

Minnesota Attorney General: Administrative Rules Proceedings

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Version 3
August 20, 2018

DEPARTMENT: Office of the Attorney General **STATE OF MINNESOTA**

OFFICE MEMORANDUM

DATE: February 28, 1991

TO: CAROL MILLIGAN
Planning Division
Department of Agriculture

FROM: MARTHA J. CASSERLY
Special Assistant
Attorney General

PHONE: 296-6839

SUBJECT: In the Matter of the Adopted Rule Relating to Livestock Weighing Services Fees

The above-referenced rule has been approved as to its legality by the Attorney General on February 25, 1991.

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 the 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.

MJC:sc

cc: Paul Strandberg
William Brown, Chief Judge
MaryAnn Hruby

MJC

RULE REVIEW CHECKLIST

File No. 1795
DATE RECEIVED 2-12-91
REVIEW DATE 2-21-91
DUE DATE 2-25-91
(DIS)APPROVED 2-25-91
WITHDRAWN _____

Docket No. 05 0009 0986
ADOPTED W/O HEARING _____
EMERGENCY RULE _____
TO REVISOR ON 2-22-91
REVISOR (DIS)APPROVED 2-27-91
FILED W/SEC. OF STATE 2-28-91
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

_____ Board's Authorizing Resolution
_____ Date adopted

✓ Proposed Rule
_____ Revisor's Certificate

✓ Notice of Intent to Adopt Rule
17A.11 Statutory Authority ← no authority to do rules
_____ Small Business Statement
_____ Expenditure of public money statement
11-15-90 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
January 2, 1991 Dated (30)/25 days before adoption
_____ Notice attached indicates it is attached
_____ Copy of rule or summary attached
(letters sent to appropriate and finance chairmans)

✓ Publication in State Register
January 7, 1991 Date (30)/25 days before adoption

_____ 180-day deadline from:
✓ Effective date of law requiring rule (14.12) (both rules) - amendments
_____ end of comment period (§ 14.26) (rules without hearing) don't apply
_____ effective date of statutory authority (§ 14.29) (emergency rules)

_____ Resolution Adopting
_____ Date adopted

✓ Findings of Fact, Conclusions & Order Adopting
Feb 7, 1991 Date

_____ Written Requests, Submissions or Comments

_____ Declaration of Attorney
Paul Strandberg Name of SAAG representing agency

_____ Notice of Submission to Attorney General (if applicable)

Department of Agriculture

Adopted Permanent Rules Relating to Livestock Weighing Services Fees

Rules as Adopted

1515.2550 LIVESTOCK WEIGHING SERVICES FEES.

Subpart 1. **Purpose.** The purpose of this part is to set fees for livestock weighing services under Minnesota Statutes, section 17A.11.

Subp. 2. **Fees.** The fees for livestock weighing services performed by the Department of Agriculture are as follows:

A. cattle, 22 cents per head;

B. calves, 15 cents per head;

C. hogs, 13 cents per head; and

D. sheep, ten cents per head.

STATE OF MINNESOTA
DEPARTMENT OF STATE
FILED

STATE OF MINNESOTA
DEPARTMENT OF STATE
FILED
FEB 28 1991
Joan Anderson Growe
Secretary of State
4:22 P.M.
M

APPROVED AS TO FORM AND LEGALITY
February 25 1991
HUBERT H. HUMPHREY, III
ATTORNEY GENERAL
BY MJ Cassedy
SPECIAL ASSISTANT ATTORNEY GENERAL

STATE OF MINNESOTA
DEPARTMENT OF AGRICULTURE

In the Matter of the Proposed Rule
of the Department of Agriculture
Setting Fees for Livestock Weighing
Services

Statement of Need
and Reasonableness

Introduction

Livestock Weighing Services fees are established under MS 17A.11. These fees are based on the cost of supplying the service necessary to weigh and record livestock being sold by producers to processing plants. The current fee schedule was set by Commissioner Order in 1978. Since that time, M.S., Sec. 16A.128 has been amended which requires that certain new fees be established by rule making. The Department of Finance has determined that this is a fee schedule which must be set by rule.

