

Minnesota Attorney General: Administrative Rules Proceedings

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Version 3
August 20, 2018

ATTORNEY GENERAL

September 15, 1988

CAROL MILLIGAN
Management Analyst
Planning Division

JULIE A. LEPPINK
Special Assistant
Attorney General

6-9422

In the Matter of the Adopted Rule Relating to
Grade A and Manufacturing Grade Milk and Dairy
Products

The above-referenced rule has been approved as to its legality by the Attorney General on September 15, 1988.

Enclosed is the agency's copy of the approved rule. This office has already filed two copies with the Secretary of State who will forward one copy to the Revisor of Statutes. The fourth is being retained by this division of the Attorney General's Office for its records.

Also enclosed are any petitions, requests, submission or comments received by the agency and any extra copies of documents which the agency submitted to the Attorney General.

In order for a permanent rule without a hearing to become effective, your agency must publish a notice of adoption in the State Register in accordance with Minn. Stat. §14.27. An emergency rule becomes effective five working days after approval by the Attorney General; however, the agency must publish a notice in the State Register in accordance with Minn. Stat. §14.34.

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

JAL:rer

Enclosures

cc: Maryanne Bruby
Executive Director
Legislative Commission to Review
Administrative Rules

Duane Harves
Chief Administrative Law Judge
Office of Administrative Hearings

File No. 515 ___ Docket No. 5.0009.0986

DATE RECEIVED 8/30/88 ADOPTED W/O HEARING _____

REVIEW DATE 9/8/88 EMERGENCY RULE _____

DUE DATE 9/13/88 REVISOR APPROVED _____

APPROVED 9/13/88 REVISOR DISAPPROVED _____

DISAPPROVED _____ FILED W/SEC. OF STATE 9/15/88

WITHDRAWN _____ RETURNED TO AGENCY 9/15/88

✓ Rule as adopted (4 copies)

_____ ~~Notice to Solicit Outside Information/Opinion (if applicable)~~

_____ ~~Date published in State Register~~

_____ ~~Comments~~

_____ ~~Petition for Adoption of a Rule (if applicable)~~

✓ Board's Authorizing Resolution

yes Date adopted

✓ Proposed Rule

yes Revisor's Certificate

✓ Notice of Intent to Adopt Rule

31.11 Statutory Authority
yes Small Business Statement
no Expenditure of public money statement
yes Signature

✓ Statement of Need and Reasonableness (if applicable)

yes Small Business Statement
n/a Fees - § 16A.128

✓ Affidavit of Mailing Notice of Intent to Adopt Rule

7/20/88 Date (30)/25 days before adoption
ok Notice attached
_____ ~~Copy of rule or summary attached~~

✓ Publication in State Register

7/25/88 Date (30)/25 days before adoption

_____ 180-day deadline from:

_____ end of comment period (§ 14.26) (rules without hearing)

_____ ~~effective date of statutory authority (§ 14.29) (emergency rules)~~

_____ ~~Resolution Adopting~~

_____ ~~Date adopted~~

✓ Findings of Fact, Conclusions & Order Adopting

8/25/88 Date

_____ ~~Written requests, submissions or comments~~

✓ Declaration of attorney

Paul Strandberg Name of SAAG representing agency

_____ ~~Notice of Submission to Atty. Gen. (if applicable)~~

_____ ~~Aff. of Mailing Notice to Atty. Gen. (if applicable)~~

Department of Agriculture

Adopted Permanent Rules Relating to Grade A and Manufacturing Grade Milk and Dairy Products

Rules as Adopted

1525.1110 COOLING.

All milk received for fluid use or for use in Grade A products, unless it is to be pasteurized within two hours of receipt, must be cooled immediately to a temperature of 45 degrees Fahrenheit or lower, in properly operated equipment approved by the commissioner and maintained at 45 degrees Fahrenheit or lower, until pasteurized; except, that mixed milk from two or more consecutive milkings must be at a temperature of 45 degrees Fahrenheit or lower, when received.

1525.1410 SANITARY QUALITY OF INGREDIENTS OTHER THAN MILK AND MILK PRODUCTS.

In determining the sanitary quality of ingredients other than milk and milk products, the commissioner shall employ the methods set forth in the current editions of Standard Methods for the Examination of Dairy Products of the American Public Health Association and the Official Methods of Analysis of the Association of Official Analytical Chemists and may be guided by tentative standards recommended for ingredients other than milk and milk products by the United States Public Health Service in its Frozen Desserts Ordinance and Code.

PRODUCERS QUALITY RECORDS FOR MILK

1525.1470 MAINTENANCE OF QUALITY RECORDS.

Subpart 1. **Record and contents.** Every licensed purchaser of milk shall maintain a record of all the quality tests made of milk as required by Minnesota Statutes, section 32.411 and the rules adopted by the commissioner of agriculture, for a period of at least one year from the date of the test. The record must show the name and address of the producer and the patron's

number assigned to the producer. The semimonthly record must show at least the day, month, and year the test was made.

Subp. 2. **Monthly records for milk.** Tests used to analyze milk samples must comply with the current edition of Standard Methods for the Examination of Dairy Products of the American Public Health Association and the current edition of Official Methods of Analysis of the Association of Official Analytical Chemists. These tests must be conducted in a certified laboratory approved by the department.

Subp. 3. [See repealer.]

Subp. 4. **Reporting of monthly test results.** Results of these tests must be reported back to the producer and to the regulatory agency monthly in a manner that assures timely enforcement procedures. Producers whose milk is found to be out of compliance on any quality tests must be notified by the licensed purchaser and enforcement action taken under part 1530.0820.

Maintenance and delivery of records must comply with Minnesota Statutes, section 32.411, subdivisions 2, 3, 4, and 5.

1525.1510 PROCEDURE WHEN NO QUALITY RECORD IS AVAILABLE.

A licensed purchaser who accepts milk from a producer without receiving a copy of the producer's quality record for the three months immediately preceding with the first delivery of milk received shall make all quality tests required by law or promulgated by the commissioner and shall make and file with the commissioner a report of the purchaser's acceptance showing:

A. date first milk received;

B. to G. [Unchanged.]

1525.2020 ALTERNATIVE TESTS.

Tests considered to be equivalent to the Babcock test for fat in milk and milk products are those in the current edition of Standard Methods for the Examination of Dairy Products of the American Public Health Association and the current edition of Official Methods of Analysis of the Association of Official Analytical Chemists.

