

Minnesota Attorney General: Administrative Rules Proceedings

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Version 3
August 20, 2018

file

DEPARTMENT: Office of the Attorney General

STATE OF MINNESOTA

OFFICE MEMORANDUM

DATE: April 19, 1990

TO: CAROL MILLIGAN
Planning Div., Dept. of Agriculture
90 West Plato Boulevard (55107)

FROM: MARTHA J. CASSERLY
Special Assistant Attorney General
525 Park Street, Suite 500 (55103)

PHONE: 296-6839

SUBJECT: In the Matter of the Adopted Rule Relating to Seed Fees

The above-referenced rule has been approved as to its legality by the Attorney General on April 19, 1990.

Enclosed is your 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, submissions or comments along with any extra copies of documents which you submitted to the Attorney General.

Your next step is to arrange for publication of the Notice of Adoption in the State Register. In a day or two, you should receive from the Revisor's Office three copies of tne notice of adoption of your rule. You should submit two copies of the Notice of Adoption to the State Register for publication. A permanent rule without a hearing does not become effective until five days after a notice of adoption is published 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.

Enclosures
cc: William Brown, Chief Judge (memo only)
MaryAnn Hruby " "
Paul Strandberg (memo only)

Department of Agriculture

Adopted Permanent Rules Relating to Seed Fees

Rules as Adopted

1510.0281 CHARGES UNDER MINNESOTA SEED LAW.

Subpart 1. and 2. [Unchanged.]

Subp. 3. **Seed fee permits.** An initial labeler who wishes to sell seed in Minnesota must comply with Minnesota Statutes, section 21.89, subdivisions 1 and 2, and the procedures in this subpart.

A. Each initial labeler who wishes to sell seed in Minnesota must apply to the commissioner to obtain a permit. The application must contain the name and address of the applicant, the application date, and the name and title of the applicant's contact person. The application must be accompanied by an application fee of $10. Initial labelers holding seed fee permits on the effective date of this subpart need not apply for a new permit or pay the application fee.

(1) If, for reasons beyond the control and knowledge of the initial labeler, seed is shipped into Minnesota by a person other than the initial labeler, the responsibility for the seed fees is transferred to the shipper. An application for a transfer of this responsibility must be made to the commissioner. Upon approval by the commissioner of the transfer, the shipper is responsible for payment of the seed permit fees.

(2) [Unchanged.]

B. All seed fee permit holders must file semiannual reports with the commissioner, even if no seed was sold during the reporting period. Each semiannual report must be submitted within 30 days of the end of each reporting period. The reporting periods are October 1 to March 31 and April 1 to September 30 of each year or July 1 to December 31, and January 1 to June 30 of each year. Permit holders may change their

Approved by Revisor

reporting periods with approval of the commissioner.

C. The holder of a seed fee permit must pay fees on all seed for which the permit holder is the initial labeler and which are covered by Minnesota Statutes, sections 21.80 to 21.92 and sold during the reporting period.

(1) For the following kinds of agricultural seed sold either in bulk or containers, the fees are:

(a) oats, wheat, barley, 4.5 cents per cwt.;

(b) rye, field beans, soybeans, 6 cents per cwt.;

(c) buckwheat, flax, 8 cents per cwt;

(d) field corn, 21 cents per cwt.;

(e) forage, lawn and turf grasses, and legumes, 35 cents per cwt.;

(f) sunflower, $1 per cwt.;

(g) sugar beet, $2.35 per cwt.; and

(h) other agricultural seeds except vegetables grown for processing, 20 cents per cwt.

(2) For vegetable and flower seeds packed in small containers or in bulk for use by home gardeners, the fee is 30 cents per $100 of net sales of these seeds.

D. If a seed fee permit holder fails to submit a semiannual report and pay the seed fee within 30 days after the end of each reporting period, the commissioner shall assess a penalty of $10 or eight percent, calculated on an annual basis, of the fee due, whichever is greater, but no more than $100 for each late semiannual report. A $10 penalty will be charged when the semiannual report is late, even if no fee is due for the reporting period. Seed fee permits may be revoked for failure to comply with the applicable provisions of this part or the Minnesota seed law.

Subp. 4. **Hybrid seed corn variety registration fee.** In accordance with Minnesota Statutes, section 21.90, subdivision 2, the annual fee for the registration of each hybrid seed corn variety or blend is $30, which must be paid at the time of registration. Hybrid seed corn variety registrations received

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by Revisor _____

after February 1 of each year will have an annual registration fee of $35 per variety.

Subp. 5. **Service testing and identification.** The fees in items A to D for purity, germination, identification, or other related tests of seeds or plants for farmers, dealers, and others are established pursuant to Minnesota Statutes, section 21.85, subdivision 12.

A. General crops, including corn, cereals, soybeans, sorghum, millet, sunflowers, clovers, alfalfa, ryegrass, timothy, flax, rape, vegetable, and other similar seeds:

(1) Purity, ~~$12~~ $10 (includes a Minnesota noxious weed seed test);

(2) Germination, ~~$7.50~~ $6.50;

(3) United States noxious weed seed only, $8;

(4) Minnesota noxious weed seed only, $6; and

(5) Tetrazolium, $15 (includes germination test).

B. Grasses, including bromes, fescues, orchardgrass, reed canary, wheat grasses, bluegrasses, bentgrasses, redtop, green needle grass, weeping lovegrass, sandlove, sanddrop seed, flower, and other similar seeds:

(1) Purity, ~~$18~~ $15 (includes a Minnesota noxious weed seed test);

(2) Germination, ~~$10.50~~ $9;

(3) United States noxious weed seed only, $11;

(4) Minnesota noxious weed seed only, $9; and

(5) Tetrazolium, $18 (includes germination test).

C. Chaffy range grasses, including big bluestem, Indiangrass, side oats grama, gramagrass, little bluestem, meadow foxtail, and similar seeds:

(1) Purity, ~~$30~~ $25 (includes a Minnesota noxious weed seed test);

(2) Germination, ~~$15~~ $13;

(3) United States noxious weed seed only, $17;

(4) Minnesota noxious weed seed only, $15; and

(5) Tetrazolium, $24 (includes germination test).

D. Mixtures. "A" means the full price of the

Approved by Revisor _____

highest-priced species plus one-half the price of each additional species. "B" means one-half of the price of the purity test on the highest-priced species in the mixture. "C" means the full price of the purity test on the highest priced species in the mixture.

(1) Purity, A (includes a Minnesota noxious weed seed test);

(2) Germination, A;

(3) United States noxious weed seed only, C;

(4) Minnesota noxious weed seed only, B; and

(5) Tetrazolium, A (includes germination test).

E. A fee of $20 per hour will be charged for tests which are specially requested but not included in items A to D, or which require excess time due to abnormal sample conditions, such as unusual amounts of dirt or foreign material.

F. An additional fee of $10 per sample will be charged for any sample for which special handling is requested, such as samples marked "RUSH."

G. and H. [Unchanged.]

Approved
by Revisor _____

APPROVED AS TO FORM AND LEGALITY

April 19 19 90

HUBERT H. HUMPHREY, III
ATTORNEY GENERAL

BY M J Cassady
SPECIAL ASSISTANT ATTORNEY GENERAL

MJC

RULE REVIEW CHECKLIST
Agriculture

File No. 1693 — Docket No. 050007 0986

DATE RECEIVED 4-10-90 — ADOPTED W/O HEARING X

REVIEW DATE 4-19-90 — EMERGENCY RULE _____

DUE DATE 4-24-90 — To Revisor: 4-13-90

REVISOR APPROVED 4-17-90

APPROVED 4.19.90 mjc — REVISOR DISAPPROVED _____

DISAPPROVED _____ — FILED W/SEC. OF STATE _____

WITHDRAWN _____ — RETURNED TO AGENCY _____

✓ 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
- _____ Date adopted

✓ Proposed Rule
- ✓ Revisor's Certificate

_____ Notice of Intent to Adopt Rule
- 21.85 subd 12 and 13 Statutory Authority — no authority 21.89 subd 1 and 21.90 subd 2
- ✓ Small Business Statement
- N/A Expenditure of public money statement
- 9-25-89 Signature

✓ Statement of Need and Reasonableness (if applicable)
- _____ Small Business Statement
- ✓ Fees - § 16A.128

✓ Affidavit of Mailing Notice of Intent to Adopt Rule
- Dec. 6, 1989 Date (30/25 days before adoption)
- ✓ Notice attached indicates its attached
- _____ Copy of rule or summary attached

✓ Publication in State Register
- Dec 11, 1989 Date (30/25 days before adoption)

✓ 180-day deadline from:
- N/A Effective date of law requiring rule (14.12) (both rules) Amendments
- ✓ end of comment period (§ 14.26) (rules without hearing)
- _____ effective date of statutory authority (§ 14.29) (emergency rules)

✓ Resolution Adopting
- Feb 16, 1990 Date adopted

✓ Findings of Fact, Conclusions & Order Adopting
- Feb 16, 1990 Date

✓ Written requests, submissions or comments

✓ Declaration of attorney
- Paul Strandberg Name of SAAG representing agency

4-10-90 Notice of Submission to Atty. Gen. (if applicable)

4-10-90 Aff. of Mailing Notice to Atty. Gen. (if applicable)

Department : AGRICULTURE

STATE OF MINNESOTA
Office Memorandum

Date : April 10, 1990

To : Rita Desmond
Attorney General's Office

From : Carol Milligan CM
Planning Division

Phone : 296-6906

Subject : **Review of Proposed Rule Governing Seed Fees**

The Department of Agriculture adopted the above-mentioned rule pursuant to Minnesota statutes, sections 14.22-14.28. Enclosed with this memo 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.

