

Minnesota Attorney General: Administrative Rules Proceedings

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Version 3
August 20, 2018

FILE COPY

DEPARTMENT: Office of the Attorney General

STATE OF MINNESOTA

OFFICE MEMORANDUM

DATE: May 1, 1990

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

FROM: CHARLENE HATCHER
Special Assistant Attorney General
525 Park Street, Suite 500 (55103)

PHONE: 296-9422

SUBJECT: In the Matter of the Adopted Permanent Rule Relating to Retail Food Store Plan Review Fees

The above-referenced rule has been approved as to its legality by the Attorney General on April 26, 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.

CH:BBL
Enclosures
cc: William Brown, Chief Judge (memo only)
MaryAnn Hruby " "
Paul Strandberg, S.A.A.G. " "

FILE COPY

Department of Agriculture

Adopted Permanent Rules Relating to Retail Food Store Plan Review Fees

Rules as Adopted

1547.0110 REVIEW OF PLANS.

Subpart 1. **Submission of plans.** Before construction or major remodeling of a retail food store, and when an existing structure is converted to use as a retail food store, properly prepared plans and specifications for construction, major remodeling, or conversion must be submitted to the Department of Agriculture for review and approval. The plans and specifications must show the proposed layout, arrangement, mechanical plans, construction materials of work areas, and the type and model of proposed fixed equipment and facilities. The Department of Agriculture will treat the plans and specifications as confidential or trade secret information in accordance with law and will approve the plans and specifications if they meet the requirements of this chapter. A retail food store may not be constructed, extensively remodeled, or converted except in accordance with plans and specifications approved by the Department of Agriculture.

Subp. 2. **Plan review fee.** Plans submitted to the Department of Agriculture under this part must be accompanied by the appropriate fee and a plan review application form provided by the department. Fees are based on the square footage of the structure being constructed, remodeled, or converted as prescribed below.

Square Footage	Review Fee
0 - 4,999	$125
5,000 - 24,999	175
25,000 plus	275

STATE OF MINNESOTA
DEPARTMENT OF STATE
FILED
MAY 1 - 1990
Joan Anderson Growe
Secretary of State
11:50 AM

APPROVED AS TO LEGALITY
April 26, 1990
HUBERT H. HUMPHREY, III
ATTORNEY GENERAL
BY Charlene H. Hatch
SPECIAL ASSISTANT ATTORNEY GENERAL

CH [redacted]

RULE REVIEW CHECKLIST

Agriculture

File No. 1694

Docket No. 050009 0986

DATE RECEIVED 4-13-90

ADOPTED W/O HEARING X

REVIEW DATE 4-23-90 ~~4-22-90~~

EMERGENCY RULE _____

DUE DATE 4-27-90

To Revisor: 4-13-90

REVISOR APPROVED 4-17-90

APPROVED 4-26-90

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
- 31 Need 2 Statutory Authority
- ✓ Small Business Statement
- _____ Expenditure of public money statement
- Jan 2, 1990 Signature

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

✓ Affidavit of Mailing Notice of Intent to Adopt Rule
- Feb 21, 1990 Date (30)/25 days before adoption
- ✓ Notice attached
- _____ Copy of rule or summary attached

✓ Publication in State Register
- Feb 26, 1990 Date (30)/25 days before adoption

✓ 180-day deadline from:
- NA Effective date of law requiring rule amendments (14.12) (both rules)
- ✓ 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
- April 11, 1990 Date

_____ Written requests, submissions or comments

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

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

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

Stat Authority 31.11 subd 2
The Commissioner shall by rule, set plan review fees that will approximate the cost to the department of its review of plans and specifications submitted by food handlers

Fees Attained Finance approval -
notified Senate Finance
and House Appropriations Committee
stated in findings that
mailed no

STATE OF MINNESOTA

DEPARTMENT OF AGRICULTURE

In the Matter of the Proposed Adoption of the Rule of the State Department of Agriculture Governing Retail Food Store Plan Review 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 February 26, 1990, 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 February 21, 1990. (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 the 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) No requests for a public hearing on the rule were received by the department.

(7) 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.