1525.2320 REQUIREMENTS FOR CERTIFICATION.

A milk laboratory that desires to be certified to conduct tests for the purpose of enforcement of requirements for distribution of milk, milk products, or goat milk under the Grade A label must: use only analysts approved to conduct laboratory sampling procedures, bacterial counts, detection of inhibitory substances, coliform determinations, and/or phosphatase and temperature checks; employ sampling procedures and required laboratory examinations that are in substantial compliance with the most recent edition of Standard Methods for Examination of Dairy Products of the American Public Health Association and the most recent edition of Official Methods of Analyses of the Association of Analytical Chemists; and otherwise meet the requirements of the Grade A Pasteurized Milk Ordinance Recommendation of the United States Public Health Service.

1525.2330 EVALUATION OF LABORATORIES FOR CERTIFICATION.

The following apply to evaluation of milk laboratories for the purpose of certification:

A. An assessment of the milk laboratory's operation relative to the requirements of the current edition of the Grade A Pasteurized Milk Ordinance must be made at the time of application for certification and not less frequently than once each two years afterwards. In the case of a certified milk laboratory that moves to another building that uses another source of tap water, distilled water, or steam supply for the autoclave, a resurvey may be conducted even though no change in personnel or procedures is planned.

B. Approval of analysts to conduct required laboratory procedures must be based on the ability of the analyst to meet the criteria established in Evaluation of Milk Laboratories -- Recommended by the United States Health Service and its supplements, issued by the Food and Drug Administration and the Public Health Service, relating to standards for sampling, preparation of cultures, viable counts, detection of

inhibitory substances, coliform groups, phosphatase tests, and inspection of pasteurized milk containers. An analyst may be approved for one or more procedures and need not be approved to make all tests. Nonetheless, no analyst may perform a procedure for which he or she has not been approved.

1525.2390 FEES.

An application for initial certification or for recertification following suspension or revocation of a permit must be accompanied by the fee established in Minnesota Statutes, section 32.394, subdivision 8a. The amount of the application fee for an individual laboratory must be based on the costs of conducting laboratory evaluation prior to issuance of the permit. The fee for each set of split samples required for evaluation of laboratories must be as established by Minnesota Statutes, section 32.394, subdivision 8a. The actual fee must be based on the direct costs to the state laboratory for analysis of samples plus the cost of labor involved in providing the analysis. Fees may be adjusted annually within the prescribed range.

1525.2430 SAMPLES COLLECTION AND HANDLING.

Samples to be used for the testing of protein content must be collected and handled in the same manner as samples used for bacterial tests as prescribed in the current edition of Standard Methods for the Examination of Dairy Products published by the American Public Health Association. The minimum size for a fresh milk sample must be two ounces (0.0592 liter).

1525.2520 FEES.

The fee for each license to test for protein content will be as established in Minnesota Statutes, section 32.074 and must be paid to the commissioner before a license or renewal is issued.

1530.0740 DEFINITIONS.

Subpart 1. and 2. [Unchanged.]

Subp. 3. **Regulatory agency.** "Regulatory agency" means the

Minnesota Department of Agriculture or an agency designated by the department.

1530.0750 ENFORCEMENT.

Subpart 1. **Procedures.** The production, transportation, processing, handling, sampling, examination, grading, labeling, and sale of all milk and milk products intended to bear the Grade A label, and sold for ultimate consumption within the state of Minnesota, including the inspection of dairy herds, dairy farms, milk plants, receiving stations, and transfer stations and the issuing and revocation of permits to milk producers, haulers, distributors, milk plants, receiving stations, and transfer stations, must be regulated in accordance with the provisions of the current edition of the Grade A Pasteurized Milk Ordinance, with the following exceptions: omit sections 9, 16, and 17 in their entirety; the definitions of egg-nog-flavored milk and cottage cheese in parts 1530.0760 to 1530.0790 must be included in the definition of milk products.

Subp. 2. **Finished products.** Monthly samples of Grade A finished products must be tested and reported as required by the current edition of the Grade A Pasteurized Milk Ordinance. In addition, products must be tested for fat, solids-not-fat, and other ingredients as stated on the product label. Products must also be tested for weight or volume. Processors of products for which two out of the last four samples have been determined to be out of compliance must be sent a warning letter. When three out of the last five samples are out of compliance, action must be instituted to suspend the permit to market that product.

1530.0810 EXAMINATION OF MILK AND MILK PRODUCTS.

Sampling procedures and laboratory examinations must be in substantial compliance with the current edition of Standard Methods for the Examination of Dairy Products of the American Public Health Association, and the current edition of Official Methods of Analysis of the Association of Official Analytical Chemists.

Dairy plants shall submit for testing a representative

sample of raw milk from each producer to a certified laboratory approved by the department. For Grade A producers, the sampling frequency must be as outlined in the current edition of the Grade A Pasteurized Milk Ordinance, and for manufacturing grade producers, as outlined in the Federal Register for April 7, 1972, volume 37, number 68, part II.

Dairy plants shall report these analyses to the regulatory agency monthly and in a manner that assures timely enforcement procedures.

After notice and opportunity for a hearing, the department may withdraw approval of any laboratory if tests are not conducted in accordance with prescribed laboratory test procedures, or test reports or results are fraudulent or inaccurate.

REPEALER. Minnesota Rules, parts 1525.0510; 1525.0520; 1525.0550; 1525.1470, subpart 3; 1525.2030; 1525.2040; 1525.2050; 1525.2060; 1525.2070; 1525.2090; 1525.2100; 1525.2110; 1525.2120; 1525,2130; 1525.2140; 1525.2150; 1525.2160; 1525.2170; 1525.2180; 1525.2190; 1525.2200; 1525.2210; 1525.2220; 1525.2230; 1525.2240; 1525.2250; 1525.2260; 1525.2270; 1525.2280; 1525.2290, are repealed.

STATE OF MINNESOTA
DEPARTMENT OF STATE
FILED
SEP 15 1988
Joan Anderson Growe
Secretary of State
2:45 PM

APPROVED AS TO FORM AND LEGALITY
Sept. 13 1988
HUBERT H. HUMPHREY, III
ATTORNEY GENERAL
BY Julie A. Segerstrom
SPECIAL ASSISTANT ATTORNEY GENERAL

Department of Agriculture

Proposed Permanent Rules Relating to Grade A and Manufacturing Grade Milk and Dairy Products

Rules as Proposed

1525.1110 COOLING.

All milk received for fluid use or for use in ~~cottage cheese~~ Grade A products, unless it is to be pasteurized within two hours of receipt, ~~shall~~ must be cooled immediately to a temperature of ~~50~~ 45 degrees Fahrenheit or lower, in properly operated equipment approved by the commissioner and maintained at ~~50~~ 45 degrees Fahrenheit or lower, until pasteurized; except, that mixed milk from two or more consecutive milkings ~~shall~~ must be at a temperature of ~~50~~ 45 degrees Fahrenheit or lower, when received.