Please contact me if you have any question.

cc: Jim Nichols, Commissioner
Paul Strandberg, Special Assistant Attorney General
Craig Lindeke, Revisor of Statutes' Office
Gerald Heil, Planning Division
Bill Krueger, Laboratory
Bill Bulger, Agronomy Services Division
Chuck Dale, Agronomy Services Division

Department of Agriculture

Proposed Permanent Rules Relating to Seed Fees

Rules as Proposed

1510.0281 CHARGES UNDER MINNESOTA SEED LAW.

Subpart 1. and 2. [Unchanged.]

Subp. 3. **Seed fee permits.** An initial labeler who wishes to sell seed in Minnesota must comply with Minnesota Statutes, section 21.89, subdivisions 1 and 2, and the procedures in this subpart.

A. Each initial labeler who wishes to sell seed in Minnesota must apply to the commissioner to obtain a permit. The application must contain the name and address of the applicant, the application date, and the name and title of the applicant's contact person. The application must be accompanied by an application fee of $10. Initial labelers holding seed fee permits on ~~October 8, 1984,~~ the effective date of this subpart need not apply for a new permit or pay the application fee.

(1) If, for reasons beyond the control and knowledge of the initial labeler, seed is shipped into Minnesota by a person other than the initial labeler, the responsibility for the seed fees ~~are~~ is transferred to the shipper. An application for a transfer of this responsibility must be made to the commissioner. Upon approval by the commissioner of the transfer, the shipper is responsible for payment of the seed permit fees.

(2) [Unchanged.]

B. All seed fee permit holders must file semiannual reports with the commissioner, even if no seed was sold during the reporting period. Each semiannual report must be submitted within 30 days of the end of each reporting period. The reporting periods are October 1 to March 31 and April 1 to September 30 of each year or July 1 to December 31, and January 1 to June 30 of each year. Permit holders may change their

Approved by Revisor Craig E. Fridell

reporting periods with approval of the commissioner.

C. The holder of a seed fee permit must pay fees on all seed for which the permit holder is the initial labeler and which are covered by Minnesota Statutes, sections 21.80 to 21.92 and sold during the reporting period.

(1) For the following kinds of agricultural seed sold either in bulk or containers, the fees are:

(a) oats, wheat, barley, ~~3~~ 4.5 cents per cwt.;

(b) rye, field beans, soybeans, ~~4~~ 6 cents per cwt.;

(c) buckwheat, flax, ~~6~~ 8 cents per cwt;

(d) field corn, ~~15~~ 21 cents per cwt.;

(e) forage, lawn and turf grasses, and legumes, ~~20~~ 35 cents per cwt.;

(f) ~~sugar beet,~~ sunflower, ~~70 cents~~ $1 per cwt.; ~~and~~

(g) sugar beet, $2.35 per cwt.; and

(h) other agricultural seeds except vegetables grown for processing, ~~10~~ 20 cents per cwt.

(2) For vegetable and flower seeds packed in small containers or in bulk for use by home gardeners, the fee is ~~ten~~ 30 cents per $100 of net sales of these seeds.

D. If a seed fee permit holder fails to submit a semiannual report and pay the seed fee within 30 days after the end of each reporting period, the commissioner shall assess a penalty of $10 or eight percent, calculated on an annual basis, of the fee due, whichever is greater, but no more than $100 for each late semiannual report. A $10 penalty will be charged when the semiannual report is late, even if no fee is due for the reporting period. Seed fee permits may be revoked for failure to comply with the applicable provisions of this ~~rule~~ part or the Minnesota seed law.

Subp. 4. **Hybrid seed corn variety registration fee.** In accordance with Minnesota Statutes, section 21.90, subdivision 2, the annual fee for the registration of each hybrid seed corn

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variety or blend is ~~$27.50~~ $30, which must be paid at the time of registration. Hybrid seed corn variety registrations received after February 1 of each year will have an annual registration fee of $35 per variety.

Subp. 5. **Service testing and identification.** The fees in items A to D for purity, germination, identification, or other related tests of seeds or plants for farmers, dealers, and others are established pursuant to Minnesota Statutes, section 21.85, subdivision 12.

A. General crops, including corn, cereals, soybeans, sorghum, millet, sunflowers, clovers, alfalfa, ryegrass, timothy, flax, rape, vegetable, and other similar seeds:

(1) Purity, ~~$8~~ $12 (includes a Minnesota noxious weed seed test);

(2) Germination, ~~$5~~ $7.50;

(3) ~~Purity-and-germination,-$11~~ United States noxious weed seed only, $8;

(4) Minnesota noxious weed seed only, ~~$4~~ $6; and

(5) Tetrazolium, ~~$10~~ $15 (includes germination test).

B. Grasses, including bromes, fescues, orchardgrass, reed canary, wheat grasses, bluegrasses, bentgrasses, redtop, green needle grass, weeping lovegrass, sandlove, sanddrop seed, flower, and other similar seeds:

(1) Purity, ~~$12~~ $18 (includes a Minnesota noxious weed seed test);

(2) Germination, ~~$7~~ $10.50;

(3) ~~Purity-and-germination,-$17~~ United States noxious weed seed only, $11;

(4) Minnesota noxious weed seed only, ~~$6~~ $9; and

(5) Tetrazolium, ~~$12~~ $18 (includes germination test).

C. Chaffy range grasses, including big bluestem, Indiangrass, side oats grama, gramagrass, little bluestem, meadow foxtail, and similar seeds:

(1) Purity, ~~$20~~ $30 (includes a Minnesota noxious

Approved by Revisor _____

weed seed test);

(2) Germination, ~~$10~~ $15;

(3) ~~Purity-and-germination,-$20~~ United States noxious weed seed only, $17;

(4) Minnesota noxious weed seed only, ~~$10~~ $15; and

(5) Tetrazolium, ~~$10~~ $24 (includes germination test).

D. Mixtures. "A" means the full price of the highest-priced species plus one-half the price of each additional species. "B" means one-half of the price of the purity test on the highest-priced species in the mixture. "C" means the full price of the purity test on the highest priced species in the mixture.

(1) Purity, A (includes a Minnesota noxious weed seed test);

(2) Germination, A;

(3) ~~Purity-and-germination,-not-applicable~~ United States noxious weed seed only, C;

(4) Minnesota noxious weed seed only, B; and

(5) Tetrazolium, A (includes germination test).

E. A fee of ~~$12~~ $20 per hour will be charged for tests which are specially requested but not included in items A to D, or which require excess time due to abnormal sample conditions, such as unusual amounts of dirt or foreign material.

F. An additional fee of ~~$2~~ $10 per sample will be charged for any sample for which special handling is requested, such as samples marked "RUSH."

G. and H. [Unchanged.]

Approved by Revisor _____

Office of the Revisor of Statutes

Administrative Rules

TITLE: Proposed Permanent Rules Relating to Seed Fees

AGENCY: Department of Agriculture

MINNESOTA RULES: Chapter 1510

The attached rules are approved for publication
in the State Register

Craig E. Lindeke

Craig E. Lindeke
Senior Assistant Revisor

Stat Authority 21.85 subd 12 and 13

subd 12 The commissioner shall provide for purity and germination tests of seeds . . .

subd 13 The commissioner may sample agricultural vegetable . . . which are destined for export to other countries

89
21.~~90~~ subd ~~2~~

In order to pay for administration and enforcing sections 21.80 to 21.92 the commissioner shall establish fees charged for various seeds and shall collect the fees on all seeds covered by sections 21.82 - to 21.92

21.90 subd 2

subd 2 . . . . The commissioner shall establish the annual fee for registration for each variety . . . .

* no Statutory authority to make rules the Statutory authority is 21.85 subd 11 which is not stated in the notice of intent

21.85 subd 11 - The commissioner may make necessary rules, including emergency rules, for the proper enforcement of sections 21.80 to 21.92

Fees - obtained permission from Finance
(Nov 6, 1989 memo) notified House Appropriations
from Bruce and Senate Finance
Reddemann
from Finance) indicates in findings of Fact
notices were sent to the house
and senate - have submitted
the letters

Stat. Authority We will have to decide if not
putting 21.85 subd 11 in the
Notice of Intent is enough
to reject them Since subd 11
is right next to subd 12 and 13
I don't think it should
be rejected

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

E. Certificate of Mailing List

F. State Register Photocopy of Notice of Intent

G. Rule as Adopted (four copies)

H. Findings of Fact, Conclusions and Order Adopting

I. Comments Received

J. Declaration of Counsel

K. Notice of Submission to the Attorney General

L. Affidavit of Mailing the Notice of Submission

Department of Agriculture
Agronomy Services

In the Matter of the Proposed Adoption of Amendments to the Rule of the Department of Agriculture Governing Seed Fees

NOTICE OF INTENT TO ADOPT A RULE WITHOUT A PUBLIC HEARING

(1) 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, sections 21.85, subdivisions 12 and 13; 21.89, subdivision 1; and 21.90 subdivision 2.

(2) 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. (3) 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. (4) 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. (6) 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. (7) If a public hearing is required, the department will proceed according to Minnesota Statutes, sections 14.131 to 14.20.

(5) 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.

(8) 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.

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

(12) 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.

(14) The proposed amendments should not greatly affect small businesses. The fee increases are modest enough that small seed businesses should be able to pass costs on to the consumer in the selling price of the seed. The increases in laboratory testing fees should benefit small private laboratories by putting state fees in line with those charged by private companies, thus eliminating the unfair competitive advantage by the state.

(9) If no hearing is required, upon adoption of the final amendments, the amendments 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 amendments must submit a written request to Ms. Milligan.