Small Business Impact

There would be no small businesses impacted by this rule as there are only three packing plants using this service. They are Monfort, Iowa Beef Processors and Albert Lea Meat Processing.
None of these businesses fit the definition of a small business in M.S., Sec. 14.115.

Need for and Reasonableness of the Proposed Rule

The fee schedule currently in use is no longer able to recover the cost of providing this service. It has remained unchanged for over twelve years. M.S. Chapter 17A provides service upon request but does not require it. M.S., Sec. 17A.11 requires that the fees must cover services provided. The following is a list of the current weighing fees and the proposed fees which contain a two cent per head increase:

	CURRENT	PROPOSED
Cattle	$ .20	$ .22
Calves	.13	.15
Hogs	.11	.13
Sheep	.08	.10

Over the past 12 years, the volume of livestock was adequate to pay for the cost of providing this service. However, with rising costs associated with labor and supplies and with reduced numbers of processing plants, the proposed $.02 increase per head is now necessary to comply with the requirements of M.S. Chapter 17A.

The attached sheet shows estimated expenditures and estimated revenue of the current and proposed fees. As it shows, unless fees are raised, the account will show a deficit which is not allowed by statute.

DEPARTMENT OF AGRICULTURE
Dairy and Livestock

FEE REVIEW

Livestock Weighing Account - Special Revenue Fund
Proposed fee increase

	NUMBER OF HEAD	PRESENT FEE	PRESENT REVENUE	PROPOSED FEE	PROPOSED REVENUE
Cattle (per head)	330,000	$0.20	$66,000	$0.22	$72,600
Calves (per head)	0	$0.13	$0	$0.15	$0
Hogs (per head)	1,042,000	$0.11	$114,620	$0.13	$135,460
Sheep (per head)	0	$0.08	$0	$0.10	$0
TOTAL ESTIMATED REVENUE			$180,620		$208,060
TOTAL ESTIMATED EXPENDITURES			$193,000		$205,000
CURRENT DIFFERENCE			($12,380)		$3,060

Department : AGRICULTURE

STATE OF MINNESOTA
Office Memorandum

Date : 11/15/90

To : Bruce Reddemann
Finance Department

From : Carol Milligan CM
Planning Division

Phone : 296-6906

Subject : **Livestock Weighing Service 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 questions.

Approved BJR 11/27/90
B.J. Reddemann, Director
Budget Operations & Support

Department of Finance

FEE REVIEW

(Present Fee)

Date Prepared: 10/01/90

Department/Agency: AGRICULTURE, DEPARTMENT OF

Budget Activity: DAIRY AND LIVESTOCK

Fee Name: LIVESTOCK WEIGHING FUND

Legal Citation: M.S. 17A.11

Fee Set By: ☐ Law ☒ Agency & USDA

Purpose of Fee: To fund the costs of state livestock weight certification services.

☒ Dedicated ☐ Non-Dedicated

Revenue Code: 300

APID:	Fund:	Accumulated Difference Thru 1988:	Dollars in Thousands (137,522=138)
30103:00-20	20	49	

Fiscal Year	Actual F.Y. 89	Actual F.Y. 90	Estimated F.Y. 91	Requested F.Y. 92	Requested F.Y. 93
Actual/Anticipated Receipts	281	234	180	180	180
Less Actual/Anticipated Costs	283	261	205	208	213
Current Difference	(2)	(27)	(25)	(28)	(33)
Accumulated Difference	(2)	(29)	(54)	(82)	(115)
Number Paying Fee	3	3	2	2	2
Present Fee	SEE ATTACHMENT				
Date Fee Last Changed	05-08-78				

Remarks:

Any fees charged must be approved by the United States Department of Agriculture. The Department has proposed a fee increase of 2¢ per head which would bring in an additional $28,000 per year.