1525.1410 SANITARY QUALITY OF INGREDIENTS OTHER THAN MILK AND MILK PRODUCTS.

In determining the sanitary quality of ingredients other than milk and milk products, the commissioner shall employ the methods set forth in the current editions of Standard Methods for the Examination of Dairy Products~~,-11th-edition,-1960,~~ of the American Public Health Association and the Official Methods of Analysis~~,-tenth-edition,-1965,~~ of the Association of Official ~~Agricultural~~ Analytical Chemists and may be guided by tentative standards recommended for ~~such~~ ingredients other than milk and milk products by the United States Public Health Service in its Frozen Desserts Ordinance and Code~~,-1940-edition~~.

~~PRODUCERS QUALITY RECORDS FOR MILK AND CREAM~~

1525.1470 MAINTENANCE OF QUALITY RECORDS.

Subpart 1. **Record and contents.** Every licensed purchaser of milk ~~and-cream-and-butterfat~~ shall maintain a record of all the quality tests made of milk ~~and-cream~~ as required by Minnesota Statutes, section 32.411~~,-as-amended~~ and the rules

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promulgated adopted by the commissioner of agriculture, for a period of at least one year from the date of the test. Such The record shall must show the name and address of the producer and the patron's number assigned to him the producer. The semimonthly record shall must show at least the day, month, and year the test was made.

Subp. 2. Semimonthly record Monthly records for milk. Type of test, for example, methylene blue, resazurin, microscopic, or other comparable test approved by the commissioner, the result of the test, classification of milk sediment pad, and grade of milk Tests used to analyze milk samples must comply with the current edition of Standard Methods for the Examination of Dairy Products of the American Public Health Association and the current edition of Official Methods of Analysis of the Association of Official Analytical Chemists. These tests must be conducted in a certified laboratory approved by the department.

Subp. 3. [See repealer.]

Subp. 4. **Reporting of monthly test results.** Results of these tests must be reported back to the producer and to the regulatory agency monthly in a manner that assures timely enforcement procedures. Producers whose milk is found to be out of compliance on any quality tests must be notified by the licensed purchaser and enforcement action taken under part 1530.0820.

Maintenance and delivery of records must comply with Minnesota Statutes, section 32.411, subdivisions 2, 3, 4, and 5.

1525.1510 PROCEDURE WHEN NO QUALITY RECORD IS AVAILABLE.

A licensed purchaser who accepts milk or cream from a producer without receiving a copy of such the producer's quality record for the three months immediately preceding with the first delivery of milk or cream received shall make all quality tests required by law or promulgated by the commissioner and shall make and file with the commissioner a report of such patron's the purchaser's acceptance showing:

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A. date first ~~cream or~~ milk received;

B. to G. [Unchanged.]

1525.2020 ALTERNATIVE TESTS.

~~The following test methods are accepted by the commissioner as being equivalent to the Babcock test for fat in milk and fluid milk products as specified in each method described~~ Tests considered to be equivalent to the Babcock test for fat in milk and milk products are those in the current edition of Standard Methods for the Examination of Dairy Products of the American Public Health Association and the current edition of Official Methods of Analysis of the Association of Official Analytical Chemists.

1525.2320 REQUIREMENTS FOR CERTIFICATION.

A milk laboratory ~~which~~ that desires to be certified to conduct tests for the purpose of enforcement of requirements for distribution of milk, milk products, or goat milk under the Grade A label must: ~~utilize~~ use only analysts approved to conduct laboratory sampling procedures, bacterial counts, detection of inhibitory substances, coliform determinations, and/or phosphatase and temperature checks; employ sampling procedures and required laboratory examinations ~~which~~ that are in substantial compliance with the most recent edition of Standard Methods for Examination of Dairy Products of the American Public Health Association and~~/or~~ the most recent edition of Official Methods of Analyses of the Association of Analytical Chemists; and otherwise meet the requirements of the Grade A Pasteurized Milk Ordinance ~~1965~~ Recommendation of the United States Public Health Service ~~or subsequent editions~~.

1525.2330 EVALUATION OF LABORATORIES FOR CERTIFICATION.

The following ~~shall~~ apply to evaluation of milk laboratories for the purpose of certification:

A. An assessment of the milk laboratory's operation relative to the requirements of the current edition of the Grade A Pasteurized Milk Ordinance ~~1965 Recommendation, and subsequent~~

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by Revisor _____

~~editions,~~ ~~shall~~ must be made at the time of application for certification and not less frequently than once each two years ~~thereafter, except that a certified laboratory of record on June 5, 1975, shall be deemed to meet the requirements for initial certification~~ afterwards. In the case of a certified milk laboratory ~~which~~ that moves to another building ~~which~~ that uses another source of tap water, distilled water, ~~and/or~~ or steam supply for the autoclave, a resurvey may be conducted even though no change in personnel or procedures is planned.

B. Approval of analysts to conduct required laboratory procedures ~~shall~~ must be based on the ability of the analyst to meet the criteria established in Evaluation of Milk Laboratories -- Recommended by the United States Health Service, and its supplements ~~thereto~~, issued by the Food and Drug Administration and the Public Health Service, relating to standards for sampling, preparation of cultures, viable counts, detection of inhibitory substances, coliform groups, phosphatase tests, and inspection of pasteurized milk containers. An analyst may be approved for one or more procedures and need not be approved to make all tests. Nonetheless, no analyst ~~shall~~ may perform a procedure for which he or she has not been approved.

1525.2390 FEES.

An application for initial certification or for recertification following suspension or revocation of a permit ~~shall~~ must be accompanied by ~~a~~ the fee ~~of not less than $50 nor more than $200~~ established in Minnesota Statutes, section 32.394, subdivision 8a. The amount of the application fee for an individual laboratory ~~shall~~ must be based on the costs of conducting laboratory evaluation prior to issuance of the permit. The fee for each set of split samples required for evaluation of laboratories ~~shall not~~ must be ~~less than $20 nor more than $50~~ as established by Minnesota Statutes, section 32.394, subdivision 8a. The actual fee ~~shall~~ must be based on the direct costs to the state laboratory for analysis of samples

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plus the cost of labor involved in providing the analysis. Fees may be adjusted annually within the prescribed range.

1525.2430 SAMPLES COLLECTION AND HANDLING.

Samples to be used for the testing of protein content ~~shall~~ must be collected and handled in the same manner as samples used for bacterial tests as prescribed in the current edition of Standard Methods for the Examination of Dairy Products~~,~~ ~~13th Edition,~~ published by the American Public Health Association. The minimum size for a fresh milk sample ~~shall~~ must be two ounces (0.0592 liter).

