

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: October 9, 1991

TO: CAROL MILLIGAN
Department of Agriculture
90 West Plato Blvd.

FROM: MARTHA J. CASSERLY
Special Assistant
Attorney General

PHONE: 296-6839

SUBJECT: In the Matter of the Adopted Rule Relating to Dairy Plant Monthly Reports

The above-referenced rule has been approved as to its legality by the Attorney General on October 4, 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

Office of the Revisor of Statutes

Administrative Rules

TITLE: Adopted Permanent Rules Relating to Dairy Plant Monthly Reports

AGENCY: Department of Agriculture

MINNESOTA RULES: Chapter 1525

APPROVED AS TO FORM AND LEGALITY
October 4 19 91
HUBERT H. HUMPHREY, III
ATTORNEY GENERAL
BY M J Carsely
SPECIAL ASSISTANT ATTORNEY GENERAL

The attached rules are approved for filing with the Secretary of State

STATE OF MINNESOTA
DEPARTMENT OF STATE
FILED
OCT 7 1991
Joan Anderson Growe
Secretary of State

Craig E. Lindeke
Craig E. Lindeke
Senior Assistant Revisor

Department of Agriculture

Adopted Permanent Rules Relating to Dairy Plant Monthly Reports

Rules as Adopted

1525.1521 DAIRY PLANT MONTHLY REPORTS.

A dairy plant that purchases products containing milk fat from producers shall report those transactions each month on forms furnished by the Minnesota Agriculture Statistics Service through the commissioner of agriculture.

REPEALER. Minnesota Rules, part 1525.1520, is repealed.

APPROVED AS TO FORM AND LEGALITY

October 4 19 91

HUBERT H. HUMPHREY, III
ATTORNEY GENERAL

BY M J Cassedy
SPECIAL ASSISTANT ATTORNEY GENERAL

MJC

RULE REVIEW CHECKLIST

File No. 1855
DATE RECEIVED 9-24-91
REVIEW DATE 10-3-91
DUE DATE 10/8/91
(DIS)APPROVED 10-4-91 MJC
WITHDRAWN _____

Docket No. 05 0009 0986
ADOPTED W/O HEARING _____
EMERGENCY RULE _____
TO REVISOR ON 9/26/91
REVISOR (DIS)APPROVED 10/2/91
FILED W/SEC. OF STATE 10-7-91
RETURNED TO AGENCY 10-10-91

✓ 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
32.18 Statutory Authority
NA Small Business Statement
NA Expenditure of public money statement
7-1-91 Signature

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

✓ Affidavit of Mailing Notice of Intent to Adopt Rule
August 7, 1991 Dated 30/25 days before adoption
_____ Notice attached indicates it is attached
_____ Copy of rule or summary attached

✓ Publication in State Register
August 12, 1991 Date 30/25 days before adoption

✓ 180-day deadline from:
_____ Effective date of law requiring rule (14.12) (both rules) amendments don't apply
✓ 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
September 12, 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)

_____ Affidavit of Mailing Notice to Attorney General (if applicable)

Department of Agriculture

Proposed Permanent Rules Relating to Dairy Plant Monthly Reports

Rules as Proposed (all new material)

1525.1521 DAIRY PLANT MONTHLY REPORTS.

A dairy plant that purchases products containing milk fat from producers shall report those transactions each month on forms furnished by the Minnesota Agriculture Statistics Service through the commissioner of agriculture.

REPEALER. Minnesota Rules, part 1525.1520, is repealed.

Approved by Revisor

Office of the Revisor of Statutes

Administrative Rules

TITLE: Proposed Permanent Rules Relating to Dairy Plant Monthly Reports

AGENCY: Department of Agriculture

MINNESOTA RULES: Chapter 1525

The attached rules are approved for publication in the State Register

Craig E. Lindeke
Senior Assistant Revisor

Stat. Authority

32.18

Every person engaged in the purchase, manufacture or sale of dairy products, . . . and such other information and in such form as the commissioner shall specify or require by rules adopted as required by law.