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

Department Authorized Signature:

Finance Department Recommendation:

Executive Budget Officer Signature:

FI-00193-02 (5/90)

Department of Finance

FEE REVIEW - Details of Cost

Date Prepared: 10/01/90

Department/Agency: AGRICULTURE, DEPARTMENT OF

Budget Activity: DAIRY AND LIVESTOCK

Fee Name: LIVESTOCK WEIGHING FUND

Detailed Listing of Items Included as Costs on Fee Review Form FI-00194-07 Dollars in Thousands (137,522 = 138)

Fiscal Year	Actual F.Y. 89	Actual F.Y. 90	Estimated F.Y. 91	Requested F.Y. 92	Requested F.Y. 93
Agency Direct Expenditures	266	248	193	193	193
Salary Increases	XXXXXXXXXX	XXXXXXXXXX	XXXXXXXXXX	5	10
Attorney General	-0-	-0-	-0-	-0-	-0-
Statewide Indirect	2	2	2	2	2
Agency Indirect	15	11	10	8	8
Totals: must agree with cost on Fee Review Form	283	261	205	208	213

Remarks:

Statewide Indirect and Agency Indirect Costs totaling $17,000 were waived in FY 89.

FEE REVIEW - Attachment

Date Prepared: 10/01/90

Department/Agency: AGRICULTURE, DEPARTMENT OF

Budget Activity: DAIRY AND LIVESTOCK

Fee Name: LIVESTOCK WEIGHING FUND

Remarks:

PRESENT FEE:	FEE	NO. OF
Weighing Tariffs:		
Cattle per head	$ 0.20	330,000
Calves per head	0.13	
Hogs per head	0.11	1,042,000
Sheep per head	0.08	

All weighing tariffs must be approved by the Packers and Stockyards Administration of the United States Department of Agriculture in accordance with the memorandum of understanding which provides for a cooperative state and federal program. The Department has proposed an increase of 2¢ per head which would bring in an additional $28,000 of revenue per year.

Department of Finance
FEE REVIEW

(Proposed Fee)

Date Prepared: 10/01/90

Department/Agency: AGRICULTURE, DEPARTMENT OF

Budget Activity: DAIRY AND LIVESTOCK

Fee Name: LIVESTOCK WEIGHING FUND

Legal Citation: M.S. 17A.11

Fee Set By: ☐ Law ☒ Agency & USDA

Purpose of Fee: To fund the costs of state livestock weight certification services.

☒ Dedicated ☐ Non-Dedicated

Revenue Code: 300

APID: 30103:00-20

Fund: 20

Accumulated Difference Thru 1988: 49

Dollars in Thousands (137,522=138)

Fiscal Year	Actual F.Y. 89	Actual F.Y. 90	Estimated F.Y. 91	Requested F.Y. 92	Requested F.Y. 93
Actual/Anticipated Receipts	281	234	180	208	208
Less Actual/Anticipated Costs	283	261	205	208	213
Current Difference	(2)	(27)	(25)	0	(5)
Accumulated Difference	(2)	(29)	(54)	(54)	(59)
Number Paying Fee	3	3	2	2	2
Present Fee	SEE ATTACHMENT				
Date Fee Last Changed	05-08-78				

Remarks:

Any fees charged must be approved by the United States Department of Agriculture. The Department has proposed a fee increase of 2¢ per head which would bring in an additional $28,000 per year.

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

Department Authorized Signature:

Finance Department Recommendation:

Executive Budget Officer Signature:

FEE REVIEW - Details of Cost

Date Prepared: 10/01/90

Department/Agency: AGRICULTURE, DEPARTMENT OF

Budget Activity: DAIRY AND LIVESTOCK

Fee Name: LIVESTOCK WEIGHING FUND

Detailed Listing of Items Included as Costs on Fee Review Form FI-00194-07 Dollars in Thousands (137,522 = 138)

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Agency Direct Expenditures	266	248	193	193	193
Salary Increases	XXXXXXXXXX	XXXXXXXXXX	XXXXXXXXXX	5	10
Attorney General	-0-	-0-	-0-	-0-	-0-
Statewide Indirect	2	2	2	2	2
Agency Indirect	15	11	10	8	8
Totals: must agree with cost on Fee Review Form	283	261	205	208	213

Remarks:

Statewide Indirect and Agency Indirect Costs totaling $17,000 were waived in FY 89.