1525.2520 FEES.

The fee for each ~~initial~~ license ~~shall be $15 and each renewal thereof shall be $6~~ to test for protein content will be as established in Minnesota Statutes, section 32.074 and ~~shall~~ must be paid to the commissioner before ~~any~~ a license or renewal ~~thereof~~ is issued.

1530.0740 DEFINITIONS.

Subpart 1. and 2. [Unchanged.]

Subp. 3. **Regulatory agency.** "Regulatory agency" ~~shall mean~~ means the ~~commissioner of the~~ Minnesota Department of Agriculture or an agency designated by the department.

1530.0750 ENFORCEMENT.

Subpart 1. **Procedures.** The production, transportation, processing, handling, sampling, examination, grading, labeling, and sale of all milk and milk products intended to bear the Grade A label, and sold for ultimate consumption within the state of Minnesota, including the inspection of dairy herds, dairy farms, milk plants, receiving stations, and transfer stations and the issuing and revocation of permits to milk producers, haulers, distributors, milk plants, receiving stations, and transfer stations, ~~shall~~ must be regulated in accordance with the provisions of the ~~1978~~ current edition of the Grade A Pasteurized Milk Ordinance, with the following exceptions: omit sections 9, 16, and 17 in their entirety; the

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definitions of egg-nog-flavored milk and cottage cheese ~~as set forth~~ in parts 1530.0760 to 1530.0790 ~~shall~~ must be included in the definition of milk products.

Subp. 2. **Finished products.** Monthly samples of Grade A finished products must be tested and reported as required by the current edition of the Grade A Pasteurized Milk Ordinance. In addition, products must be tested for fat, solids-not-fat, and other ingredients as stated on the product label. Products must also be tested for weight or volume. Processors of products for which two out of the last four samples have been determined to be out of compliance must be sent a warning letter. When three out of the last five samples are out of compliance, action must be instituted to suspend the permit to market that product.

1530.0810 EXAMINATION OF MILK AND MILK PRODUCTS.

Sampling procedures and laboratory examinations ~~shall~~ must be in substantial compliance with the ~~14th~~ current edition of Standard Methods for the Examination of Dairy Products of the American Public Health Association, and the ~~13th~~ current edition of Official Methods of Analysis of the Association of Official Analytical Chemists.

Dairy plants shall submit for testing a representative sample of raw milk from each producer to a certified laboratory approved by the department. For Grade A producers, the sampling frequency must be as outlined in the current edition of the Grade A Pasteurized Milk Ordinance, and for manufacturing grade producers, as outlined in the Federal Register for April 7, 1972, volume 37, number 68, part II.

Dairy plants shall report these analyses to the regulatory agency monthly and in a manner that assures timely enforcement procedures.

After notice and opportunity for a hearing, the department may withdraw approval of any laboratory if tests are not conducted in accordance with prescribed laboratory test procedures, or test reports or results are fraudulent or inaccurate.

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REPEALER. Minnesota Rules, parts 1525.0510; 1525.0520; 1525.0550; 1525.1470, subpart 3; 1525.2030; 1525.2040; 1525.2050; 1525.2060; 1525.2070; 1525.2090; 1525.2100; 1525.2110; 1525.2120; 1525,2130; 1525.2140; 1525.2150; 1525.2160; 1525.2170; 1525.2180; 1525.2190; 1525.2200; 1525.2210; 1525.2220; 1525.2230; 1525.2240; 1525.2250; 1525.2260; 1525.2270; 1525.2280; 1525.2290, are repealed.

Approved
by Revisor _____

Office of the Revisor of Statutes

Administrative Rules

TITLE: Proposed Permanent Rules Relating to Grade A and Manufacturing Grade Milk and Dairy Products

AGENCY: Department of Agriculture

MINNESOTA RULES: Chapters 1525 and 1530

The attached rules are approved for publication
in the State Register

Craig E. Lindeke
Senior Assistant Revisor

Department of Agriculture
Dairy and Livestock Division

In the Matter of the Proposed Amendments to the Rule of the Department of Agriculture Governing Grade A and Manufacturing Grade Milk and Dairy Products

NOTICE OF INTENT TO ADOPT A RULE WITHOUT A PUBLIC HEARING

Notice is hereby given that the Minnesota Department of Agriculture intends to adopt the above-entitled amendments without a public hearing, following the procedures set forth in the Administrative Procedures Act for adopting rules without a public hearing in Minnesota Statutes, Sections 14.22-14.28. The statutory authority to adopt these amendments is Minnesota Statutes, Section 31.11.

All persons have 30 days in which to submit comment in support of or in opposition to the proposed amendments or any part or subpart of the amendments. Comment is encouraged. Each comment should identify the portion of the proposed amendments addressed, the reason for the comment, and any change proposed.

Any person may make a written request for a public hearing on the amendments within the 30-day comment period. If 25 or more persons submit a written request for a public hearing within the 30-day comment period, a public hearing will be held unless a sufficient number withdraw their request in writing. Any person requesting a public hearing should state their name and address, and is encouraged to identify the portion of the proposed amendments addressed, the reason for the request, and any proposed change. If a public hearing is required, the department will proceed according to Minnesota Statutes, Sections 14.131 to 14.20.

Comments or written requests for a public hearing must be submitted to: Carol Milligan, Minnesota Department of Agriculture, 90 West Plato Boulevard, St. Paul, MN 55107, (612) 296-6906.

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 amendments as noticed.

A copy of the proposed amendments is attached to this Notice.

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 Ms. Milligan.

The proposed amendments to the rules must be applied to all businesses including those defined as small businesses by Minnesota Statutes, section 14.115. These changes are necessary to protect the public health and to allow for the free movement of milk and dairy products across state lines. Establishment of less stringent compliance or reporting requirements for any individual or business could jeopardize their ability to sell products or could endanger public health.

If no hearing is required, upon adoption of the final amendments, the rule and the required supporting documents will be submitted to the Attorney General for review as to legality and form to the extent the form relates to legality. Any person may request notification of the date of submission to the Attorney General. 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 adopted rule must submit a written request to Ms. Milligan.