Department : AGRICULTURE

STATE OF MINNESOTA
Office Memorandum

Date : September 23, 1991

To : Patty Nolte
Attorney General's Office

Re

From : Carol Milligan CM
Program Support Division

Phone : 296-6906

Subject : **Review of Proposed Rule Governing Dairy Plant Monthly Reports**

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
Newell Searle, Deputy 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 of Notice of Intent

G. Rule as Adopted (four copies)

H. Findings of Fact

I. Declaration of Counsel

Department of Agriculture

Dairy and Livestock

In the Matter of the Proposed Rule of the State Department of Agriculture Governing Dairy Plant Monthly Reports	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 32.18.

(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 proposed rule is a technical change and will have no impact on 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.

1-1-91
Date

STATE OF MINNESOTA

Elton Redalen
Elton Redalen, Commissioner
Department of Agriculture

Department : Agriculture

STATE OF MINNESOTA
Office Memorandum

Date : July 25, 1991

To : Maryanne Hruby, Director
LCRAR

From : Carol Milligan
Program Support Division

Phone : 296-6906

Subject : **Rule Governing Dairy Plant Monthly Reports**

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 8/12/91.

Attachment

In the Matter of the Proposed Adoption of the Rule of the State Department of Agriculture Governing Dairy Plant Monthly Reports

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 7th day of August, 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 L Skerbitz
Marie Skerbitz
Mail Room Manager

Subscribed and sworn to before me
this 7th day of August, 1991.

Diane M. Windham

In the Matter of the Proposed Rule
of the State Department of Agriculture
Governing Dairy Plant Monthly Reports

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 7th day of August, 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 7th day of August, 1991.

Diane M. Windham

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

Dairy and Livestock Division

Notice of Intent to Adopt a Rule Without a Public Hearing in the Matter of the Proposed Rule of the State Department of Agriculture Governing Dairy Plant Monthly Reports

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 32.18.

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 proposed rule is a technical change and will have no impact on 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: 1 July 1991

Elton Redalen, 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)

1525.1521 DAIRY PLANT MONTHLY REPORTS.

A dairy plant that purchases products containing milk fat from producers shall report those transactions each month on forms furnished by the Minnesota Agriculture Statistics Service through the commissioner of agriculture.

REPEALER. *Minnesota Rules*, part 1525.1520, is repealed.

Office of Waste Management

Notice of Intent to Adopt Rules Without a Public Hearing in the Matter of Proposed Amendment of Rules Governing Pollution Prevention Grants, *Minnesota Rules* Parts 9205.0400 to 9205.0480

NOTICE IS HEREBY GIVEN that the Minnesota Office of Waste Management (Office) intends to adopt the above-entitled rule amendments without a public hearing. The rule amendments are published in lieu of previous rule amendments proposed and published in the *State Register* on Monday, March 11, 1991; CITE 15 S.R. 2038-2042 and the previously published rules are withdrawn. The adoption of rule amendments follow the procedures sent forth in the Administrative Procedures Act for adopting rules without a public hearing in *Minnesota Statutes* §§ 14.22 to 14.28 (1990). The authority of the Office to adopt the amendments is set forth in *Minnesota Statutes* §§ 115A.06, Subd. 2 and 115D.05, subd. 3(b).

All persons have until 4:30 p.m. on September 10, 1991, to submit comments in support or opposition to the amendments or any part or subpart of the proposed amendments. Comment is encouraged. Each comment should identify the portion of the proposed rules addressed, the reason for the comment, and any change proposed.

Any person may make a written request for a public hearing on the proposed amendments within the comment period. If 25 or more persons submit a written request for a public hearing within the 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 amendments addressed, the reason for the request, and any change proposed. If a public hearing is required, the Office will proceed pursuant to *Minnesota Statutes* §§ 14.131 to 14.20 (1990).

