. Heil.

Upon adoption of the final amended 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 Minnesota Statutes, Section 18A.43, Subd. 1 to promulgate rules for proper enforcement of Minnesota Statutes, Sections 18A.21 to 18A.45. This includes regulating the use of pesticides and the designation of restricted use pesticides.

The proposed amendements to the pesticide rules would bring Minnesota's restrictions for Lindane use into conformity with federal regulations. The proposed change would allow Lindane to be sold for uses allowed by federal labeling requirements without requiring retailers to purchase a restricted use pesticide dealers license.

The proposed amendments will impact and benefit small business as defined in Minnesota Statutes, Section 14.115, because repealing Minnesota's restrictions on Lindane will allow retailers to sell the product in accordance with federal regulations and lessen state licensing and record keeping burdens.

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: August 6, 1984

Jim Nichols

Commissioner of Agriculture

Subp. 2. Subcontracts and purchase of materials. Except as provided in part 1230.3900, a contractor to whom a Mn/DOT contract has been awarded by the Minnesota Department of Transportation may not subcontract with or purchase materials or services from a debarred or suspended person for performance of that contract.

1230.4200 SUSPENSION.

Subpart 1. Order of suspension. The commissioner of transportation shall suspend a person or business by order upon receiving notice or learning of a conviction for conduct described in part 1230.3200 or upon learning of an affiliation described in part 1230.3600, subpart 2.

Subp. 2. Commencement of proceedings. The commissioner of transportation shall start debarment proceedings within ten days of the mailing of the suspension order.

Subp. 3. Notice and content. The order for suspension must describe the reason for suspension and must be sent by certified mail to the person suspended.

Subp. 4. Effective date of suspension; term. The order for suspension takes effect on the date the order is mailed. No suspension may exceed 60 days.

1230.4300 NOTICE TO PUBLIC.

Subpart 1. Notice to commissioner. The Minnesota Department of Transportation shall provide to the commissioner a copy of each suspension, debarment, or termination order on the same day that the order is mailed to the debarred or suspended person.

Subp. 2. Publication. The commissioner shall publish weekly, in the *State Register*, a list of debarred and suspended persons, the effective date of each suspension and debarment, and the term of each debarment. The commissioner shall also publish notice of debarment terminations under part 1230.3900 and the effective date of the termination.

Department of Agriculture
Agronomy Services Division

Proposed Amendments to Rules Governing Pesticides

Notice of Intent to Amend Rules without a Public Hearing

Notice is hereby given that the Minnesota Department of Agriculture proposes to amend the above-entitled rules without a public hearing. The Commissioner of Agriculture has determined that the proposed adoption of these amendments 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 are encouraged to submit comment in support of or in opposition to the proposed amendments, and shall have 30 days to do so. Each comment should identify the portion of the proposed amendments addressed, the reason for the comment, and any change proposed. The proposed amendments 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 25 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. Persons requesting a public hearing should state their name and address, and are encouraged to identify the portion of the proposed rules addressed, the reason for the request, and any proposed change. 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).

Persons who wish to submit comments or a written request for a public hearing should submit them 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 18A.43, Subd. 1. Additionally, a Statement of Need and Reasonableness that describes the need for and reasonableness of each provision of the proposed amendments and

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.

identifies the data and information relied upon to support the proposed amendments has been prepared and is available upon request from Mr. Heil.

Upon adoption of the final amended 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 Minnesota Statutes, Section 18A.43, Subd. 1 to promulgate rules for proper enforcement of Minnesota Statutes, Sections 18A.21 to 18A.45. This includes regulating the use of pesticides and the designation of restricted use pesticides.

The proposed amendments to the pesticide rules would bring Minnesota's restrictions for Lindane use into conformity with federal regulations. The proposed change would allow Lindane to be sold for uses allowed by federal labeling requirements without requiring retailers to purchase a restricted use pesticide dealers license.

The proposed amendments will impact and benefit small business as defined in Minnesota Statutes, Section 14.115, because repealing Minnesota's restrictions on Lindane will allow retailers to sell the product in accordance with federal regulations and lessen state licensing and record keeping burdens.

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.

August 6, 1984

Jim Nichols,
Commissioner of Agriculture

Rules as Proposed

1505.1070 RESTRICTED USE PESTICIDES.

Restricted use pesticides shall be those so classified by the administrator of the EPA. Additionally, all pesticides uses classified as restricted use by any other federal or state agency statutorily authorized to do said classification, as well as the pesticides listed in ~~parts~~ part 1505.1080 ~~and 1505.1090~~, shall, for the purposes of the administration of parts 1505.0830 to 1505.1290, be classified as restricted use pesticides.