STATE OF MINNESOTA

9-25-89
Date

Jim Nichols
Jim Nichols, Commissioner
Department of Agriculture

In the Matter of the Proposed Adoption of Amendments to the Rule of the Department of Agriculture Governing Seed Fees

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 6th day of December, 1989, 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.

Marie Skerbitz
Mail Room Clerk

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

Subscribed and sworn to before me this 6th day of December, 19 89.

Diane M. Windham

In the Matter of the Proposed Adoption
of Amendments to the Rule of the
Department of Agriculture Governing
Seed Fees

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 5th day of December, 1989.

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 5th day of December, 1989.

Diane M. Windham

LAND OF QUALITY FOODS

90 W. PLATO BOULEVARD
SAINT PAUL, MN 55107

STATE OF MINNESOTA
DEPARTMENT OF AGRICULTURE

(612) 296-6906

December 6, 1989

TO: Representative Wayne Simoneau, Chairman
House Appropriations Committee

FROM: Carol Milligan, Management Analyst
Planning Division

SUBJECT: Proposed Rule of the Department of Agriculture

Enclosed you will find a "Notice of Intent to Adopt a Rule Without a Public Hearing" and proposed rule governing seed fees. The Notice and rule are being sent in accordance with Minnesota Statutes, section 16A.128, subd. 2a.

The Notice and the proposed rule will be published in the Minnesota State Register on Monday, December 11, 1989. The 30-day comment period provided for by the Administrative Procedures Act will extend from that date until January 10, 1990. All comments on the proposed rule must be received by that date.

If you have any questions, please call.

CM:dr

Enclosure

LAND OF QUALITY FOODS

90 W. PLATO BOULEVARD
SAINT PAUL, MN 55107

STATE OF MINNESOTA
DEPARTMENT OF AGRICULTURE

(612) 296-6906

December 6, 1989

TO: Senator Gene Merriam, Chairman
Senate Finance Committee

FROM: Carol Milligan, Management Analyst
Planning Division

SUBJECT: Proposed Rule of the Department of Agriculture

Enclosed you will find a "Notice of Intent to Adopt a Rule Without a Public Hearing" and proposed rule governing seed fees. The Notice and rule are being sent in accordance with Minnesota Statutes, section 16A.128, subd. 2a.

The Notice and the proposed rule will be published in the Minnesota State Register on Monday, December 11, 1989. The 30-day comment period provided for by the Administrative Procedures Act will extend from that date until January 10, 1990. All comments on the proposed rule must be received by that date.

If you have any questions, please call.

CM:dr

Enclosure

7520.0650; .1000; .1100 (proposed) 1053
7520.0680 (repealed) 1008

Public Service Department

7690.0100; 7840.0200; .0300; .0400; .0500; .0600; .0700; .0800; .0900; 7690.1000; 7840.1100; .1150; .1200; .1300; .1500 (proposed) 1377
7840.1400 (proposed repealer) 1377

Public Utilities Commission

7820.1500; .1600; .1700; .1800; .1900; .2000; .2010; .2100; .2150; .2200; .2300 (proposed) 1313
7825.2390; .2400; .2500; .2600; .2700; .2800; .2810; .2830; .2900; .2910; .2920 (adopted) 977
7825.2400 s.6, 14; .2900 s.2, 3, 4; .3000 (repealed) 977

Minnesota Racing Commission

7869.0100; .7873.0110; .0120; .0140; .0150; .0190; .0191; .0300; 7876.0110; 7877.0120; .0170; .0175; .0185; 7878.0120; 7883.0130; .0140; .0150; 7890.0140; 7892.0120; 7895.0100; .0125; .0250; .0275; .0300; .0350; 7897.0150; .0160; .0170 (proposed) 1057

Revenue Department

8130.9200 (proposed repealer) 1347
8130.9250 (proposed) 1347

Secretary of State

8250.0350; .1400 (proposed) 1320

Unlicensed Mental Health Service Providers Board

9000.0050-.0190 (proposed) 1170

Veterans Department

9050.0010-.0900 (proposed) ..... 948 and 1096
9050.0010-.0900 (adopted emergency) 1178

Human Services Department

9500.1100 (proposed) 1005
9500.1272 (proposed) 892
9500.2060; .2100; .2140; .2340; .2380; .2420; .2440; .2500; .2580; .2640; .2680; .2700; .2740; .2800; .2820; .2880 (withdrawn) 1066
9500.2060 s.118 (proposed repealer withdrawn) 1066
9510.1020; .1040; .1050; .1070; .1110 (proposed) 1199
9575.0010; .0020; .0090; .0380; .0530; .0620; .0720 (adopted) 1008
9575.0350; .1500 (proposed) 1042
9575.0090 s.2, 3 (repealed) 1008

Proposed Rules

Pursuant to Minn. Stat. §§ 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 Seed Fees

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*, sections 21.85, subdivisions 12 and 13; 21.89, subdivision 1; and 21.90 subdivision 2.

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.

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.

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 should not greatly affect small businesses. The fee increases are modest enough that small seed businesses should be able to pass costs on to the consumer in the selling price of the seed. The increases in laboratory testing fees should benefit small private laboratories by putting state fees in line with those charged by private companies, thus eliminating the unfair competitive advantage by the state.

If no hearing is required, upon adoption of the final amendments, the amendments 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 amendments must submit a written request to Ms. Milligan.

Dated: 25 September 1989

Jim Nichols, Commissioner
Department of Agriculture

Rules as Proposed

1510.0281 CHARGES UNDER MINNESOTA SEED LAW.

Subpart 1. and 2. [Unchanged.]

Subp. 3. **Seed fee permits.** An initial labeler who wishes to sell seed in Minnesota must comply with *Minnesota Statutes*, section 21.89, subdivisions 1 and 2, and the procedures in this subpart.

A. Each initial labeler who wishes to sell seed in Minnesota must apply to the commissioner to obtain a permit. The application must contain the name and address of the applicant, the application date, and the name and title of the applicant's contact person. The application must be accompanied by an application fee of $10. Initial labelers holding seed fee permits on ~~October 8, 1984,~~ the effective date of this subpart need not apply for a new permit or pay the application fee.

(1) If, for reasons beyond the control and knowledge of the initial labeler, seed is shipped into Minnesota by a person other than the initial labeler, the responsibility for the seed fees ~~are~~ is transferred to the shipper. An application for a transfer of this responsibility must be made to the commissioner. Upon approval by the commissioner of the transfer, the shipper is responsible for payment of the seed permit fees.

(2) [Unchanged.]

B. All seed fee permit holders must file semiannual reports with the commissioner, even if no seed was sold during the reporting period. Each semiannual report must be submitted within 30 days of the end of each reporting period. The reporting periods are October 1 to March 31 and April 1 to September 30 of each year or July 1 to December 31, and January 1 to June 30 of each year. Permit holders may change their reporting periods with approval of the commissioner.

C. The holder of a seed fee permit must pay fees on all seed for which the permit holder is the initial labeler and which are covered by *Minnesota Statutes*, sections 21.80 to 21.92 and sold during the reporting period.

(1) For the following kinds of agricultural seed sold either in bulk or containers, the fees are:

(a) oats, wheat, barley, ~~3~~ 4.5 cents per cwt.;

(b) rye, field beans, soybeans, ~~4~~ 6 cents per cwt.;

(c) buckwheat, flax, ~~6~~ 8 cents per cwt;

(d) field corn, ~~15~~ 21 cents per cwt.;

(e) forage, lawn and turf grasses, and legumes, ~~20~~ 35 cents per cwt.;

(f) ~~sugar beet,~~ sunflower, ~~70 cents~~ $1 per cwt.; ~~and~~

(g) sugar beet, $2.35 per cwt.; and

(h) other agricultural seeds except vegetables grown for processing, ~~10~~ 20 cents per cwt.

(2) For vegetable and flower seeds packed in small containers or in bulk for use by home gardeners, the fee is ~~ten~~ 30 cents per $100 of net sales of these seeds.

D. If a seed fee permit holder fails to submit a semiannual report and pay the seed fee within 30 days after the end of each reporting period, the commissioner shall assess a penalty of $10 or eight percent, calculated on an annual basis, of the fee due, whichever is greater, but no more than $100 for each late semiannual report. A $10 penalty will be charged when the semiannual report is late, even if no fee is due for the reporting period. Seed fee permits may be revoked for failure to comply with the applicable provisions of this ~~rule~~ part or the Minnesota seed law.

Subp. 4. **Hybrid seed corn variety registration fee.** In accordance with *Minnesota Statutes*, section 21.90, subdivision 2, the annual fee for the registration of each hybrid seed corn variety or blend is ~~$27.50~~ $30, which must be paid at the time of registration. Hybrid seed corn variety registrations received after February 1 of each year will have an annual registration fee of $35 per variety.

Subp. 5. **Service testing and identification.** The fees in items A to D for purity, germination, identification, or other related tests of seeds or plants for farmers, dealers, and others are established pursuant to *Minnesota Statutes*, section 21.85, subdivision 12.

A. General crops, including corn, cereals, soybeans, sorghum, millet, sunflowers, clovers, alfalfa, ryegrass, timothy, flax, rape, vegetable, and other similar seeds:

(1) Purity, ~~$8~~ $12 (includes a Minnesota noxious weed seed test);

(2) Germination, ~~$5~~ $7.50;

(3) ~~Purity and germination,~~ ~~$11~~ United States noxious weed seed only, $8;

(4) Minnesota noxious weed seed only, ~~$4~~ $6; and

(5) Tetrazolium, ~~$10~~ $15 (includes germination test).