Comments or written requests for a public hearing must be submitted to:

Julie MacKenzie, Coordinator
Pollution Prevention Grant Program
Minnesota Office of Waste Management
1350 Energy Lane
Saint Paul, MN 55108
612-649-5494 or
1-800-652-9747 (MN Toll-Free)

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

The proposed amendments, if adopted, will establish the criteria and procedures for awarding grants under the Office's Pollution Prevention Grant Program established by *Minnesota Statutes* § 115D.05 (1990). One free copy of the proposed rules is available upon request from the address and telephone number stated above.

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 from the Office upon request.

You are hereby advised, pursuant to *Minnesota Statutes* § 14.115 (1990), "Small business considerations in rulemaking," that the proposed amendments will have no negative effect on small business, as the amendments do not limit the ability of small business to participate in this program.

If no hearing is required, upon adoption of 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 form relates to legality. Any person may request notification of the date of submission of this material to the Attorney General. Persons who wish to be advised of the submission of this material to the Attorney General, or who wishes to receive a copy of the amendments as adopted, must submit a written request to the name and address stated above.

Dated: 18 July 1991

Dottie Rietow
Director

STATE OF MINNESOTA

DEPARTMENT OF AGRICULTURE

IN THE MATTER OF THE PROPOSED AMENDMENTS AND REPEALS OF RULES THE DEPARTMENT OF AGRICULTURE GOVERNING THE DAIRY MONTHLY REPORTS	)))))	STATEMENT OF NEEDS AND REASONABLENESS

I. INTRODUCTION

The Minnesota Department of Agriculture proposes to amend these rules to eliminate the need to publish a copy of the dairy monthly report form.

The Department had determined that the proposed amendments to the rules are noncontroversial and are supported by the industry because they receive monthly forms from the Minnesota Agricultural Statistics Service. The Department directs that the rulemaking proceedings be conducted in accordance with the statutory provisions governing the adoption of noncontroversial rules Minnesota Statutes, Section 14.22-14.28. Accordingly, the rulemaking proceedings on the proposed amendments are governed by the statute and no hearing will be conducted on the proposed amendment unless 25 or more persons submit to the Department a written request for such hearings.

II. GENERAL OVERVIEW

Minnesota Rules, Part 1525.1521 has required the publishing of a complete reporting form which is to be used by the industry to report statistical information on purchase, production, and sale of milk and dairy products. These forms do change with the addition and deletion of various products and so it has become standard practice that these forms are revised and furnished by the Department to all users. There is no longer a need to publish the form for their use which may also become incorrect as published until the Rules are again revised.

III. NEED AND REASONABLENESS OF THE PROPOSED CHANGE IN RULES

The requested amendment to Minnesota Rules, Part 1525.1521 will prevent the use of out-of-date forms and will allow the Commissioner to make corrections and adjustments in the forms as they become necessary. All users of the forms are supplied with current copies by the Agricultural Statistics Service. These forms collect statistical data required by law and this amendment will not change or allow to be changed any requirements for the collection of this information. The changes in the form will only relate to format and product listing.

The repealing of 1525.1520 eliminates the publishing of the complete form.

IV SMALL BUSINESS IMPACT

The amendment will apply to all sizes of business but is uniform no matter what the size of the business. The gathering of agricultural statistics must cover all business to allow for accurate reporting of all dairy plant activities in Minnesota.

There will be no change in current procedures as all forms are supplied to all businesses by the Department.

STATE OF MINNESOTA

DEPARTMENT OF AGRICULTURE

In the Matter of the Proposed Adoption of the Rule of the State Department of Agriculture Governing Dairy Plant Monthly Reports

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 August 12, 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 August 7, 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.

(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 dairy plant monthly reports is adopted this 12th day of September, 1991, pursuant to authority vested in me by Minnesota Statutes, section 32.18.

(9) Elton Redalen

Elton Redalen
Commissioner

In the Matter of the Adoption of
the Rule of the State Department
Agriculture Governing Dairy Plant
Monthly Reports

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: 9/16/91