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

NOW, THEREFORE, IT IS ORDERED that the rule identified as the rule governing retail food store plan review fees is adopted this 11th day of April, 1990, pursuant to authority vested in me by Minnesota Statutes, section 31.11, subdivision 2. (9)

Jim Nichols

Jim Nichols
Commissioner

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. Declaration of Counsel

Department : AGRICULTURE

STATE OF MINNESOTA
Office Memorandum

Date : April 11, 1990

To : Rita Desmond
Attorney General's Office

From : Carol Milligan
Planning Division

Phone : 296-6906

Subject : **Review of Proposed Rule Governing Retail Food Store Plan Review 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
Tom Masso, Food Inspection Division
Howard Anderson, Food Inspection Division

RECEIVED

APR 13 1990

Office of the Attorney General
Government Services Section
Capitol Office Bldg., Suite 500
525 Park Street
St. Paul, MN 55103

Department of Agriculture

Proposed Permanent Rules Relating to Retail Food Store Plan Review Fees

Rules as Proposed

1547.0110 REVIEW OF PLANS.

Subpart 1. **Submission of plans.** Before construction or major remodeling of a retail food store, and when an existing structure is converted to use as a retail food store, properly prepared plans and specifications for construction, major remodeling, or conversion must be submitted to the Department of Agriculture for review and approval. The plans and specifications must show the proposed layout, arrangement, mechanical plans, construction materials of work areas, and the type and model of proposed fixed equipment and facilities. The Department of Agriculture will treat the plans and specifications as confidential or trade secret information in accordance with law and will approve the plans and specifications if they meet the requirements of this chapter. A retail food store may not be constructed, extensively remodeled, or converted except in accordance with plans and specifications approved by the Department of Agriculture.

Subp. 2. **Plan review fee.** Plans submitted to the Department of Agriculture under this part must be accompanied by the appropriate fee and a plan review application form provided by the department. Fees are based on the square footage of the structure being constructed, remodeled, or converted as prescribed below.

Square Footage	Review Fee
0 - 4,999	$125
5,000 - 24,999	175
25,000 plus	275

Approved by Revisor

Office of the Revisor of Statutes

Administrative Rules

TITLE: Proposed Permanent Rules Relating to Retail Food Store Plan Review Fees

AGENCY: Department of Agriculture

MINNESOTA RULES: Chapter 1547

The attached rules are approved for publication in the State Register

Craig E. Lindeke
Senior Assistant Revisor

Department of Agriculture

Food Inspection Division

In the Matter of the Proposed Adoption of the Rule of the State Department of Agriculture Governing Retail Food Store Plan Review 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 rule 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 this rule is Minnesota Statutes, section 31.11, subdivision 2.

(2) 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. Comment is encouraged.(3) 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.(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 rule 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 14.131-14.20.

(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 rule 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 rule as noticed.

(11) A copy of the proposed rule 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 rule and identifies the data and information relied upon to support the proposed rule has been prepared and is available upon request from Ms. Milligan.

(14) All food stores including those that meet the definition of a small business in Minnesota Statutes, section 14.115, will be required to comply with the rule. However, the fee is based on the size of the store, which means that small businesses will usually pay a lower fee.

(9) If no hearing is required, upon adoption of the final rule, the rule and the required supporting documents will be submitted to 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

1-2-90
Date

Jim Nichols
Jim Nichols, Commissioner
Department of Agriculture

STATE OF MINNESOTA

DEPARTMENT OF AGRICULTURE

IN THE MATTER OF THE PROPOSED RULE OF THE DEPARTMENT OF AGRICULTURE GOVERNING RETAIL FOOD STORE PLAN REVIEW FEES (MINNESOTA RULES PART 1547.0110, SUBPART 2)

STATEMENT OF NEED AND REASONABLENESS

I. INTRODUCTION

The subject of this rulemaking is the proposed adoption by the Minnesota Department of Agriculture (MDA) of a subpart to rule governing a fee for the review and approval of plans for new construction, remodeling or conversion of a facility to a retail food store. This subpart is proposed for adoption pursuant to Minnesota Statutes, section 31.11, subdivision 2 which requires the MDA to adopt rules that set this fee.