STATE OF MINNESOTA

7-1-88
Date

Jim Nichols
Jim Nichols, Commissioner
Department of Agriculture

STATE OF MINNESOTA

DEPARTMENT OF AGRICULTURE

IN THE MATTER OF THE PROPOSED)
AMENDMENTS AND REPEAL OF RULES)
THE DEPARTMENT OF AGRICULTURE)
GOVERNING GRADE A AND)
MANUFACTURING GRADE MILK AND)
DAIRY PRODUCTS)

STATEMENT OF NEEDS
AND REASONABLENESS

I. INTRODUCTION

The Minnesota Department of Agriculture proposes to amend these rules to stay current with the changes in federal regulations. These amendments will apply to both Grade A and Manufacturing grade milk and dairy products. The amendments are proposed for adoption pursuant to Minnesota Statutes, Section 31.11 which authorizes MDA to promulgate rules for the effective administration of Minnesota Food Law. As provided in Minnesota Statute, Section 31.002 when practicable and consistent with state law, these rules shall conform with those promulgated under federal law.

The Department had determined that the proposed amendments to the rules are noncontroversial and are supported by industry because they are necessary to allow the movement of milk and dairy products across state lines. Because of the noncontroversial nature of these amendments, the Department directs that the rulemaking proceedings be conducted in accordance with the statutatory provisions governing the adoption of noncontroversial rules, Minnesota Statutes Section 14.22 - 14.28. Accordingly, the rulemaking proceedings on the proposed amendments are governed by the statute and no hearing will be conducted on the proposed amendments unless 25 or more persons submit to the Department a written request for such hearings.

In accordance with the requirements of Minnesota Statutes, Section 14.23, this "Statement of Need and Reasonableness" was prepared and completed prior to the date that the proposed amendments were published by the State Register.

II. GENERAL OVERVIEW

Minnesota Rules and Parts 1530.0740 and 1530.0820 amended in 1986 have made a number of existing rules unnecessary. Some existing rules need to be amended to better reflect the requirement established by the rules noted above. Other amendments involve the updating of technical terms and deletion of out-dated terms which exist in the current rules associated with Grade A and Manufacturing Grade milk and dairy products.

Minnesota Statutes require the Department to maintain uniformity with federal regulations when possible in regulating the manufacture, distribution, and sale of food in Minnesota. It becomes important that Minnesota rules and regulations not be in conflict with those of the Federal Government and that they enable us to carry out proper enforcement to protect the public health.

III. NEED FOR AND REASONABLENESS OF THE PROPOSED CHANGES IN RULES

The requested amendments to the rules will allow the State of Minnesota to maintain a milk regulatory program which will meet the minimum requirement of the Federal Food and Drug Administration Grade A program and the United States Department of Agriculture Manufacturing Grade program. These amendments will keep Minnesota in line with other states and allow for the free movement of milk and dairy products across state lines while strengthening our ability to protect public health.

Additions and deletions to parts 1525.1410, 1525.1470, Subp 2, 1525.2020, 1525.2320, 1525,2430, 1530.0750, and 1530,0810 all relate to changes to accept the most current additions of "Standard Methods for the Examination of Dairy Products" and "Official Methods of Analyses of the Association of Official Analytical Chemists." By doing this it will avoid the necessity to change our regulations each time an edition changes.

It also allows our laboratory to make use of the most current methods of analyses available. This can be very important if court action is necessary.

In 1986, we amended 1530.0740 to adopt the current addition of the "Grade A Pasteurized Milk Ordinance" and any published revisions. Parts 1525.2320, 1525,2330, 1530.0750, Subp. 2, and 1530.0810 all needed to be changed to read the same as 1530.0740 to avoid any conflict in regulating by this federal ordinance as adopted by reference.

Stating of fees in 1525.2390 and 1525.2520 have been deleted and refer to the Minnesota Statute which sets these fees. This change will prevent having to amend rules anytime the Legislature passes a change in fee schedules.

Part 1525.1110 changes the temperature requirements to the same as required by the federal regulations adopted under 1530.0740. Parts 1525.1470 and 1525.1510 eliminate the terms cream and butterfat since this type of producer no longer exists. 1525.1470 also adds Subp. 4 which is necessary to clarify how the monthly test results required by federal regulations are to be reported so producers and the regulatory agency are properly notified. Part 1530.0810 is necessary to assure that all test results reported by certified laboratories are accurate and reflect the true quality of the milk.

Part 1530.0740, Subp. 3 is necessary since the Minnesota Department of Agriculture does appoint other agencies as official regulatory agencies as allowed under federal regulations.

<u>The following sections are to be repealed</u>:

Section 1525.0510, 1525,0520 and 1525.0550 are processed product definitions which no longer apply due to changes in federal law. Section 1525.1470, Subp. 3 addresses a product no longer produced in Minnesota. Sections 1525.2030, 1525.2040 and 1525.2050 are all covered under the amendment to 1525.2020, and are no longer necessary. Sections 1525.2060, 1525.2070, 1525.2080, 1525.2090, 1525.2100, 1525.2110, 1525.2120, 1525.2130, 1525.2140, 1525.2150, 1525.2160, 1525.2170, 1525.2180, 1525.2190, 1525.2200, 1525.2210, 1525.2220, 1525.2230, 1525.2240, 1525.2250, 1525.2260, 1525.2270,

1525.2280, and 1525.2290 are no longer needed as re_ ıtions for milk houses for bulk tanks are now covered under 1530.0820.

IV. SMALL BUSINESS IMPACT

The amendments to the rules proposed in this document must be applied to all businesses regardless of size. These changes are necessary to protect the public health and to allow for the free movement of milk and dairy products across state lines. Establishment of less stringent compliance or reporting requirements for any individual or business could jeopardize their ability to sell products or could endanger public health.

In the Matter of the Proposed Amendments to the Rule of the Department of Agriculture Governing Grade A and Manufacturing Grade Milk and Dairy Products

AFFIDAVIT OF MAILING THE NOTICE OF INTENT TO ADOPT A RULE WITHOUT A PUBLIC HEARING

STATE OF MINNESOTA)
) ss.
COUNTY OF RAMSEY)

Marie Skerbitz, being sworn, says:

That on the 20th day of July, 1988, at the City of St. Paul, County of Ramsey, State of Minnesota, I mailed the attached Notice of Intent to Adopt a Rule Without a Public Hearing by depositing in the State of Minnesota Central Mail System for United States mailing a copy thereof, with postage prepaid, to all persons and associations who have requested, persuant to Minnesota Statutes, sections 14.14, subdivision 1.a. and 14.22 OR 14.30, that their names be placed on the Minnesota Department of Agriculture rulemaking mailing list.

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

Marie Skerbitz
Mail Room Clerk

Subscribed and sworn to before me this 20th day of July, 1988.

Diane M. Windham

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

Proposed Permanent Rules Relating to Grade A and Manufacturing Grade Milk and Dairy Products

Notice of Intent to Adopt a Rule Without a Public Hearing

NOTICE IS HEREBY GIVEN that the Minnesota Department of Agriculture intends to adopt the above-entitled amendments without a public hearing, following the procedures set forth in the Administrative Procedures Act for adopting rules without a public hearing in *Minnesota Statutes,* Sections 14.22-14.28. The statutory authority to adopt these amendments is *Minnesota Statutes,* Section 31.11.