FI-00193-20 (3/90) Department of Finance

FEE REVIEW - Attachment

Date Prepared: 10/01/90

Department/Agency: AGRICULTURE, DEPARTMENT OF

Budget Activity: DAIRY AND LIVESTOCK

Fee Name: LIVESTOCK WEIGHING FUND

Remarks:

PROPOSED FEE:	FEE	NO. OF
Weighing Tariffs:		
Cattle per head	$ 0.22	330,000
Calves per head	0.15	
Hogs per head	0.13	1,042,000
Sheep per head	0.10	

All weighing tariffs must be approved by the Packers and Stockyards Administration of the United States Department of Agriculture in accordance with the memorandum of understanding which provides for a cooperative state and federal program. The Department has proposed an increase of 2¢ per head which would bring in an additional $28,000 of revenue per year.

Stat. Author.

I have attached it. No author to promugate rules. However it does state that the Commissioner shall prescribe the fee necessary to cover the cost of state weighing, to be assessed and collected from the seller in the manner the commissioner may prescribe.

Should have cited 17A.15

within 45 days of the date such notice is published or be barred
e proceeds of the bond. Such publication shall be made in a
the county in which the licensee's principal place of business
ioner shall also fulfill any notice requirements prescribed by
he office of administrative hearings. No claim shall be allowed
commissioner within one year of the date of the transaction.
ncy or livestock dealer has on file a Packers and Stockyards
d with the Packers and Stockyards Administration, the terms
ral agency's regulations will control.

s 6; 1977 c 299 s 7; 1977 c 346 s 2,3; 1982 c 424 s 130; 1983 c art 3 s 24; 1986 c 444

CONDUCT.

or any person to (1) carry on the business of a livestock market or public stockyard without a valid and effective license issued ler the provisions of section 17A.04; (2) carry on the business ncy or livestock dealer without filing and maintaining a valid in conformity with sections 17A.04 and 17A.05; (3) carry on k market agency or livestock dealer if the person cannot pay or ceases to pay debts in the ordinary course of business as or allow to be used any livestock scale or monorail scale which approved for official use or has been found to be inaccurate; erate livestock or monorail scales in a manner to ensure accu- (6) weigh livestock or carcasses at other than true and correct and records on the basis of inaccurate or incorrect weights; nfair or deceptive practice or device in connection with mar- lfully make or cause to be made any false entry or statement financial statement or report filed with the department under

7; 1984 c 654 art 3 s 25; 1986 c 444

ING.

ke and retain such accounts, records, and memoranda neces- disclose all transactions involved in the person's business, ip of such business by stockholding or otherwise. Whenever it the accounts, records, and memoranda of any such person disclose all transactions involved in the person's business, scribe the manner or form and length of time for retention rds, and memoranda shall be kept. The commissioner shall e access to, for the purpose of examination, and the right to dence of any person being investigated or proceeded against.

8; 1986 c 444

ARKETS.

y, by rules promulgated in accordance with sections 14.05 ments for record making and retention, of livestock pur- rs of feeder pig markets, as the commissioner deems neces-

; 1982 c 424 s 130; 1985 c 248 s 70; 1986 c 444

FICATION AND HEALTH STANDARDS.

fore slaughter required. Any livestock dealer, market opera- mmission company, buying station, or slaughtering estab- [illegible] except for sows, boars, and stags. Swine, except for sows, boars, and stags, delivered for slaughter in a United States Department of Agriculture sealed shipment may not be slaughtered for a period of (1) seven days after receipt for slaughter or (2) until the commissioner determines, based upon laboratory analysis results for 50 percent of the animals in the shipment, that the animals meet United States Department of Agriculture and the United States Food and Drug Administration standards, whichever is later.