The department has determined that the proposed rule is noncontroversial in nature because industry has been notified that plans must be reviewed and approved and that such reviewal is costly. Industry does support this subpart of the rule as a part of the uniform retail food store rules statewide. Because of the noncontroversial nature of this rule, the department directed that the rulemaking proceedings be conducted in accordance with the statutory provisions governing the adoption of noncontroversial rules, Minnesota Statutes, sections 14.21 to 14.28. Accordingly, the rulemaking proceedings on the proposed subpart of the rule are governed by that statute and no hearing will be conducted on the proposed amendment unless twenty-five or more persons submit to the department a written request for such a hearing.

In accordance with the requirement of Minnesota Statutes, section 14.23, this Statement of Need and Reasonableness was prepared and completed prior to the date that the proposed subpart to the rule was published in the State Register.

II. GENERAL OVERVIEW

The department adopted retail food store rules on July 4, 1988, governing facilities, equipment, food handling and sanitation in retail food stores under parts 1547.0001 to 1547.0112. The rules were adopted with the support of the food industry as being uniform sanitation rules statewide.

Part 1547.0110 states in part that before construction or major remodeling of a retail food store, and when an existing structure is converted to use as a retail food store, properly prepared plans and specifications must be submitted to the Department of Agriculture for review and approval. The plans and specifications must show the proposed layout, arrangement, mechanical plans, construction materials of work areas, and the type and model of proposed fixed equipment and facilities. Minnesota Statutes, section 28A.04 requires all firms operating any food facility to obtain a license prior to doing business. Section 28A.07 states that prior to the issuance of a license, appropriate inspections will be made to determine fitness of the firm to do business. Plan reviews by the department prior to construction of retail food stores aids in the prevention of post construction problems which could delay the licensing of a retail food store.

The department went before the 1989 Legislature with a request to hire a Food Standards Compliance Officer who would have the special ability to read and approve plans, blueprints and facility specifications of retail food stores and to work in close relationship with contractors and industry. Part of our requirement in the hiring of a plan review person was the adoption of this proposed rule. The legislature passed the legislation in 1989 and the person was hired in August.

III. NEED FOR AND REASONABLENESS OF THE PROPOSED RULE

1547.0110 Subpart 2, Plan Review Fee

The 1989 Legislature adopted legislation which gives the department the power to promulgate a rule which would establish a fee to cover cost of the plan review and approval expense. The fee as set in this subpart 2 meets the need for the rule and are reasonable because they are based on the square footage of any new construction and are assessed one time. The review of blueprints and specifications will aid in eliminating deficiencies and improper installations while protecting the public health through compliance to the standards set by the retail food store rules.

IV. SMALL BUSINESS IMPACT OF THE PROPOSED RULE

As prescribed by Minnesota Statutes, Section 14.115, subdivisions 1 and 2, the department has considered the degree of impact the proposed subpart to the rule will have on small businesses and the alternative methods for lessening that impact.

The department has determined that small food stores will be affected by this rule only if they are preparing for new construction. The fee is based on the square footage of any new construction, new remodeling or the conversion of a facility to a retail food store and the fee is assessed only one time for any one set of plans. Plan review as required helps to eliminate deficiencies and improper installations before any construction and will prevent needless delays and excessive expenses to both the owner and builder.

FI-00194-06 (12/87)

Department of Finance

PROPOSED FEE

FEE REVIEW

Date Prepared: 1/3/90

Department/Agency: AGRICULTURE, DEPARTMENT OF

Budget Activity: FOOD INSPECTION

Fee Name: FOOD HANDLER PLAN REVIEW ACCOUNT

Legal Citation: LAWS OF MN 89, CHAP. 350, Art. 11, Sect 5, Subd 2

Fee Set By: [ ] Law [X] Agency

Purpose of Fee: To cover the cost of reviewing plans for new construction, remodeling or conversion of a facility to a retail food store.

[X] Dedicated [ ] Non-Dedicated

Revenue Code: 300

APID: 30110:00-20 | Fund: 20 | Accumulated Difference Thru 1986: -0-

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				10	20
Less Actual/ Anticipated Costs				10	20
Current Difference				-0-	-0-
Accumulated Difference				-0-	-0-
Number Paying Fee				SEE REMARKS	
Present Fee				SEE REMARKS	
Date Fee Last Changed				7/1/89	

Remarks:

New fee effective 7/1/89. Number paying fee will vary depending on number of new and remodeled grocery stores.