REPEALER. Minnesota Rules, part 1505.1090 is repealed.

Department of Commerce

Proposed Rules Governing Employee Health and Disability Joint Self-Insurance

Notice of Intent to Adopt Rules without a Public Hearing

Notice is hereby given that the Department of Commerce proposes to adopt the above-entitled rules without a public hearing. The Commissioner of Commerce 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, section 14.21.

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.

In the Matter of the Proposed
Amendments to the Rules of the
Department of Agriculture
Governing Restricted Use
Pesticides
(Minnesota Rules 1505.1070-1505.1090)

AFFIDAVIT OF
MAILING

STATE OF MINNESOTA)
) ss.
COUNTY OF RAMSEY)

Marie Skerbitz, being first duly sworn, deposes and says:

That on the 15th day of August, 1984, 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.

Marie Skerbitz

Subscribed and sworn to before me
this 15th day of August, 1984.

Diane Windham

DIANE M. WINDHAM
NOTARY PUBLIC-MINNESOTA
RAMSEY COUNTY
MY COMMISSION EXPIRES NOVEMBER 1, 1990

STATE OF MINNESOTA

COUNTY OF RAMSEY

CERTIFICATE

In the Matter of the Proposed Amendments
to the Rules of the Department of
Agriculture Governing Restricted Use
Pesticides
(Minnesota Rules 1505.1070-1505.1090)

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 15th day of August, 1984.

Carol Milligan

STATE OF MINNESOTA
DEPARTMENT OF AGRICULTURE

IN THE MATTER OF THE PROPOSED AMENDMENTS TO)
THE RULES OF THE DEPARTMENT OF AGRICULTURE)
GOVERNING RESTRICTED-USE PESTICIDES)
MINNESOTA RULES 1505.1070 THROUGH 1505.1090)

STATEMENT OF NEED
AND REASONABLENESS

I. INTRODUCTION

The subject of this rulemaking is the proposed repeal of restrictions imposed by the Minnesota Department of Agriculture on the sale and use of LINDANE. Minnesota Statutes, section 18A.43, subdivision 1, authorizes the Department to establish rules for enforcement of the sale and use of pesticides in Minnesota.

The Commissioner of Agriculture has determined that the proposed amendment to the rules would be non-controversial in nature based on favorable consultations with representatives of the pesticide industry and governmental officials. Therefore, adoption of this amendment will be in accordance with Minnesota Statutes, sections 14.21 - 14.28. Accordingly, the rulemaking proceedings on the proposed amendment to the rules are governed by that statute and no hearing will be conducted unless, on or before September 18, 1984, twenty-five (25) or more persons submit to the Department a written request for such a hearing. This Statement of Need and Reasonableness was completed prior to publication of the Notice of Intent to Adopt Rules Without a Public Hearing in accordance with Minnesota Statutes, section 14.23.

II. OVERVIEW

In 1969, the State of Minnesota imposed restrictions on a group of pesticides, most of which were chlorinated hydrocarbon compounds. The following pesticides are designated as "restricted-use pesticides" in this state:

DDT
DDD and TDE
Dieldrin
Endrin
Heptachlor
Lindane
Aldrin
Inorganic arsenicals
Mercury

The state restrictions were above and beyond federal restrictions at that time. Later, as new research information became available, restrictions were placed on these pesticides by the federal government including certain product suspensions and cancellations of registrations. When the Minnesota Department of Agriculture revised the rules relating to pesticide use in July, 1978, the state restrictions on most of the aforementioned pesticides were dropped so as to conform with federal regulations and restrictions. However, because the federal government had not instituted a formal review process on the use of products containing LINDANE, as it had with the other above-mentioned pesticides, the state retained restrictions for products containing LINDANE. Since that time, the U.S. Environmental Protection Agency has instituted a review process which has and will continue to limit the permissible uses of LINDANE products.

The proposed rule change would delete the state restrictions on the sale and use of LINDANE in Minnesota. Dropping state restrictions on LINDANE will enable the Department to carry out its statutory responsibilities with regard to the regulation of pesticides and would conform with federally-approved labeling for LINDANE products. Minnesota is the only state that has restrictions on LINDANE beyond federally-approved labeling. Users of LINDANE products are purchasing LINDANE in bordering states for use in Minnesota. The Department, at this time, sees no substantial harm resulting from the use of LINDANE under the federal label. The U.S. Environmental Protection Agency, which has the staff and resources needed, is evaluating LINDANE products and is in the process of imposing restrictions which will apply to all states should it become necessary to protect health and the environment. The U.S. EPA will continue to monitor the effects of using LINDANE and further evaluate appropriate research data.