Subd. 2. **Rules.** The commissioner may adopt permanent and emergency rules to implement this section.

History: *1985 c 258 s 1; 1Sp1985 c 13 s 377*

17A.10 LIVESTOCK SCALES AND WEIGHING.

Subdivision 1. **Commercial livestock scales.** All livestock scales and monorail scales used for the purpose of buying or selling livestock or livestock carcasses within the state must meet the construction, maintenance, testing, and certification requirements of the division of weights and measures of the department of public service, and be in compliance with the scales and weighing regulations of the Packers and Stockyards Administration of the United States Department of Agriculture and be tested and certified by the state division of weights and measures. The division of weights and measures or an authorized scale company shall test all livestock scales at least twice per year. The department of agriculture may perform scale maintenance inspections at least twice per year at intervals that will provide alternate testing or inspection of each scale every 90 days. Special tests may be required as necessary. The basic maintenance tolerance for livestock scales is one pound per 1,000 pounds of test load. The responsibility for compliance of a scale with these requirements rests with the owner or manager of the scale.

Subd. 2. **State livestock weighmasters.** The commissioner shall appoint state employees as necessary to provide state weighing service at public stockyards, packing plants, slaughtering houses, buying stations, or livestock market agencies on application from the business entity requesting official state livestock weighing. State livestock weighmasters shall weigh all livestock coming to these places for sale, keep a record of the weights, and furnish the interested parties a certificate of state weight stating the number of animals weighed and the weight of the animals. The certificate is prima facie evidence of the facts certified. An application for official state livestock weighing constitutes an agreement between the business entity requesting state weighing and the commissioner. The agreement is for one year beginning July 1 and ending the following June 30. The agreement automatically renews each year unless the business entity gives the commissioner a written notice of intent to terminate at least 360 days prior to July 1. Otherwise the commissioner shall continue to provide state weighing services in accordance with this chapter.

Subd. 3. **Supervision and enforcement.** State livestock weighmasters have charge over the scales on which official certificates of state weight are issued to ensure compliance with scale maintenance and testing requirements and proper weighing procedures.

The commissioner shall appoint law compliance personnel as necessary to provide maintenance inspections, checkweighing, comparison weighing, and record audits and to investigate complaints in order to enforce this chapter.

The regulations pertaining to livestock and monorail scales adopted by the Packers and Stockyards Administration of the United States Department of Agriculture are applicable in Minnesota, and a memorandum of understanding with the Packers and Stockyards Administration provides for a cooperative state and federal enforcement program.

History: *1974 c 347 s 10; 1977 c 299 s 8; 1984 c 654 art 3 s 26; 1Sp1985 c 10 s 44*

17A.11 FEES FOR LIVESTOCK WEIGHING.

The commissioner shall prescribe the fee necessary to cover the cost of state weigh-

ing, to be assessed and collected from the seller in the manner the commissioner may prescribe. The fee assessed must be the same, and the manner of collection of the fee must be uniform at all facilities. At any location where state weighing is performed in accordance with this chapter and the total annual fees collected are insufficient to pay the cost of the weighing, the annual deficit shall be assessed and collected in the manner the commissioner may prescribe. Additional money arising from the weighing of animals by the commissioner, which has been collected and retained by any person, shall be paid on demand to the commissioner. All money collected by the commissioner shall be deposited in the state treasury and credited to the livestock weighing fund, and shall be paid out only on the order of the commissioner and the state's warrant.

History: *1974 c 347 s 11; 1977 c 299 s 9; 1984 c 654 art 3 s 27; 1985 c 241 s 1; 1Sp1985 c 10 s 45*

17A.12 QUALIFICATIONS.

No state livestock weighmaster shall, during the weighmaster's term of service, be in any manner financially interested in the handling, shipping, purchase, or sale of livestock or in the employment of any person engaged therein.