B. Grasses, including bromes, fescues, orchardgrass, reed canary, wheat grasses, bluegrasses, bentgrasses, redtop, green needle grass, weeping lovegrass, sandlove, sanddrop seed, flower, and other similar seeds:

(1) Purity, ~~$12~~ $18 (includes a Minnesota noxious weed seed test);

(2) Germination, ~~$7~~ $10.50;

(3) ~~Purity and germination,~~ ~~$17~~ United States noxious weed seed only, $11;

(4) Minnesota noxious weed seed only, ~~$6~~ $9; and

(5) Tetrazolium, ~~$12~~ $18 (includes germination test).

C. Chaffy range grasses, including big bluestem, Indiangrass, side oats grama, gramagrass, little bluestem, meadow foxtail, and similar seeds:

(1) Purity, ~~$20~~ $30 (includes a Minnesota noxious weed seed test);

(2) Germination, ~~$10~~ $15;

(3) ~~Purity and germination,~~ ~~$28~~ United States noxious weed seed only, $17;

(4) Minnesota noxious weed seed only, ~~$10~~ $15; and

(5) Tetrazolium, ~~$18~~ $24 (includes germination test).

D. Mixtures. "A" means the full price of the highest-priced species plus one-half the price of each additional species. "B" means one-half of the price of the purity test on the highest-priced species in the mixture. "C" means the full price of the purity test on the highest priced species in the mixture.

(1) Purity, A (includes a Minnesota noxious weed seed test);

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.

(2) Germination, A;

(3) ~~Purity and germination, not applicable~~ United States noxious weed seed only, C;

(4) Minnesota noxious weed seed only, B; and

(5) Tetrazolium, A (includes germination test).

E. A fee of ~~$12~~ $20 per hour will be charged for tests which are specially requested but not included in items A to D, or which require excess time due to abnormal sample conditions, such as unusual amounts of dirt or foreign material.

F. An additional fee of ~~$2~~ $10 per sample will be charged for any sample for which special handling is requested, such as samples marked "RUSH."

G. and H. [Unchanged.]

Ethical Practices Board

Proposed Permanent Rules Relating to Campaign Financing

Notice of Intent to Adopt a Rule Without a Public Hearing

NOTICE IS HEREBY GIVEN that the State Ethical Practices Board 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 10A.02, subd. 13.

All persons have 30 days in which to submit comment in support of or in opposition to the proposed rule or any part or subpart of the rule. The 30-day period ends January 12, 1990. 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 the person's 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 Board will proceed pursuant to *Minnesota Statutes*, sections 14.131 to 14.20.

Comments or written requests for a public hearing should be submitted to Mary Ann McCoy, Executive Director, Ethical Practices Board, 625 North Robert Street, St. Paul, MN 55101-2520; (612) 296-1720.

The proposed rule may be modified if the modifications are supported by data and views submitted to the Board and do not result in a substantial change in the proposed rule as noticed.

A copy of the proposed rule is attached to this notice.

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 Ms. McCoy upon request.

Please be advised that *Minnesota Statutes* Ch. 10A requires each lobbyist to register with the Ethical Practices Board within five days after the lobbyist commences lobbying. A lobbyist is defined in *Minnesota Statutes* § 10A.01, subd. 11 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, not including the individual's own travel expenses and membership dues, in any year, for the purpose of attempting to influence legislative or administrative action by communicating with or urging others to communicate with public officials; or (b) who spends more than $250, not including the individual's own travel expenses and membership dues, in any year, for the purpose of attempting to influence legislative or administrative action by communicating with or urging others to communicate with public officials. The statute provides certain exceptions. Questions should be directed to the Board at the address above, telephone (612) 296-5148.

Minnesota Statutes § 14.115 requires the Board to provide an opportunity for small businesses to participate in the rulemaking process. It appears that the proposed amendments do not directly affect small business, for by definition, the regulations are imposed on individuals. However, small businesses may be affected indirectly by these regulations, for example a public official may disclose information on the official's statement of economic interest which may affect small businesses. For more information on the possible small business impact, see the Statement of Need and Reasonableness. The proposed amendments will not require expenditures of public money by local public bodies, therefore, Sections 3.982 and 14.11 do not apply.

STATE OF MINNESOTA
DEPARTMENT OF AGRICULTURE

IN THE MATTER OF THE PROPOSED)
AMENDMENTS TO EXISTING RULES OF)
THE DEPARTMENT OF AGRICULTURE)
GOVERNING SEED FEES)
(MINNESOTA RULE 1510.0281))

STATEMENT OF NEED
AND REASONABLENESS

I. INTRODUCTION

The subject of this rulemaking is the proposal for amendments to existing rules of the Minnesota Department of Agriculture governing seed fees.

Minnesota Statutes, sections 21.85, subdivisions 12 and 13, 21.89, subdivision 1, and 21.90 subdivision 2 authorize amendments to the existing rule. Each section authorizes the establishment of a different seed fee.

The proposed rulemaking is necessary to increase the amount of revenue deposited into the seed fund which in turn provides funding for the operation of a seed testing laboratory and a seed regulatory program in Minnesota.

The specific items to be considered in this rulemaking pertain to charges under the Minnesota Seed Law for seed permit fees, seed testing fees, and hybrid corn registration fees.

The Commissioner of the Minnesota Department of Agriculture proposed the amendments to the rule for adoption in accordance with Minnesota Statutes 14.21 to 14.28. Consultations with seed industry representatives indicate the proposed rulemaking is non-controversial. Outside opinion was considered when the final draft of this proposed rulemaking was written.

The discussion provided in this statement is divided into the following parts:

II. Small Business Impact
III. General Overview
IV. Need For And Reasonableness Of The Proposed Amended Rule
V. Attachments

II. SMALL BUSINESS IMPACT

Minnesota Statute 14.115 requires an assessment of the impact on small businesses when laws and rules are enacted that affect them.

The proposed rulemaking pertaining to seed permit fees would increase fees for seed sold over the previous fees which were established in 1984. The following is an example of how these fees were determined:

1. Present Fee:
   a. Soybeans @ 4 cents per hundredweight sold or at 60 pounds of seed used per acre, 2.4 cents per acre planted.
   b. Sunflower @ 70 cents per hundredweight sold or at 3.5 pounds of seed used per acre, 2.45 cents per acre planted.
2. Proposed Fee:
   a. Soybeans @ 6 cents per hundredweight sold or at 60 pounds of seed used per acre, 3.6 cents per acre planted.
   b. Sunflower @ $1.00 per hundredweight sold or at 3.5 pounds of seed used per acre, 3.5 cents per acre planted.

The fees on seed sold are a legitimate cost for seed firms and are included in the selling price. Therefore, the consumer is actually paying a user fee whenever seed is purchased. The existing fees on seed sold are based on an average 2.5 cents per acre no matter what crop is planted. The proposed fees on seed sold are based on an average 3.55 cents per acre. By establishing a fee that is approximately the same for each acre of crop planted, the consumer receives equitable treatment in the payment of the user fee no matter which crop seed is purchased. There are presently 550 seed permits in effect. The projected new revenue under the proposed fee would be $165,200 annually or $300 per permit. Small seed businesses should not be impacted adversely by the

fees on seed sold since they recover their costs in the selling price of the seed. Attachment A at the end of this statement contains a fiscal analysis of the effect on revenue that changing the fee rate will have.

The proposed rulemaking pertaining to the hybrid seed corn variety registration fee increases the annual registration fee from $27.50 to $30.00 per variety. This rulemaking also establishes a fee of $35.00 per variety on registrations received after the February 1 deadline established by statute. Approximately 1,550 hybrids are registered annually by almost 100 firms. The average increase in fees paid by a hybrid seed corn company would be $51.25 annually. These costs are passed on to the consumer in the purchase price and therefore, should not adversely affect small hybrid seed corn companies.

The proposed rulemaking pertaining to fees for seed testing and identification would increase those fees over the existing fees established in 1984. The Minnesota State Seed Laboratory normally receives an average of 6,500 non-regulatory or service samples for testing or identification annually from 2,250 farmers, 250 seed companies, and 5 agencies. We collect approximately $43,700 in fees for this service or an average of $6.73 per sample submitted. The proposed fee increase would bring this per sample cost up to $10.10. Each farmer, seed company, and agency would theoretically be paying $3.37 more per sample for this service under the proposed fees. A small seed business selling a 1,000 bushel lot of seed would have an additional .337 cent cost per bushel sold. The average price for a bushel of soybean seed is approximately $11.00. This amount of increase should not adversely affect their competitiveness or profitability.

There are several private laboratories providing seed testing and identification service in Minnesota. We encourage this private business because it helps to provide a needed service to seed firms and farmers. If state laboratory fees for testing and identification are too low, we unfairly compete against these private businesses. We anticipate a 30 percent reduction in samples submitted to our laboratory if fees are raised as proposed. Private seed laboratories will likely receive these samples instead. These small businesses should benefit from increased business volume and better profit margins on the service they provide.

The seed fees established in the present rule and in the proposed amendment to this rule are needed to fund the state's seed regulatory and seed service testing programs. Any size business selling seed in this state benefits from an effective seed regulatory and service program through a fair marketplace in which to compete for the consumer dollar. Therefore, a seed business should pay for this benefit in proportion to their share of the marketplace. Taken one step further, the consumer benefits from an effective seed regulatory and service program through being able to buy truthfully labeled seed to fit their needs. Consumers ultimately pay for this benefit in the purchase price of the seed, but only in proportion to the number of acres they plant.