Fees are based on square footage of the structure being built, remodeled or converted as shown below:

Square Footage	Review Fee	# Paying Fee
0 - 4,999	$125	120
5,000 - 24,999	$175	20
25,000+	$275	5

Fee Recommendation: The Department recommends that there be no change in fee amounts.

Department Authorized Signature: Joseph Kroschel

Finance Department Recommendation:

Executive Budget Officer Signature:

FI-00194-06 (12/87)

Department of Finance

CURRENT FEE

FEE REVIEW

Date Prepared: 9/15/89

Department/Agency: AGRICULTURE, DEPARTMENT OF

Budget Activity: FOOD INSPECTION

Fee Name: FOOD HANDLER PLAN REVIEW ACCOUNT

Legal Citation: LAWS OF MN 89, CHAP. 350, Art. 11

Fee Set By: [ ] Law [X] Agency

Purpose of Fee: To cover the cost of reviewing plans and specifications of retail groceries.

[X] Dedicated [ ] Non-Dedicated

Revenue Code: 300

APID: 30110:00-20 | Fund: 20 | Accumulated Difference Thru 1986: -0-

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				15	20
Less Actual/ Anticipated Costs				15	20
Current Difference				-0-	-0-
Accumulated Difference				-0-	-0-
Number Paying Fee				SEE REMARKS	
Present Fee				SEE REMARKS	
Date Fee Last Changed				7/1/89	

Remarks:

New fee effective 7/1/89. Department is currently working on rules to establish fee schedule. Number paying fee will vary depending on number of new and remodeled grocery stores.

Fee Recommendation: The Department recommends that there be no change in fee amounts.

Department Authorized Signature: Joseph Romero

Finance Department Recommendation:

Executive Budget Officer Signature:

FI-00195-01

CURRENT FEE

Department of Finance
FEE REVIEW – Details of Costs

Date Prepared: 9/15/89

Department/Agency: AGRICULTURE, DEPARTMENT OF

Budget Activity: FOOD INSPECTION

Fee Name: FOOD HANDLER PLAN REVIEW ACCOUNT

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				12	16
Salary Increases	XXXXXXXXX	XXXXXXXXX	XXXXXXXXX	-0-	-0-
Attorney General				2	2
Statewide Indirect				1	1
Agency Indirect				0	1
Totals – must agree with cost on Fee Review Form				15	20

Remarks:

Department : Agriculture

STATE OF MINNESOTA

Office Memorandum

Date : January 30,1990

To : Bruce Reddemann
Finance Department

From : Carol Milligan
Planning Division

Phone : 296-6906

Subject : **Food Store Plan Review Fees**

In accordance with Minnesota Statutes, section 16A.128, the department is requesting approval of the fee set by the enclosed rule. Also enclosed is a copy of the fee review done by our Accounting Division and a copy of the Statement of need and Reasonableness. Please call me if you have any question.

SF-00006-05 (4/86)

STATE OF MINNESOTA

Office Memorandum

DEPARTMENT : of Finance

DATE : February 1, 1990

TO : Carol Milligan, Planning Division
Department of Agriculture

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

PHONE : 296-5188

SUBJECT : Food Store Plan Review Fees

RECEIVED
FEB 05 1990
PLANNING DIVISION

The following Food Store Plan Review Fees are approved as requested:

Square Footage	Review Fee
0 - 4,999	$125
5,000 - 24,999	$175
25,000 plus	$275

BOBN612t

In the Matter of the Proposed Adoption of the Rule of the State Department of Agriculture Governing Retail Food Store Plan Review 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 21st day of February, 1990, 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, pursuant to Minnesota Statutes, sections 14.14, subdivision 1a 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 21st day of February, 1990.

Diane M. Windham

In the Matter of the Proposed Adoption
of the Rule of the State Department of
Agriculture Governing Retail Food Store
Plan Review Fees

CERTIFICATE OF MAILING

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 Minnesota Statutes, sections 14.14, subdivision 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 21st day of February, 1990.

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 21st day of February, 1990.