History: *1974 c 347 s 12; 1984 c 654 art 3 s 28*

17A.13 GROSS MISDEMEANORS.

Any weigher who shall knowingly or carelessly weigh any livestock improperly, or give any false certificate of weight, or accept money or other consideration directly or indirectly for any neglect or improper performance of duty, or who shall be guilty of any neglect of duty, and any person who shall improperly influence or attempt to influence any such weigher in the performance of a duty by preventing proper access to the scales used in the weighing of livestock, or otherwise, is guilty of a gross misdemeanor.

History: *1974 c 347 s 13; 1986 c 444*

17A.14 PENALTIES.

Any person, duly licensed or otherwise, who violates the provisions of sections 17A.01 to 17A.15, for which violation a penalty has not been specifically set out, is guilty of a misdemeanor. Any subsequent violation is a gross misdemeanor.

History: *1974 c 347 s 14; 1981 c 54 s 3*

17A.15 POWERS AND DUTIES OF THE COMMISSIONER.

The commissioner shall enforce the provisions of Laws 1974, chapter 347 and shall promulgate, in the manner provided by law, such rules as the commissioner deems necessary or desirable, and may cooperate with any department of state or government, to carry out the provisions of sections 17A.01 to 17A.15. The commissioner or a duly-authorized agent shall have the power to issue subpoenas, administer oaths and affirmations, examine witnesses, receive evidence, and shall have the power to require by subpoena the attendance and testimony of witnesses and the production of all such documentary evidence relating to any matter under investigation or administrative proceeding.

History: *1974 c 347 s 15; 1985 c 248 s 70; 1986 c 444*

17A.16 INJUNCTIVE REMEDY.

The operation of a livestock market agency or the buying or selling of livestock as a dealer by a person not licensed and bonded as required by this chapter may be enjoined by the district court on petition from the commissioner upon a showing that a person is engaged in the business of a livestock market agency or livestock [illegible]

to show that any individual has been
obtain the issuance of the injunction.
an additional remedy to the criminal

History: *1981 c 54 s 4*

17A.17 AUDIT BY DEPARTMENT

The department may audit record
stock packer and shipping weights or
there are no weight discrepancies in h

History: *1984 c 654 art 3 s 29*

Didn't cite but should have

ing, to be assessed and collected from the seller in the manner the commissioner may prescribe. The fee assessed must be the same, and the manner of collection of the fee must be uniform at all facilities. At any location where state weighing is performed in accordance with this chapter and the total annual fees collected are insufficient to pay the cost of the weighing, the annual deficit shall be assessed and collected in the manner the commissioner may prescribe. Additional money arising from the weighing of animals by the commissioner, which has been collected and retained by any person, shall be paid on demand to the commissioner. All money collected by the commissioner shall be deposited in the state treasury and credited to the livestock weighing fund, and shall be paid out only on the order of the commissioner and the state's warrant.

History: *1974 c 347 s 11; 1977 c 299 s 9; 1984 c 654 art 3 s 27; 1985 c 241 s 1; 1Sp1985 c 10 s 45*

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History: *1974 c 347 s 12; 1984 c 654 art 3 s 28*

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History: *1974 c 347 s 14; 1981 c 54 s 3*

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History: *1974 c 347 s 15; 1985 c 248 s 70; 1986 c 444*

17A.16 INJUNCTIVE REMEDY.

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obtain the issuance
an additional remed

History: *1981 c*

17A.17 AUDIT B

The departmen
stock packer and sl
there are no weight

History: *1984 c*

Department of Agriculture

Proposed Permanent Rules Relating to Livestock Weighing Services Fees

Rules as Proposed (all new material)

1515.2550 LIVESTOCK WEIGHING SERVICES FEES.

Subpart 1. **Purpose.** The purpose of this part is to set fees for livestock weighing services under Minnesota Statutes, section 17A.11.