III. GENERAL OVERVIEW

A. The Need For An Increase In Seed Fees

To understand the need for and reasonableness of the proposed rulemaking to increase fees, it is important to know why they are proposed. When the existing fees were established by rule in 1984, it was estimated that with a normal inflationary rate, there would be a need to raise fees by 1990. This meant that the original fees would be sufficient to generate a surplus in the seed account that at some point would begin to abate because of increased costs due to inflation. If a five percent inflationary rate is used, since 1984, the seed program costs have risen 25 percent. Seed Program costs have reduced the surplus to a point where it will not be sufficient to cover periods of low revenue during the next fiscal year. This demonstrates a need to increase fees to build up the surplus to a point where a cash flow problem will not develop.

The seed permit fees are established on an equitable per acre cost basis. Therefore, planting shifts from one crop to another will not cause a reduction in revenue from these fees. However, planting fewer acres would reduce revenue. The 1985 Federal Farm Security Act initiated a program called the Conservation Reserve Program (C.R.P.). This program reduced the acrage planted in Minnesota by approximately 5 percent annually for at least ten years starting in 1985. This has caused a reduction in seed permit revenue. As a result, it is necessary to raise the seed permit fee rates to maintain the previous level of revenue.

The seed industry in the United States and, in particular, Minnesota is a very dynamic one. Prices per seed unit are increasing and profit margins along with them. Increased potential for profit motivates some in the industry to misrepresent cheaper, lower quality seed in order to obtain increased profits. This has caused an additional workload for seed regulatory staff of which there are presently three full time positions allocated. In addition, biotechnology is speeding up plant breeding to a point where new plant varieties are developed in a fraction of the time it used to take. These new varieties will cost considerably more than present ones and will require new ways to be developed to effectively regulate their sale. Seed is a convenient package in which to market this new technology. The state seed laboratory staff will have greater and more sophisticated demands put on them due to the influence of biotechnology. As a result, there is a need to increase staff in both the seed regulatory and the seed laboratory sections. It will require increased revenue to fund two new positions and the proposed increase in the seed permit fee rates reflects this need.

This rulemaking is necessary and reasonable to provide funding for a seed regulatory and service program that will protect consumers through uniform and accurate labeling of seed sold in Minnesota. Uniformity and accuracy in labeling of seed also provides a fair and competitive marketplace for the sale of seed and thereby benefits the seed industry as well.

B. Format Of The Proposed Amendments To The Fee Rule

The proposed amendments to the fee rule are set forth in the following manner: Seed fee permits, hybrid seed corn variety registration fee, and service testing and identification fees.

In this statement, for the sake of brevity, the content of the amended rule has not been repeated. However, the number and title of each affected portion of the rule has been noted for reference purposes.

IV. NEED FOR AND REASONABLENESS OF THE PROPOSED AMENDMENTS TO THE EXISTING FEE RULE

The need for and reasonableness of each portion of the proposed amendments to the existing fee rule follows:

1510.0281, Subpart 3, Clause A Seed Fee Permits.
This portion of the amendment modifies a phrase in the existing rule to clarify who must apply for a seed permit after the existing seed fee permit rule is amended. It is necessary to specify that existing seed permit holders do not need to re-apply for a permit just because the rule is amended. It is reasonable that this modification be enacted because there is no reason to reissue permits that are already in effect.

1510.0281, Subpart 3, Clause A(1) Seed Fee Permits.
This amendment is intended to correct a grammatical error in the existing rule. It is necessary and reasonable to propose amendments which correct errors in language useage that do not change the intent of the rule.

1510.0281, Subpart 3, Clause B Seed Fee Permits.
This amendment enables the department to have flexibility in establishing the reporting periods for payment of seed permit fees. It is necessary to make provision for more flexibility in the payment periods to allow for different fiscal years among permit holders. It is reasonable in that it will not change the amount of revenue collected but rather when it is collected during the year. It is further reasonable because it will spread out the revenue collections to somewhat alleviate cash flow shortages in the seed account during the year.

1510.0281, Subpart 3, Clause C Seed Fee Permits.
This amendment changes the rates at which fees on seed sold are charged. It is necessary to increase rates and thereby increase the revenues collected under seed permits in order to pay for the increased costs of the seed regulatory and service program. The increased costs are as a result of inflation and reductions in

acreage planted. It is further necessary in order to provide for an increased level of seed regulation and laboratory support of the regulatory effort. This increased level is as a result of higher prices for seed and thereby more motivation to misrepresent cheaper, lower quality seed in order to obtain higher profits. It is reasonable because the increase is intended to provide for the adequate funding of a higher level of regulation. It is further reasonable because Minnesota has one of the largest seed industries in the United States and it should be protected by insuring the existence of a fair marketplace for seed firms.

1510.0281, Subpart 3, Clause D Seed Fee Permits.
This amendment is a word change to more accurately specify when a seed fee permit can be revoked. It is necessary because the previous word used applied to the entire seed fee rule when non-compliance with only the seed permit requirements should be involved. It is reasonable to more accurately specify the conditions under which a permit can be revoked.

1510.0281, Subpart 4 Hybrid Seed Corn Variety Registration Fee.
This amendment increases the normal registration fee from $27.50 to $30.00 per variety and provides for a higher registration fee after February 1 of each year. It is necessary to increase this fee to cover the increased costs incurred by the Minnesota Agricultural Experiment Station in testing new hybrids to determine the accuracy of their labeled maturity rating. It is further necessary to have a higher fee after February 1 of each year because the department has to approve the registrations in a shorter period of time and thereby increasing the costs of handling the registrations. It is reasonable to increase the fee rate for hybrid seed corn variety registration to cover the increased costs of testing the new hybrids due to inflation.

1510.0281, Subpart 5 Service Testing and Identification.
This amendment increases the prices for testing and identification of seeds done for clientele. It is necessary to increase these prices to cover the increased costs of testing and identification

incurred by the State Seed Laboratory due to inflation. The fees were last increased in 1984. It is further necessary so that government agencies are not unfairly competing against private seed testing laboratories. It is reasonable in that the increased fees will not be too high to discourage farmers, seed companies, and other state agencies from getting their seed tested. A rate that is too high would discourage seed testing and cause increased seed regulatory costs due to mislabeled seed. When the fees were increased the last time, the seed laboratory experienced a decrease of approximately 2,000 samples received annually which we feel were done by private laboratories instead. It is further reasonable because the fees presently charged by privately operated seed laboratories and in surrounding state seed laboratories compare favorably with those proposed in this rulemaking.

V. ATTACHMENTS

The following attachments have been referred to or pertain to this statement.

Attachment A - Comparative Fiscal Analysis of the Proposed Change in Seed Fees, 5 pages.

Attachment B - Approval of Fee Adjustments by the Commissioner of Finance.

#0236c
ARCHIVED

DEPARTMENT : of Finance

STATE OF MINNESOTA

Office Memorandum

DATE : November 6, 1989

TO : Jim Nichols, Commissioner
Department of Agriculture

FROM : Bruce J. Reddemann, Director BJR
Budget Operations and Support

RECEIVED
NOV 21 1989
PLANNING DIVISION

PHONE : 296-5188

SUBJECT : Seed Inspection Fee Increase

The proposed fee increases as shown in Attachment A of your request are approved as submitted. A copy of Attachment A is enclosed.

cc: Chuck Dale
Jim King
Joe Komro

Enclosure

/022.T

ATTACHMENT A

Proposed Seed Permit Fee Increase for F. Y. 1990

Minnesota Seed Rule 1510.0281, subpart 3, item c (1) and (2) specifies the fee to be paid per hundred weight of seed sold. Listed below are the categories as shown in the rule with the current fee, proposed fee, estimated revenue and the percentage of increase.

Fee Category	Present Fee Rate[1]	Present Annual Fees Collected	Proposed New Rate[2]	Estimated Annual Fees Collected	Percent Increase
Oats, Wheat, Barley	$ .03/cwt	$ 58,085	$ .045/cwt	$ 87,127	50%
Soybeans, Fieldbeans, Rye	.04/cwt	56,441	.06/cwt	84,662	50%
Buckwheat, Flax	.06/cwt	727	.08/cwt	969	33%
Fieldcorn	.15/cwt	144,090	.21/cwt	201,726	40%
Forage, Lawn and Turf	.20/cwt	42,750	.35/cwt	74,813	75%
Sunflower	.70/cwt	4,205	1.00/cwt	6,007	43%
Sugarbeet	.70/cwt	3,984	2.35/cwt	13,375	23%
Other	.10/cwt	5,027	.20/cwt	10,054	100%
Vegetable and Flower	.10/$100 Sales	885	.30/$100 Sales	2,655	300%
	Total	$316,194		$481,388	

The collection of $316,194 in seed permit fees translates into about 12,647,760 acres planted annually in Minnesota with seed purchased from permit holders. The $165,194 estimated increase in collections would be a 52% increase in fees collected.

[1]Based on an average of 2.5¢ per acre no matter what kind of seed is planted.

[2]Based on an average of 3.55¢ per acre no matter what kind of seed is planted.

PROPOSED REGISTRATION FEE INCREASE FOR HYBRID CORN VARIETIES

Minnesota Rule 1510.0281, subpart 4, specifies the hybrid seed corn variety registration fee.

Year	Number Var. Reg.Before Feb. 1	Number Var. Reg. After Feb. 1	Var Reg. Fee Before Feb. 1	Var. Reg. Fee After Feb. 1	Present Fees Collected	Estimated Fees Collected
1989	1308	250	27.50/var.	27.50/var.	$42,845	----
1990	1308 (Est.)	250 (Est.)	30.00/var.	35.00/var.	----	$47,990

A $5,145 increase in fees is projected with $3,895 coming from the $2.50/variety increase in registration fee and $1,250 from the extra $5.00 when registrations are received after February 1 each year.

Comparison of Present and Proposed Seed Laboratory Testing Fees in Minnesota

Minnesota Rule 1510.0281, subpart 5, specifies the service testing and identification fees for the state seed laboratory.