All persons have 30 days in which to submit comment in support of or in opposition to the proposed amendments or any part or subpart of the amendments. Comment is encouraged. Each comment should identify the portion of the proposed amendments addressed, the reason for the comment, and any change proposed.

Any person may make a written request for a public hearing on the amendments within the 30-day comment period. If 25 or more persons submit a written request for a public hearing within the 30-day comment period, a public hearing will be held unless a sufficient number withdraw their request in writing. Any person requesting a public hearing should state their name and address, and is encouraged to identify the portion of the proposed amendments addressed, the reason for the request, and any proposed change. If a public hearing is required, the department will proceed according to *Minnesota Statutes,* Sections 14.131 to 14.20.

Comments or written requests for a public hearing must be submitted to: Carol Milligan, Minnesota Department of Agriculture, 90 West Plato Boulevard, St. Paul, MN 55107, (612) 296-6906.

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 amendments as noticed.

A copy of the proposed amendments is attached to this Notice.

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 Ms. Milligan.

The proposed amendments to the rules must be applied to all businesses including those defined as small businesses by *Minnesota Statutes* section 14.115. These changes are necessary to protect the public health and to allow for the free movement of milk and dairy products across state lines. Establishment of less stringent compliance or reporting requirements for any individual or business could jeopardize their ability to sell products or could endanger public health.

If no hearing is required, upon adoption of the final amendments, the rule and the required supporting documents will be submitted to the Attorney General for review as to legality and form to the extent the form relates to legality. Any person may request notifi-

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.

cation of the date of submission of this material to the Attorney General. 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 adopted rule must submit a written request to Ms. Milligan.

Dated: 1 July 1988

Jim Nichols, Commissioner
Department of Agriculture

Rules as Proposed

1525.1110 COOLING.

All milk received for fluid use or for use in ~~cottage cheese~~ Grade A products, unless it is to be pasteurized within two hours of receipt, ~~shall~~ must be cooled immediately to a temperature of ~~50~~ 45 degrees Fahrenheit or lower, in properly operated equipment approved by the commissioner and maintained at ~~50~~ 45 degrees Fahrenheit or lower, until pasteurized; except, that mixed milk from two or more consecutive milkings ~~shall~~ must be at a temperature of ~~50~~ 45 degrees Fahrenheit or lower, when received.

1525.1410 SANITARY QUALITY OF INGREDIENTS OTHER THAN MILK AND MILK PRODUCTS.

In determining the sanitary quality of ingredients other than milk and milk products, the commissioner shall employ the methods set forth in the current editions of Standard Methods for the Examination of Dairy Products~~, 11th edition, 1960,~~ of the American Public Health Association and the Official Methods of Analysis~~, tenth edition, 1965,~~ of the Association of Official ~~Agricultural~~ Analytical Chemists and may be guided by tentative standards recommended for ~~such~~ ingredients other than milk and milk products by the United States Public Health Service in its Frozen Desserts Ordinance and Code~~, 1940 edition~~.

PRODUCERS QUALITY RECORDS FOR MILK ~~AND CREAM~~

1525.1470 MAINTENANCE OF QUALITY RECORDS.

Subpart 1. **Record and contents.** Every licensed purchaser of milk ~~and cream and butterfat~~ shall maintain a record of all the quality tests made of milk ~~and cream~~ as required by *Minnesota Statutes*, section 32.411~~, as amended~~ and the rules ~~promulgated~~ adopted by the commissioner of agriculture, for a period of at least one year from the date of the test. ~~Such~~ The record ~~shall~~ must show the name and address of the producer and the patron's number assigned to ~~him~~ the producer. The semimonthly record ~~shall~~ must show at least the day, month, and year the test was made.

Subp. 2. ~~**Semimonthly record**~~ **Monthly records for milk.** ~~Type of test; for example, methylene blue, resazurin, microscopic, or other comparable test approved by the commissioner; the result of the test; classification of milk sediment pad; and grade of milk~~ Tests used to analyze milk samples must comply with the current edition of Standard Methods for the Examination of Dairy Products of the American Public Health Association and the current edition of Official Methods of Analysis of the Association of Official Analytical Chemists. These tests must be conducted in a certified laboratory approved by the department.

Subp. 3. [See repealer.]

Subp. 4. **Reporting of monthly test results.** Results of these tests must be reported back to the producer and to the regulatory agency monthly in a manner that assures timely enforcement procedures. Producers whose milk is found to be out of compliance on any quality tests must be notified by the licensed purchaser and enforcement action taken under part 1530.0820.

Maintenance and delivery of records must comply with *Minnesota Statutes*, section 32.411, subdivisions 2, 3, 4, and 5.

1525.1510 PROCEDURE WHEN NO QUALITY RECORD IS AVAILABLE.

A licensed purchaser who accepts milk ~~or cream~~ from a producer without receiving a copy of ~~such~~ the producer's quality record for the three months immediately preceding with the first delivery of milk ~~or cream~~ received shall make all quality tests required by law or promulgated by the commissioner and shall make and file with the commissioner a report of ~~such patron's~~ the purchaser's acceptance showing:

A. date first ~~cream or~~ milk received;

B. to G. [Unchanged.]

1525.2020 ALTERNATIVE TESTS.

~~The following test methods are accepted by the commissioner as being equivalent to the Babcock test for fat in milk and fluid milk products as specified in each method described~~ Tests considered to be equivalent to the Babcock test for fat in milk and milk products are those in the current edition of Standard Methods for the Examination of Dairy Products of the American Public Health Association and the current edition of Official Methods of Analysis of the Association of Official Analytical Chemists.

1525.2320 REQUIREMENTS FOR CERTIFICATION.

A milk laboratory ~~which~~ that desires to be certified to conduct tests for the purpose of enforcement of requirements for distribution of milk, milk products, or goat milk under the Grade A label must: ~~utilize~~ use only analysts approved to conduct laboratory sampling procedures, bacterial counts, detection of inhibitory substances, coliform determinations, and/or phosphatase and temperature checks;

employ sampling procedures and required laboratory examinations ~~which~~ that are in substantial compliance with the most recent edition of Standard Methods for Examination of Dairy Products of the American Public Health Association and~~/or~~ the most recent edition of Official Methods of Analyses of the Association of Analytical Chemists; and otherwise meet the requirements of the Grade A Pasteurized Milk Ordinance ~~1965~~ Recommendation of the United States Public Health Service ~~or subsequent editions~~.