Subp. 2. **Fees.** The fees for livestock weighing services performed by the Department of Agriculture are as follows:

A. cattle, 22 cents per head;

B. calves, 15 cents per head;

C. hogs, 13 cents per head; and

D. sheep, ten cents per head.

Approved by Revisor CEL/KK

Office of the Revisor of Statutes

Administrative Rules

TITLE: Proposed Permanent Rules Relating to Livestock Weighing Services Fees

AGENCY: Department of Agriculture

MINNESOTA RULES: Chapter 1515

The attached rules are approved for publication in the State Register

Craig E. Lindeke
Senior Assistant Revisor

In the Matter of the Adoption of
the Rule of the State Department
Agriculture Governing Livestock
Weighing Services 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: 2/7/91

STATE OF MINNESOTA

DEPARTMENT OF AGRICULTURE

In the Matter of the Proposed Adoption of the Rule of the State Department of Agriculture Governing Livestock Weighing Services 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 January 7, 1991, 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 January 2, 1991. (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) 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 livestock weighing services fees is adopted this 7th day of February, 1991, (9) pursuant to authority vested in me by Minnesota Statutes, section 17A.11.

Elton Redalen
Commissioner

Department : Agriculture

STATE OF MINNESOTA
Office Memorandum

Date : December 19, 1990

To : Maryanne Hruby, Director
LCRAR

From : Carol Milligan
Planning Division

Phone : 296-6906

Subject : **Rule Governing Livestock Weighing Fees**

As required by Minnesota Statutes, sections 14.131 and 14.23, attached is the Statement of Need and Reasonableness for the above-captioned rule. The Notice of Intent to Adopt and the rule will be published in the *State Register* on 1/7/91.

Attachment

Rec 2-12-91
PN

Department : AGRICULTURE

STATE OF MINNESOTA
Office Memorandum

Date : February 12, 1991

To : Patty Nolte
Attorney General's Office

From : Carol Milligan
Planning Division

Phone : 296-6906

Subject : **Review of Proposed Rule Governing Livestock Weighing Services 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 questions.

cc: Elton Redalen, Commissioner
Paul Strandberg, Special Assistant Attorney General
Jerry Heil, Program Support Division
Bill Coleman, Dairy and Livestock Division

LIST OF ATTACHED DOCUMENTS

A. Rule as Proposed

B. Notice of Intent

C. Statement of Need

D. Affidavit of Mailing

E. Mailing List Certificate

F. *State Register* Photocopy

G. Rule as Adopted (four copies)

H. Findings of Fact

I. Declaration of Counsel

Department of Agriculture

Dairy and Livestock Division

In the Matter of the Proposed Rule of the State Department of Agriculture Governing Livestock Weighing Services 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 17A.11.

(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) The department has determined that this rule will have no impact on small business because none of the firms that use this service are small businesses.

(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

11, 15, 90
Date

Jim Nichols
Jim Nichols, Commissioner
Department of Agriculture

In the Matter of the Proposed Adoption of the Rule of the State Department of Agriculture Governing Livestock Weighing Services 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 second day of January, 1991, 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.

DIANE M. WINDHAM
NOTARY PUBLIC - MINNESOTA
RAMSEY COUNTY
My commission expires 11-1-96

Marie Skerbitz
Mail Room Manager

Subscribed and sworn to before me
this 2nd day of January, 1991.

Diane M. Windham

In the Matter of the Proposed Rule
of the State Department of Agriculture
Governing Livestock Weighing 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 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 second day of January, 1991.

Carol Milligan

Carol Milligan
Management Analyst

DIANE M. WINDHAM
NOTARY PUBLIC - MINNESOTA
RAMSEY COUNTY
My commission expires 11-1-96

Subscribed and sworn to before me
this 2nd day of January, 1991.