	Present	Proposed	Percent Increase
I. General Crop Seeds			
Germination	5.00	7.50	50%
Purity	8.00	12.00	50%
State Noxious	4.00	6.00	50%
USA Noxious	---	8.00	N/A
Tetrazolium	10.00	15.00	50%
Rush Samples	Add 2.00	Add 10.00	500%
Special Testing	12.00/hr.	20.00/hr.	67%
II. Medium to Small Seeds (Grasses)			
Germination	7.00	10.50	50%
Purity	12.00	18.00	50%
State Noxious	6.00	9.00	50%
USA Noxious	---	11.00	N/A
Tetrazolium	12.00	18.00	50%
Rush Samples	Add 2.00	Add 10.00	500%
Special Testing	12.00/hr.	20.00/hr.	67%
III. Chaffy Range Grasses			
Germination	10.00	15.00	50%
Purity	20.00	30.00	50%
State Noxious	10.00	15.00	50%
USA Noxious	---	17.00	N/A
Tetrazolium	18.00	24.00	33%
Rush Samples	Add 2.00	Add 10.00	500%
Special Testing	12.00/hr.	20.00/hr.	67%

Comparison of Present Revenue with Proposed Revenue From Service Seed Testing and Identification Done by the State Seed Laboratory

	Number of Samples Annually	Fees Collected	Number of Clients	Ave. Cost Per Sample	Number of Samples Per Client	Ave. Cost Per Client
Present Fees[1]	10,100	67,960	3,100	6.73	3.26	21.92
Proposed Fees[2]	4,550	45,955	2,170	10.10[3]	2.82	21.21
Increase or Decrease	(5,550)	(22,005)	(930)	3.37	(1.16)	(.71)

On a 1,000 bushel seed lot, a $3.37 per sample increase in cost for testing translates to a .337 cent per bushel increase in cost for a seed firm. A bushel of seed wheat is approximately $6.00 and a bushel of seed soybeans is $11.00.

[1] Data based on fiscal year 1989 samples and fees collected.

[2] The number of samples received in fiscal year 1989 was unusually high due to the poor cropping conditions in 1988. More testing was needed to find quality seed in adequate supplies for farmers to plant in the spring of 1989. In an average year prior to 1989, 6,500 samples were tested for about 2,500 clientele. Our projections for fees collected from service testing is based on the more normal years prior to 1989. In addition, the last time the fees were increased, the number of samples declined by about 30%. We are projecting a similar decline from this fee increase.

[3] We are assuming about a 50% increase in sample testing fees based on the comparison of the present to proposed fees on page 3 of this attachment.

Comparison of the Total Revenue Received Under the Present Fees and Under the Proposed Fees

Fee	Present Revenue	Proposed Revenue	Percent Increase
Seed Permits	$316,194	$481,388	52%
Hybrid Corn Registration	42,845	47,990	12%
Service Testing and Identification	67,960	45,955	5%
Miscellaneous Revenue	10,888	10,880	0%
Total	$437,887	586,213	34%

STATE OF MINNESOTA

DEPARTMENT OF AGRICULTURE

In the matter of the Proposed Adoption of the Rule of the State Department of Agriculture Governing Seed Fees

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

(1) Notice of the Commissioner's intent to adopt the above-entitled rule was published in the *State Register* on December 11, 1989, and was sent by United States mail to all persons on the list maintained by the department pursuant to Minnesota Statutes, sections 14.14, subdivision 1a and 14.22 on December 6, 1989. (2) 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. (3) Before the notice was submitted to the *State Register*, a copy of the notice of intent to adopt rules without a public hearing and the proposed rule was sent to the chairs of the house appropriations committee and senate finance committee.

(4) All persons were given the opportunity to submit comment on the rule for 30 days after the notice of proposed rulemaking. (5) The department received one request for a public hearing. Therefore, the department did not receive request for a public hearing from 25 or more persons which were not withdrawn. (7)

(6) One request for notice of submission to the attorney general was received by the department.

Based on the comments and evidence in the record before the department, I find the following:

M.R. 1510.0281, subpart 5.

The fees in this subpart were lowered in response to comments that the proposed increases would make the state seed laboratory more expensive than private labs doing the same tests while seed companies involved in foreign sales must use the state seed laboratory to comply with documentation requirements. This change should not greatly affect the total revenue raised by this fee because decreasing the fee will increase the number of samples tested.

(8) The above-captioned rule is needed and reasonable.

(9) NOW, THEREFORE, IT IS ORDERED that the rule identified as the rule governing seed fees as modified is adopted this 16th day of Feb, 1990, pursuant to authority vested in me by Minnesota Statutes, sections 21.85, subdivisions 12 and 13; 21.89, subdivision 1; and 21.90, subdivision 2.

Jim Nichols

Jim Nichols
Commissioner

Department : AGRICULTURE

STATE OF MINNESOTA
Office Memorandum

Date : 3/16/90

To : Bruce Reddemann, Director
Budget Operations and Support

From : Carol Milligan CM
Planning Division

Phone : 296-6906

Subject : **Seed Fee Rule**

Attached is a copy of a rule adjusting fees first proposed for adoption in December, 1989. After the 30 day comment period, the department changed some of the fees as proposed. According to the Attorney General's Office, the department must get approval from you for the changes made before we can submit this rule to the Attorney General's Office for review.

I have also attached a copy of the original fee review done for this rule because our accounting division has determined that the changes will have no material effect on the fee review.

Please call me if you have any questions.

FI-00194-06 (12/87)

Department of Finance
FEE REVIEW

(PROPOSED FEE)

Date Prepared: 02/05/90

Department/Agency: AGRICULTURE, DEPARTMENT OF

Budget Activity: AGRONOMY SERVICES

Fee Name: SEED INSPECTION FUND

Legal Citation: M.S. Chapter 21.89, 21.90, 21.92

Fee Set By: [ ] Law [X] Agency

Purpose of Fee: To fund a regulatory program for public seed testing, and testing hybrid seed corn maturity which ensures correct labeling and eliminates unfair competition. The University of Minnesota is reimbursed through this fee for hybrid seed corn testing.

[X] Dedicated [ ] Non-Dedicated

Revenue Code: 300, 302, 310, 460

APID: 30403:00-20 | Fund: 20 | Accumulated Difference Thru 1986: 154

Dollars in Thousands (137,522 = 137.5)

Fiscal Year	Actual F.Y. 87	Actual F.Y. 88	Actual F.Y. 89	Requested F.Y. 90	Requested F.Y. 91
Actual/Anticipated Receipts (1)	413	421	438	425	587
Less Actual/ Anticipated Costs	472	441	439	436	436
Current Difference	(59)	(20)	(1)	(11)	151
Accumulated Difference	(59)	(79)	(80)	(91)	60
Number Paying Fee	8,000	8,000	8,000	8,000	8,000
Present Fee	SEE REMARKS SECTION				
Date Fee Last Changed					

Remarks:

(1) Includes interest income.

Fee Recommendation: The Department recommends that the fee amounts be increased.

Department Authorized Signature:

Finance Department Recommendation:

Executive Budget Officer Signature:

FI-00195-01

Department of Finance
FEE REVIEW – Details of Costs

Date Prepared: 02/05/90

Department/Agency: AGRICULTURE, DEPARTMENT OF

Budget Activity: AGRONOMY SERVICES

Fee Name: SEED INSPECTION FUND

Fiscal Year	Actual F.Y. 87	Actual F.Y. 88	Actual F.Y. 89	Requested F.Y. 90	Requested F.Y. 91
Detailed Listing of Items Included as Costs on Fee Review Form FI-00194-06				Dollars in Thousands (137,522 = 137.5)	
Agency Direct Expenditures	433	422	421	403	402
Salary Increases	XXXXXXXXX	XXXXXXXXX	XXXXXXXXX	13	14
Attorney General	4	1	-0-	-0-	-0-
Statewide Indirect	11	6	6	8	8
Agency Indirect	24	12	12	12	12
Totals – must agree with cost on Fee Review Form	472	441	439	436	436

Remarks:

SF-00006-05 (4/86)

DEPARTMENT : of Finance

STATE OF MINNESOTA

Office Memorandum

DATE : March 20, 1990

TO : Carol Milligan, Planning Division
Department of Agriculture

FROM : Bruce J. Reddemann, Director
Budget Operations and Support BJR.

PHONE : 296-5188

SUBJECT : Proposed Seed Fee Adjustments

The following Seed Fee Adjustments requested in your March 16, 1990 memo are approved:

Seed Permit Fees	Current Fee	Proposed Fee
Application fee plus the following:	$10.00	$10.00
Oats, wheat, barley	.03/cwt	.045/cwt
Soybeans, fieldbeans, rye	.04/cwt	.06/cwt
Buckwheat, flax	.06/cwt	.08/cwt
Fieldcorn	.15/cwt	.21/cwt
Forage, lawn and turf grasses	.20/cwt	.35/cwt
Sunflowers	.70/cwt	1.00/cwt
Sugarbeets	.70/cwt	2.35/cwt
Other seeds except vegetables and flowers	.10/cwt	.20/cwt
Vegetables and flowers	.10/$100 Sales	.30/$100 Sales

Hybrid Seed Corn Registration		
Per variety per year	$27.50	$30.00
Registration fee after Feb. 1	27.50	35.00

Seed Testing Fees	Present	Proposed
I. General Crop Seeds		
Germination	$ 5.00	$ 6.50
Purity	8.00	10.00
State Noxious	4.00	6.00
USA Noxious	---	8.00
Tetrazolium	10.00	15.00
	Add	Add
Rush Samples	2.00	10.00
Special Testing		

II. Medium to Small Seeds (Grasses)		
Germination	$ 7.00	9.00
Purity	12.00	15.00
State Noxious	6.00	9.00
USA Noxious	---	11.00
Tetrazolium	12.00	18.00
	Add	Add
Rush Samples	2.00	10.00
Special Testing	12.00/hr.	20.00/hr.
III. Chaffy Range Grasses		
Germination	$10.00	$13.00
Purity	20.00	25.00
State Noxious	10.00	15.00
USA Noxious	---	17.00
Tetrazolium	18.00	24.00
	Add	Add
Rush Samples	2.00	10.00
Special Testing	12.00/hr.	20.00/hr.