1525.2330 EVALUATION OF LABORATORIES FOR CERTIFICATION.

The following ~~shall~~ apply to evaluation of milk laboratories for the purpose of certification:

A. An assessment of the milk laboratory's operation relative to the requirements of the current edition of the Grade A Pasteurized Milk Ordinance ~~1965 Recommendation, and subsequent editions,~~ ~~shall~~ must be made at the time of application for certification and not less frequently than once each two years ~~thereafter, except that a certified laboratory of record on June 5, 1975, shall be deemed to meet the requirements for initial certification~~ afterwards. In the case of a certified milk laboratory ~~which~~ that moves to another building ~~which~~ that uses another source of tap water, distilled water, ~~and/or~~ or steam supply for the autoclave, a resurvey may be conducted even though no change in personnel or procedures is planned.

B. Approval of analysts to conduct required laboratory procedures ~~shall~~ must be based on the ability of the analyst to meet the criteria established in Evaluation of Milk Laboratories — Recommended by the United States Health Service~~,~~ and its supplements ~~thereto~~, issued by the Food and Drug Administration and the Public Health Service, relating to standards for sampling, preparation of cultures, viable counts, detection of inhibitory substances, coliform groups, phosphatase tests, and inspection of pasteurized milk containers. An analyst may be approved for one or more procedures and need not be approved to make all tests. Nonetheless, no analyst ~~shall~~ may perform a procedure for which he or she has not been approved.

1525.2390 FEES.

An application for initial certification or for recertification following suspension or revocation of a permit ~~shall~~ must be accompanied by ~~a~~ the fee ~~of not less than $50 nor more than $200~~ established in *Minnesota Statutes,* section 32.394, subdivision 8a. The amount of the application fee for an individual laboratory ~~shall~~ must be based on the costs of conducting laboratory evaluation prior to issuance of the permit. The fee for each set of split samples required for evaluation of laboratories ~~shall not~~ must be ~~less than $20 nor more than $50~~ as established by *Minnesota Statutes,* section 32.394, subdivision 8a. The actual fee ~~shall~~ must be based on the direct costs to the state laboratory for analysis of samples plus the cost of labor involved in providing the analysis. Fees may be adjusted annually within the prescribed range.

1525.2430 SAMPLES COLLECTION AND HANDLING.

Samples to be used for the testing of protein content ~~shall~~ must be collected and handled in the same manner as samples used for bacterial tests as prescribed in the current edition of Standard Methods for the Examination of Dairy Products~~, 13th Edition,~~ published by the American Public Health Association. The minimum size for a fresh milk sample ~~shall~~ must be two ounces (0.0592 liter).

1525.2520 FEES.

The fee for each ~~initial~~ license ~~shall be $15 and each renewal thereof shall be $6~~ to test for protein content will be as established in *Minnesota Statutes,* section 32.074 and ~~shall~~ must be paid to the commissioner before ~~any~~ a license or renewal ~~thereof~~ is issued.

1530.0740 DEFINITIONS.

Subpart 1. and 2. [Unchanged.]

Subp. 3. **Regulatory agency.** "Regulatory agency" ~~shall mean~~ means the ~~commissioner of the~~ Minnesota Department of Agriculture or an agency designated by the department.

1530.0750 ENFORCEMENT.

Subpart 1. **Procedures.** The production, transportation, processing, handling, sampling, examination, grading, labeling, and sale of all milk and milk products intended to bear the Grade A label, and sold for ultimate consumption within the state of Minnesota, including the inspection of dairy herds, dairy farms, milk plants, receiving stations, and transfer stations and the issuing and revocation of permits to milk producers, haulers, distributors, milk plants, receiving stations, and transfer stations, ~~shall~~ must be regulated in accordance with the provisions of the ~~1978~~ current edition of the Grade A Pasteurized Milk Ordinance, with the following exceptions: omit sections 9, 16, and 17 in their entirety; the definitions of egg-nog-flavored milk and cottage cheese ~~as set forth~~ in parts 1530.0760 to 1530.0790 ~~shall~~ must be included in the definition of milk products.

Subp. 2. **Finished products.** Monthly samples of Grade A finished products must be tested and reported as required by the current edition of the Grade A Pasteurized Milk Ordinance. In addition, products must be tested for fat, solids-not-fat, and other ingredients as stated on the product label. Products must also be tested for weight or volume. Processors of products for which two out of the last four samples have been determined to be out of compliance must be sent a warning letter. When three out of the last five samples are out of compliance, action must be instituted to suspend the permit to market that product.

1530.0810 EXAMINATION OF MILK AND MILK PRODUCTS.

Sampling procedures and laboratory examinations ~~shall~~ must be in substantial compliance with the ~~14th~~ current edition of Standard Methods for the Examination of Dairy Products of the American Public Health Association, and the ~~13th~~ current edition of Official Methods of Analysis of the Association of Official Analytical Chemists.

Dairy plants shall submit for testing a representative sample of raw milk from each producer to a certified laboratory approved by the department. For Grade A producers, the sampling frequency must be as outlined in the current edition of the Grade A Pasteurized Milk Ordinance, and for manufacturing grade producers, as outlined in the *Federal Register* for April 7, 1972, volume 37, number 68, part II.

Dairy plants shall report these analyses to the regulatory agency monthly and in a manner that assures timely enforcement procedures.

After notice and opportunity for a hearing, the department may withdraw approval of any laboratory if tests are not conducted in accordance with prescribed laboratory test procedures, or test reports or results are fraudulent or inaccurate.

REPEALER. *Minnesota Rules*, parts 1525.0510; 1525.0520; 1525.0550; 1525.1470, subpart 3; 1525.2030; 1525.2040; 1525.2050; 1525.2060; 1525.2070; 1525.2090; 1525.2100; 1525.2110; 1525.2120; 1525,2130; 1525.2140; 1525.2150; 1525.2160; 1525.2170; 1525.2180; 1525.2190; 1525.2200; 1525.2210; 1525.2220; 1525.2230; 1525.2240; 1525.2250; 1525.2260; 1525.2270; 1525.2280; 1525.2290, are repealed.

Department of Health

Proposed Permanent Rules Relating to Merit System; Certification of Candidates Eligible for Appointment

Notice of Intent to Adopt a Rule Without a Public Hearing

NOTICE IS HEREBY GIVEN that the State Department of Health intends to adopt the above-entitled rule without a public hearing following the procedures set forth in the Administrative Procedure Act for adopting rules without a public hearing in *Minnesota Statutes*, Sections 14.22 to 14.28. The statutory authority to adopt the rule is *Minnesota Statutes*, section 144.071.