The proposed change in the rules would allow producers to sell LINDANE products to retailers for uses allowed by federal labeling requirements. Retailers would be able to sell LINDANE products without purchasing a restricted-use pesticide dealer's license. Farmers and other commercial users would be allowed to use LINDANE products according to the label directions. The proposed change would lend itself to uniformity among Minnesota and all other states. The present restrictions have a detrimental effect on growers in Minnesota. Farmers and other applicators are deprived of the benefits derived from the use of LINDANE under the federally-approved label that is available in other states. User groups have asked that the Minnesota-imposed restrictions on the sale and use of LINDANE be rescinded.

III. SMALL BUSINESS IMPACT

Minnesota Statutes, section 14.115, requires that the impact on small business be addressed concerning the proposed amendments to Minnesota Rules 1505.1070 - 1505.1090.

Under the present provisions of the Minnesota Pesticide Control Law, Minnesota Statutes, sections 18A.21 - 18A.45, dealers wanting to sell restricted-use pesticides, most of which have been so classified by the U.S. Environmental Protection Agency, are required to secure a dealer's license. At present, the Department licenses approximately 530 dealers who offer restricted-use pesticides for sale. Most of these dealers would be considered small businesses, according to Minnesota Statutes, section 14.115, subdivision 1. A large portion of these dealers sell only LINDANE products.

Dealers must either take out a license to sell LINDANE to users in the area or refuse to carry LINDANE products. Users must then go elsewhere, including neighboring states to secure LINDANE products.

Small businesses are currently adversely impacted if they sell LINDANE products. Each year they are required to make an application for a restricted-use pesticide dealer's license, pay a yearly $75.00 licensing fee, and maintain specific records detailing the sale of LINDANE. They also lose business to neighboring states where users can purchase LINDANE products from dealers not required to secure a dealer's license. The proposed rule change would alleviate this hardship for dealers selling LINDANE.

IV. NEED FOR AND REASONABLENESS OF THE PROPOSED AMENDMENTS TO THE RULES

1505.1070 **RESTRICTED-USE PESTICIDES**

Restricted-use pesticides shall be those so classified by the administrator of the U.S. EPA. Additionally, all pesticide uses classified as restricted-use by any other federal or state agency statutorily authorized to do said classification, as well as pesticides listed in parts 1505.1080 ~~and 1505.1090~~, shall, for the purposes of the administration of parts 1505.08330 to 1505.1290, be classified as restricted-use pesticides.

This change is necessary and reasonable strictly as a structural change in the rules to have the correct wording to accomodate the proposed change in the rules.

~~1505.1090 USE OF LINDANE~~

~~No person shall use Lindane in any pest control activity except as follows:~~

~~Pest~~	~~Crop~~	~~Dosage~~	~~Remarks, Limitations~~
~~Soil insects~~	~~Corn, beans small grains, sugarbeets, sunflowers~~	~~1 oz. per bu.~~	~~Seed treatment only~~
~~Stored food pests~~		~~Follow label directions~~	~~For use by structural pest control operators~~
~~Mange mites~~	~~Swine~~	~~0.06% as spray or dip 1.0% dust~~	~~Do not treat before animals are 3 months old or sows within 2 weeks of farrowing; must be 30 days before slaughter, dips 60 days. If growth rates approach 200 lbs. in 150 days, another chemical should be used.~~
~~Centipedes symphylids~~		~~Follow label directions~~	~~For commercial greenhouse and floriculture use only.~~
~~Thrips, fungus gnats, mealy bugs, sowbugs (pillbugs), spittle bugs~~		~~Follow label directions~~	~~For commercial greenhouse and floriculture use only.~~

The deletion of this section is necessary to create uniformity with federal laws and laws in other states relating to the requirements for the sale and use of LINDANE in Minnesota. Additionally, Minnesota will conform with federally-approved label directions and other state pesticide programs.

The repeal of this section is reasonable because of the burden it places on retailers and users in Minnesota. Dealers are losing sales. Farmers and other users have been denied the option of using LINDANE for certain federally-approved uses not legal in Minnesota at this time. The U.S. EPA is examining the benefit/risk ration concern regarding certain uses of LINDANE. The federal restrictions will be adequate to protect the users, general public, and the environment in the state of Minnesota. These federally-imposed restrictions will appear on the label of appropriate products and apply equally in all states.

In the Matter of the Proposed
Amendments to the Rules of the
Department of Agriculture
Governing Restricted Use Pesticides
(Minnesota Rules 1505.1070 - 1505.1090)

STATEMENT OF
COMPLIANCE WITH
RULEMAKING PROCEDURES

I, (Special Assistant Attorney General) Jon 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: 9/19/84