IV. Seed Mixtures

Present rule

Mixtures. "A" means the full price of the highest-priced species plus one-half the price of each additional species. "B" means one-half of the price of the purity test on the highest-priced species in the mixture.

(1) Purity, A;
(2) Germination, A;
(3) Purity and germination, not applicable;
(4) Noxious weed seed only, B; and
(5) Tetrazolium A.

Proposed rule

Mixtures "A" means the full price of the highest-priced species plus one-half the price of each additional species. "B" means one-half of the price of the purity test on the highest-priced species in the mixture. "C" means the full price of the purity test on the highest-priced species on the mixture.

(1) Purity, A (includes a Minnesota noxious weed seed test)
(2) Germination, A;
(3) United States noxious weed seed only, C;
(4) Minnesota noxious weed seed only, B; and
(5) Tetrazolium, A (includes germination test).

Rush Samples	Add $10.00
Special Testing	20.00/hr.

cc: Bart Nelson
Joe Komro
Jim King

LAND OF QUALITY FOODS

90 WEST PLATO BOULEVARD
SAINT PAUL, MINNESOTA 55107

STATE OF MINNESOTA

DEPARTMENT OF AGRICULTURE

RECEIVED

JAN 08 1990

PLANNING DIVISION

December 18, 1989

TO WHOM IT MAY CONCERN;

Attached is a copy of the departments notice in the state register pertaining to increases in fees charged under the Minnesota Seed Law. We anticipate that these changes will be adopted with some or no modification on or after February 1, 1990. If you have any questions, please contact:

Charles G. Dale
Minnesota Department of Agriculture
90 West Plato Boulevard
St. Paul, Minnesota 55107
(612) 296-6123

If you wish to submit comment, please submit it to:

Carol Milligan
Minnesota Department of Agriculture
90 West Plato Boulevard
St. Paul, Minnesota 55107
(612) 296-6906

Thank you for your attention to this matter.

CGD:trj

Attachments

Dear Ms. Milligan:

I feel strongly that these rate increases of 50% are totally out of line and object to their imposition on the seed growers of Minnesota. We can barely make ends meet anyway. This is way more than the rate of inflation. I feel that our state government needs to look at ways to cut costs rather than increase them. If anyone should know about the farmers situation the Minnesota Dept. of Agriculture should. Thank you.

MINNESOTA GROWN

ENJOY THE HIGH QUALITY AND INFINITE VARIETY OF MINNESOTA FOODS

AN EQUAL OPPORTUNITY EMPLOYER

Ron Petersen
RR2 Box 67
Lake Bronson Mn 567

RR 2, Box 93A
Zumbrota, Mn - 55992
Dec. 23, 1989

RECEIVED
DEC 27 1989
PLANNING DIVISION

Dear Ms. Milligan:

After reading the proposed Seed Law changes, I would like to have your office convey my concerns to anyone who will listen. I realize that the changes are all but finalized and at this moment, I am wasting my time and 25¢ for the stamp by writing.

As a grower of Certified Oats, I can see that any tax and services will increase by 50%. WOW! If I could only raise my profit margin by 50%, I would be eternally grateful to the legislature and your office. Sorry, but it doesn't work that way, because with seed oats anytime you raise your selling price in line with selling price at harvest time, you wind up eating your seed. Last year was a good example. I could have dumped my oats on the open market at harvest at $3.25/bu. (no expense - just haul it to town). At planting time, the market had dropped to less than 1/2 and Cert. seed priced at $4.00+ was hard to move, as most farmers used "bin-run". Any seed I sold, I lost about $1.50/bu (Cert. seed costs), plus I sold about 60% less than I had hoped to. So please show me how I can increase my profit by 50% and I will gladly support the increases in tax and lab tests. Sign me off as someone caught in the middle left holding the "short-end-of-the-stick"! Bah-Humbug.

UNIVERSITY OF MINNESOTA

MINNESOTA EXTENSION SERVICE

Lac qui Parle County Extension Office
Courthouse
Madison, Minnesota 56256
(612) 598-3325

RECEIVED
JAN 08 1990
PLANNING DIVISION

January 3, 1990

Carol Milligan
Minn Dept. of Ag
90 West Plato Boulevard
St. Paul, MN 55107

Dear Carol and All MDA Staff:

It is with great concern that we write to you about your rate increases for 1990 Seed Testing and certification. We realize that as costs escalate you will need to raise prices but a 50% increase in 1 year is quite steep. I would suggest a more moderate approach.

I realize the cost per acre for seed testing is quite minute but as a County Agent and concerned citizens we have enough problem encouraging these farmers to test their seed supplies much less encouraging them when the testing is 50% higher than in 1989. We appreciate your notice in advance and hope you will consider a more modest approach or better yet, no increase at all for 1990.

Thank you.

Sincerely,

Jon Olson
County Extension Agent and concerned Agricultural Citizens throughout Lac qui Parle County.

JO/sl

NORTHRUP KING

TELECOPIER TRANSMISSION

DATE: January 9, 1990

TO: Carol Milligan

FROM: Alice Peterson

NUMBER OF PAGES: 8
(including cover page)

MESSAGE:

Our telecopier machine is a Canon Fax 705 Automatic. The telecopier number is 612-593-7103. If you do not receive all pages, please notify sender at 612-593-7222.

NORTHRUP KING CO. • 7500 OLSON MEMORIAL HIGHWAY • GOLDEN VALLEY, MN 55427 • PHONE (612) 593-7333
MAIL: P.O. BOX 959 • MINNEAPOLIS, MN 55440 FAX (612) 593-7195 • TELEX 4310068

NORTHRUP KING

ALICE A. PETERSON
CORPORATE COUNSEL
& ASSISTANT SECRETARY

January 9, 1990

Carol Milligan
Minnesota Department of Agriculture
90 West Plato Blvd.
St. Paul, MN. 55107

RE: Proposed Rules Relating
to Seed Fees

Dear Ms. Milligan:

Please accept the following as Northrup King Co.'s comment in opposition to the proposed amendments to the Minnesota Department of Agriculture's rules relating to seed fees. Specifically, Northrup King opposes the proposed changes to Rule 1510.0281, subpart 3.C.(1) and (2). Northrup King opposes proposed changes because they will result in an unreasonable increase in the fees to be paid by seed companies and ultimately consumers, as explained more fully below. Northrup King, therefore, respectfully requests that the proposed amendment to the Rule be modified to reflect no change in the seed fees set forth in the subpart cited above.

In 1982, when the Minnesota Seed Law was amended to allow the Commissioner of Agriculture to set the fees charged for various seeds by rule, the seed industry generally did not object on the basis that: (1) the fees would be those proposed at that time (see Exhibit A); and (2) the dedicated seed fund established would be examined and any amounts in excess of a given fund level would be used to adjust seed fees. In 1983, temporary seed fees were adjusted (see Exhibit B) and again no objection was made by the seed industry. In 1984 when the seed fees were increased via the rule making process (see Exhibit C), the seed industry again did not object.

Northrup King must, however, oppose the current proposal based upon the dramatic increases in seed fees that it would mean and the substantial impact that those increases would have on consumers. As shown on Exhibit D, the changes now proposed by the Department of Agriculture range from 33% to an incredible 235% increase. Even if it is found, by means of a public hearing, that an increase in the seed fees is necessary, it is Northrup King's position that no basis has been demonstrated for 200% increases, 100% increases, nor even 75% increases as proposed.

To illustrate what the proposed seed fee increase would mean to the seed industry and therefore ultimately to the consumer, we have

NORTHRUP KING CO. • 7500 OLSON MEMORIAL HIGHWAY • GOLDEN VALLEY, MN 55427 • PHONE (612) 593-7341
MAIL: P.O. BOX 959 • MINNEAPOLIS, MN 55440 FAX (612) 593-7236 • TELEX 4310068

compared the fees actually paid by Northrup King for the period of October, 1988 through September, 1989 to the fees that would have been paid by Northrup King for the same quantity of seed if the proposed fees applied (see Exhibit E). The increases range from 40% to 200% with an overall increase of 65%. In total, the proposed fee increases alone would result in farmers and other consumers paying an additional $15,699.33 for their seed in Minnesota. That increased cost, of course, is then passed on to all consumers in higher food prices. An additional burden of that magnitude is not justified.

In conclusion, Northrup King opposes the proposed amendment to Rule 1510.0281, subpart 3.C.(1) and (2) and hereby requests that the proposed amendment be modified to reflect no change in the seed fees set forth therein. Alternatively, Northrup King requests a public hearing on the changes proposed. In the event a public hearing is not required, Northrup King hereby requests notification of the date of submission of the final amendments to the Attorney General and that a copy of the adopted amendments be sent to the undersigned.

Your consideration is greatly appreciated.

Very truly yours,

NORTHRUP KING CO.