Diane M. Windham

LAND OF QUALITY FOODS

90 WEST PLATO BOULEVARD
SAINT PAUL, MINNESOTA 55107

STATE OF MINNESOTA
DEPARTMENT OF AGRICULTURE

(612) 296-6906

February 21, 1990

TO: Senator Gene Merriam, Chairman
Senate Finance Committee

FROM: Carol Milligan, Management Analyst
Planning Division

SUBJ: 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 retail food store plan review fees. The Notice explains the procedures that will be followed in adopting the proposed rule including opportunities for public comment.

The Notice and the proposed rule will be published in the Minnesota *State Register* on Monday, February 26, 1990. The 30-day comment provided for by the Administrative Procedures Act will extend from that date until March 28, 1990. All comments on the proposed rule must be received by that date.

If you have any questions, please call.

CM:dw

Enclosure

LAND OF QUALITY FOODS

90 WEST PLATO BOULEVARD
SAINT PAUL, MINNESOTA 55107

STATE OF MINNESOTA

DEPARTMENT OF AGRICULTURE

(612) 296-6906

February 21, 1990

TO: Representative Wayne Simoneau, Chairman
House Appropriations Committee

FROM: Carol Milligan, Management Analyst
Planning Division

SUBJ: 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 retail food store plan review fees. The Notice explains the procedures that will be followed in adopting the proposed rule including opportunities for public comment.

The Notice and the proposed rule will be published in the Minnesota *State Register* on Monday, February 26, 1990. The 30-day comment provided for by the Administrative Procedures Act will extend from that date until March 28, 1990. All comments on the proposed rule must be received by that date.

If you have any questions, please call.

CM:dw

Enclosure

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 Retail Food Store Plan Review 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 rule 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 this rule is *Minnesota Statutes*, section 31.11, subdivision 2.

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. 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 their name and address, and is encouraged to identify the portion of the proposed rule 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 14.131-14.20.

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 rule 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 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 upon request from Ms. Milligan.

All food stores including those that meet the definition of a small business in *Minnesota Statutes*, section 14.115, will be required to comply with the rule. However, the fee is based on the size of the store, which means that small businesses will usually pay a lower fee.

If no hearing is required, upon adoption of the final rule, the rule and the required supporting documents will be submitted to 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.

Dated: 2 January 1990

Jim Nichols, Commissioner
Department of Agriculture

Rules as Proposed

1547.0110 REVIEW OF PLANS.

Subpart 1. **Submission of plans.** Before construction or major remodeling of a retail food store, and when an existing structure is

converted to use as a retail food store, properly prepared plans and specifications for construction, major remodeling, or conversion must be submitted to the Department of Agriculture for review and approval. The plans and specifications must show the proposed layout, arrangement, mechanical plans, construction materials of work areas, and the type and model of proposed fixed equipment and facilities. The Department of Agriculture will treat the plans and specifications as confidential or trade secret information in accordance with law and will approve the plans and specifications if they meet the requirements of this chapter. A retail food store may not be constructed, extensively remodeled, or converted except in accordance with plans and specifications approved by the Department of Agriculture.

Subp. 2. **Plan review fee.** Plans submitted to the Department of Agriculture under this part must be accompanied by the appropriate fee and a plan review application form provided by the department. Fees are based on the square footage of the structure being constructed, remodeled, or converted as prescribed below.

Square Footage	Review Fee
0 - 4,999	$125
5,000 - 24,999	175
25,000 plus	275

Bureau of Mediation Services

Proposed Permanent Rules Relating to Public Employee Labor Relations

Notice of Intent to Adopt a Rule without a Public Hearing

NOTICE IS HEREBY GIVEN that the State Bureau of Mediation Service 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 179.02, subdivision 4.

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. 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:

Paul W. Goldberg, Commissioner
Bureau of Mediation Services
1380 Energy Lane, Suite Two
St. Paul, MN 55108
(612) 649-5421

The proposed rule may be modified if the modifications are supported by data and views submitted to the agency 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 Paul W. Goldberg, Commissioner, Bureau of Mediation Services, 1380 Energy Lane, Suite Two, St. Paul, Minnesota, 55108.

YOU ARE HEREBY ADVISED pursuant to *Minnesota Statutes*, section 14.115 (1988) that the proposed rules are not considered to have any impact on small business.

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.

In the Matter of the Adoption of the Rule of the State Department Agriculture Governing Retail Food Store Plan Review 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

Dated: 4/11/90