Diane M. Windham

LAND OF QUALITY FOODS

90 WEST PLATO BOULEVARD
SAINT PAUL, MINNESOTA 55107

STATE OF MINNESOTA

DEPARTMENT OF AGRICULTURE

(612) 296-6906

December 19, 1990

TO: Representative Wayne Simoneau
Appropriations Committee Chairman

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 livestock weighing services fees. The Notice explains the procedures that will be followed in adopting the rule including opportunities for public comment.

The Notice and the proposed rule will be published in the *Minnesota State Register* on Monday, January 7, 1991. The 30-day comment provided for by the Administrative Procedures Act will extend from that date until February 6, 1991.

Please call if you have any questions.

CM:dw

Enclosure

LAND OF QUALITY FOODS

90 WEST PLATO BOULEVARD
SAINT PAUL, MINNESOTA 55107

STATE OF MINNESOTA
DEPARTMENT OF AGRICULTURE

(612) 296-6906

December 19, 1990

TO: Senator Gene Merriam
Finance Committee Chairman

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 livestock weighing services fees. The Notice explains the procedures that will be followed in adopting the rule including opportunities for public comment.

The Notice and the proposed rule will be published in the *Minnesota State Register* on Monday, January 7, 1991. The 30-day comment provided for by the Administrative Procedures Act will extend from that date until February 6, 1991.

Please call if you have any questions.

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 Livestock Weighing Services 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 17A.11.

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.

The department has determined that this rule will have no impact on small business because none of the firms that use this service are small businesses.

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: 15 November 1990

Jim Nichols, Commissioner
Department of Agriculture

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.

Rules as Proposed (all new material)

1515.2550 LIVESTOCK WEIGHING SERVICES FEES.

Subpart 1. **Purpose.** The purpose of this part is to set fees for livestock weighing services under *Minnesota Statutes*, section 17A.11.

Subp. 2. **Fees.** The fees for livestock weighing services performed by the Department of Agriculture are as follows:

A. cattle, 22 cents per head;

B. calves, 15 cents per head;

C. hogs, 13 cents per head; and

D. sheep, ten cents per head.

Board of Electricity

Proposed Permanent Rules Relating to License Fees

Notice of Intent to Adopt Rules Without a Public Hearing

NOTICE IS HEREBY GIVEN that the State Board of Electricity ("board") proposes to adopt the above-entitled rule without a public hearing. The Board has determined that the proposed adoption of this rule will be noncontroversial in nature and has elected to follow the procedures set forth in *Minnesota Statutes* § 14.22 to 14.28. Authority for the adopting of this rule is contained in *Minnesota Statutes* § 326.241, subd. 6.

ADDITIONALLY, A STATEMENT OF NEED AND REASONABLENESS that describes the need for and identifies the data and information relied upon to support the proposed rule, has been prepared and is available from Mr. Quinn upon request.

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 requests 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*, section 14.13 to 14.20. If no hearing is requested, the agency will adopt the proposed rule effective July 1, 1991.

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

Mr. John Quinn
Executive Secretary
State Board of Electricity
S-173 University Avenue
St. Paul, Minnesota 55104
Telephone: 612/642-0800

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 noticed.

A copy of the proposed rule is attached to this notice. Additional copies may be obtained by contacting Mr. Quinn.

YOU ARE HEREBY ADVISED, pursuant to *Minnesota Statutes* § 14.115 (1986), "Small business considerations in rulemaking," that the proposed rule amendments will have no adverse effect on small businesses.

Minnesota Statutes, Chapter 10A, requires each lobbyist to register with the Ethical Practices Board within five days after he or she commences lobbying. A lobbyist is defined in *Minnesota Statutes*, section 10A.10, Subdivision 11, as an individual:

(a) Engaged for pay or other consideration, or authorized by another individual or association to spend money, who spends more than five hours in any month or more than $250.00, not including travel expenses and membership dues, in any year, for the purpose of attempting to influence legislation or administration action by communicating or urging others to communicate with public officials; or,

(b) Who spends more than $250.00, not including travel expenses and membership dues, in any year, for the purpose of attempting to influence legislative or administrative action by communicating or urging others to communicate with public officials.