All persons have 30 days or until 4:30 p.m. on August 24, 1988 in which to submit comment in support of or in opposition to the proposed rule or any part or subpart of the rule. Comment is encouraged. Each comment should identify the portion of the proposed rule addressed, the reason for the comment, and any change proposed.

Any person may make a written request for a public hearing on the rule within the 30-day comment period. If 25 or more persons submit a written request for a public hearing within the 30-day comment period, a public hearing will be held unless a sufficient number withdraw their request in writing. Any person requesting a public hearing should state his or her name and address, and is encouraged to identify the portion of the proposed rule addressed, the reason for the request, and any change proposed. If a public hearing is required, the agency will proceed pursuant to *Minnesota Statutes*, sections 14.131 to 14.20.

Comments or written requests for a public hearing must be submitted to: Ralph W. Corey, Minnesota Merit System, Second Floor, Human Services Building, 444 Lafayette Road, St. Paul, Minnesota 55155-3822.

The proposed rule 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 in the proposed rule as noticed.

A free copy of the rule is available upon request from Ralph W. Corey, Minnesota Merit System, Second Floor, Human Services Building, 444 Lafayette Road, St. Paul, Minnesota 55155-3822.

The Minnesota Merit System rules apply to all positions funded in whole or in part by federal grants-in-aide requiring a merit system of personnel administration. The rules cover such areas as classification of positions, compensation, recruitment and examination, certification and appointment, leaves of absence, separation, tenure and reinstatement, and, in general, provide standards for agencies to follow so as to ensure compliance with the Federal Standards for a Merit System of Personnel Administration (5 *CFR* Part 900).

If adopted, the proposed changes would increase the number of names referred to counties on a competitive certification from seven to 15 and on a promotional certification from three to seven. The proposed rule changes would also provide for expanded certification to an agency when a disparity exists between an agency's work force and its approved affirmative action plan.

A Statement of Need and Reasonableness that describes the need for and reasonableness of each provision of the proposed rule and identifies the data and information relied upon to support the proposed rule has been prepared and is available from Ralph W. Corey, Minnesota Merit System, Second Floor, Human Services Building, 444 Lafayette Road, St. Paul, Minnesota 55155-3822 upon request.

STATE OF MINNESOTA

DEPARTMENT OF AGRICULTURE

IN THE MATTER OF THE PROPOSED ADOPTION OF THE RULE OF THE MINNESOTA DEPARTMENT OF AGRICULTURE GOVERNING GRADE A AND MANUFACTURING GRADE MILK AND DAIRY PRODUCTS

FINDINGS OF FACT, CONCLUSIONS AND ORDER ADOPTING RULE WITHOUT PUBLIC HEARING

Notice of the Commissioner's intent to adopt the above-entitled rule was published in the State Register on July 25, 1988, and was sent by United States mail to all persons on the list maintained by the department pursuant to Minnesota Statutes, section 14.14, subd. 1a and 14.22 on July 20, 1988. The Statement of Need and Reasonableness was prepared before the notice of intent to adopt a rule without a public hearing was mailed to all persons on the rulemaking mailing list and published in the State Register and was available to the public.

All persons were given the opportunity to submit comments on the rule for 30 days after notice of proposed rulemaking. No requests for a public hearing on the rule were received by the department.

No submissions or comments on the rule were received by the department. No requests for notice of submission to the attorney general were received by the department.

The above-captioned rule is needed and reasonable.

NOW, THEREFORE, IT IS ORDERED that the rule identified as the Rule Governing Grade A and Manufacturing Grade Milk and Dairy Products is adopted this 25 day of August, 1988, pursuant to authority vested in me by Minnesota Statutes, section 31.11.

STATE OF MINNESOTA

Jim Nichols

JIM NICHOLS
COMMISSIONER OF AGRICULTURE

In the Matter of the Adoption of the Rule of the Minnesota Department of Agriculture Governing Grade A and Manufacturing Grade Milk and Dairy Products

DECLARATION OF COUNSEL

I, Paul Strandberg, Special Assistant Attorney General, do hereby declare that I have examined the above-captioned rule and the supporting rulemaking record, and that, based on my examination, the Administrative Procedure Act and Minnesota Rules, Chapter 2010 have been followed. Any exceptions are listed below. For Attorney General billing purposes, the four-digit docket client code is 0986.

Paul Strandberg
Special Assistant Attorney General

Date: 8/26/88

PLANNING DIVISION
DEPARTMENT OF AGRICULTURE

LIST OF ATTACHED DOCUMENTS

A. Rule as Proposed.

B. Notice of Intent to Adopt a Rule Without Public Hearing.

C. Statement of Need and Reasonableness.

D. Affidavit of Mailing Notice of Intent to Adopt a Rule Without Public Hearing.

E. Certification of Mailing List.

F. State Register Photocopy of Notice of Intent.

G. Rule as Adopted (Original and three copies).

H. Findings of Fact and Conclusions, and Order Adopting.

I. Declaration of Counsel.

In the Matter of the Proposed Amendments to the Rule of the Department of Agriculture Governing Grade A and Manufacturing Grade Milk and Dairy Products

CERTIFICATE OF MAILING LIST

STATE OF MINNESOTA)
) ss.
COUNTY OF RAMSEY)

Carol Milligan, being sworn, says:

I hereby certify that the list of persons and associations who have requested, pursuant to Minn. Statutes, sections 14.14, subd. 1a, and 14.22 or 14.30, that their names be placed on the Minnesota Department of Agriculture rulemaking mailing list is accurate, complete and current as of this 20th day of July, 1988.

Carol Milligan
Carol Milligan
Management Analyst

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

Subscribed and sworn to before me this 20th day of July, 1988.

Diane M. Windham

SF-00006-05 (4/86)

STATE OF MINNESOTA

Office Memorandum

DEPARTMENT : OF AGRICULTURE

DATE : August 25, 1988

Recd Aug 30

TO : Rita Desmond
Administration - Finance Division
Office of the Attorney General

FROM : Carol Milligan, Management Analyst
Planning Division

PHONE : 296-6906

SUBJECT : Review of Proposed Rule Governing Milk and Dairy Products

The Department of Agriculture adopted the above-mentioned rule 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 rule. A list of the documents is attached for your convenience.

If you have questions, please contact me.

CM:cb

Attachment

cc: Jim Nichols, Commissioner
Anne Kanten, Deputy Commissionr
Paul Strandberg, Special Assistant Attorney General
Craig Lindeke, Office of Revisor of Statutes
Gerald Heil, Planning Division
Pat Jensen, Counsel to the Commissioner
Bill Coleman, Dairy & Livestock Division