Alice A. Peterson

Alice A. Peterson
Corporate Counsel

AAP/no

EXHIBIT A

10/11/82 Proposal

The fee to be paid by permit holders shall be:

Oats, field peas	2 cents per cwt.
Wheat, barley, field beans	3 cents per cwt.
Rye, soybeans, buckwheat	4 cents per cwt.
Flax, vegetables grown for processing	5 cents per cwt.
Corn, forage grasses, millets	6 cents per cwt.
Sorghum, sunflowers, legumes	7 cents per cwt.
All other agricultural seeds	10 cents per cwt.
Lawn and turf grass seeds	1 cent per pound
Vegetable seeds	10 cents per pound
Flower seeds	15 cents per pound

EXHIBIT B

1983 Adjusted Seed Fees

a. For agricultural seed sold in containers up to 160 pounds net weight, the fees per container are as follows except for the kinds of seed specified in b.

(1)	Less than 15-pound container	5 cents each
(2)	15 to 30 pound container	7 cents each
(3)	30 to 60 pound container	8 cents each
(4)	60 to 100 pound container	9 cents each
(5)	100 to 160 pound container	10 cents each

b. For the following agricultural seed sold in bulk or in containers, the fees are as follows:

(1)	Oats	3 cents per cwt.
(2)	Wheat	3 cents per cwt.
(3)	Barley	3 cents per cwt.
(4)	Rye	3 cents per cwt.
(5)	Buckwheat	3 cents per cwt.
(6)	Fieldbeans	7 cents per cwt.
(7)	Fieldpeas	7 cents per cwt.
(8)	Soybeans	7 cents per cwt.
(9)	Flax	7 cents per cwt.
(10)	Vegetables grown for processing	7 cents per cwt.

c. For vegetable and flower seeds packed for use by home gardeners in small containers or in bulk, the fees are as follows:

(1)	Vegetable, each pound	10 cents
(2)	Flower, each pound	15 cents

EXHIBIT C

1984 Adjusted Seed Fees

(1) For the following kinds of agricultural seed sold either in bulk or containers, the fees are:

(a) oats, wheat, barley, 3 cents per cwt.;
(b) rye, field beans, soybeans, 4 cents per cwt;
(c) buckwheat, flax, 6 cents per cwt.;
(d) field corn, 15 cents per cwt.;
(e) forage, lawn and turf grasses, and legumes, 20 cents per cwt.;
(f) sugar beet, sunflower, 70 cents per cwt.;
(g) other agricultural seeds except vegetables grown for processing, 10 cents per cwt..

(2) For vegetable and flower seeds packed in small containers or in bulk for use by home gardeners, the fee is ten cents per $100.00 of net sales of these seeds.

EXHIBIT D

Kind of Seed	1984 Fees	Proposed Fees	Increase
	------Price per cwt.-------		
Oats, wheat, barley	$.03	$.045	50%
Rye, field beans, soybeans	.04	.06	50%
Buckwheat, flax	.06	.08	33%
Field corn	.15	.21	40%
Forage, lawn and turf grasses, and legumes	.20	.35	75%
Sunflower	.70	1.00	42%
Sugar beet	.70	2.35	235%
Other agricultural seed, except vegetables grown for processing	.10	.20	100%
Vegetable and flower seed in small containers	.10	.30	200%

NORTHRUP KING CO.
MN INSPECTION FEE
PROPOSED INCREASE

	'Oct. '88 thru Sept. '89			'Oct. '88 thru Sept. '89			
		Actual			Proposed		
	Quantity	Rate	Amount	Quantity	Rate	Amount	Percent Increase
Oats, Wheat, Barley	44,303	.0003	13.29	44,303	.00045	19.94	50%
Soybeans, Field Beans, Rye	8,147,491	.0004	3,258.99	8,147,491	.0006	4,888.49	50%
Buckwheat, Flax	0	0	0.00	0	0	0.00	0
Field Corn	6,208,092	.0015	9,312.14	6,208,092	.0021	13,036.99	40%
Forage, Lawn & Turf Grasses & Legumes	4,723,894	.0020	9,447.79	4,723,894	.0035	16,533.63	75%
Sunflower, Sugarbeet	25,685	.0070	179.80	25,685	.01	256.85	42%
Other	687,426	.0010	687.43	687,426	.0020	1,374.85	100%
Packet Seed	1,244,283	.0010	1,244.83	1,244,283	.0030	3,732.85	200%
Total	21,081,174		24,144.27	21,081,174		39,843.60	65%

EXHIBIT E

PETERSON SEED COMPANY, INC.
P.O. BOX 346 • SAVAGE, MN 55378

RECEIVED
JAN 1 1 1990
PLANNING DIVISION

January 10, 1990

Carol Milligan
Minnesota Department of Agriculture
90 West Plato Boulevard
St. Paul, MN 55107

Dear Ms. Milligan;

In a letter dated December 18, 1989, we were asked to comment to your office in regard to increases and fees charged under the Minnesota Seed Law.

In comparing these proposed changes with that of the Registered Seed Technologist that we use most often in our business, in addition to the State of Minnesota Seed Laboratory, we find that this company charges $12.00 for both a purity and germination on "general crops" and $18.00 for a purity and germination on grass crops. Your proposal will be to charge $19.50 and $28.50 respectively for these same examinations. This substantially higher cost of doing business with the State of Minnesota as opposed to an independent registered seed technologist, appears to be to me an unusual situation. The State of Minnesota, which should be providing this kind of laboratory assistance as a service, is charging more than an independent company in that business. If it is the purpose of the seed laboratory to be profitable and to be more costly than private seed laboratories, then I feel it's mission should be re-examined.

In many cases, particularly in foreign sales, we are forced to use the State of Minnesota Seed Laboratory in order to comply with documentation requirements. If your rates are going to be 58% or 62% higher than independent seed laboratories, this would work a hardship on Minnesota corporate and independently owned seed companies and farmers trying to sell seed overseas.

I urge you to reconsider the costly charges you are now recommending for purity and germination tests.

Regards,

PETERSON SEED CO., INC.

Jerry Peterson, President

JJP:jd

CC: Charles G. Dale

TELEPHONE 612/445-2606 WATS 800/328-5898 FAX 612/445-1679

UNIVERSITY OF MINNESOTA

MINNESOTA EXTENSION SERVICE

Lac qui Parle County Extension Office
Courthouse
Madison, Minnesota 56256
(612) 598-3325

RECEIVED
JAN 08 1990
PLANNING DIVISION

January 3, 1990

Carol Milligan
Minn Dept. of Ag
90 West Plato Boulevard
St. Paul, MN 55107

Dear Carol and All MDA Staff:

It is with great concern that we write to you about your rate increases for 1990 Seed Testing and certification. We realize that as costs escalate you will need to raise prices but a 50% increase in 1 year is quite steep. I would suggest a more moderate approach.

I realize the cost per acre for seed testing is quite minute but as a County Agent and concerned citizens we have enough problem encouraging these farmers to test their seed supplies much less encouraging them when the testing is 50% higher than in 1989. We appreciate your notice in advance and hope you will consider a more modest approach or better yet, no increase at all for 1990.

Thank you.

Sincerely,

Jon Olson
County Extension Agent and concerned Agricultural Citizens throughout Lac qui Parle County.

JO/sl

In the Matter of the Adoption of the
Rule of the State Department of
Agriculture Governing Seed Fees

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: 3/22/90

STATE OF MINNESOTA

DEPARTMENT OF AGRICULTURE

In the Matter of the Proposed Adoption of the Rule of the State Department of Agriculture Governing Seed Fees

NOTICE OF SUBMISSION OF RULE ADOPTED WITHOUT PUBLIC HEARING TO THE ATTORNEY GENERAL

Pursuant to your request and in accordance with Minnesota Statutes, section 14.26:

PLEASE TAKE NOTICE that the above-captioned rule as adopted has been submitted to the Attorney General on the date of this notice, April 10th, 1990, for review as to legality and form to the extent form relates to legality. The proposed rule, the rule as adopted, all the notices, the Statement of need and Reasonableness, all written comments and requests for a hearing received, and other required documents also have been submitted to the Attorney General.

The proposed rule which was published in the *State Register* and made available to the public on December 11, 1989, has been modified. A copy of the rule as modified is enclosed with this notice.

The rule must be approved or disapproved by the Attorney General within 14 calendar days of the date of submission to the Attorney General. You may submit written comments to the Attorney General on the legality of the rule. Any written comments must be submitted within eight calendar days of the date of submission of the rule to the Attorney General. Your comments must address only the issue of legality of the rule or the legality of the specific parts or subparts of the rule. The Attorney General standards of review are set forth in Minnesota Rules, part 2010.1000. You may receive a copy of the Attorney General decision upon written request to the Attorney General. Your comments or request for the decision must be addressed to:

The Office of the Attorney General
Public Finance Division
515 Transportation Building
John Ireland Boulevard
St. Paul, MN 55155
Telephone Number: (612)297-2040

Any written comments submitted to the Attorney General must be submitted simultaneously to:

Carol Milligan
Minnesota Department of Agriculture
90 West Plato Boulevard
St. Paul, MN 55107
Telephone Number: (612)296-6906

Date: 4/10/90

Carol Milligan
Management Analyst

In the Matter of the Proposed Adoption
of the Rule of the State Department of
Agriculture Governing Seed Fees

AFFIDAVIT OF MAILING
THE NOTICE OF SUBMISSION
OF RULE ADOPTED
WITHOUT PUBLIC HEARING
TO THE ATTORNEY GENERAL

STATE OF MINNESOTA)
) ss.
COUNTY OF RAMSEY)

Marie Skerbitz, being sworn, says:

That on the 10th day of April, 1990, at the City of St. Paul, County of Ramsey, State of Minnesota, I mailed the attached Notice of Submission to the Attorney General 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 requested notice that the rule in the above-entitled matter has been submitted to the Attorney General.

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 10th day of April, 1990.

Diane M. Windham