

STATE OF MINNESOTA
DEPARTMENT OF AGRICULTURE

IN THE MATTER OF THE PROPOSED
RULE OF THE DEPARTMENT OF
AGRICULTURE GOVERNING DAIRY
INSPECTION FEES (3 MCAR S 1.1160)

STATEMENT OF NEED
AND REASONABLENESS

I. INTRODUCTION

The subject of this rulemaking is the proposed adoption by the Minnesota Department of Agriculture of a rule adjusting and setting fees for the inspection of Grade A dairy plants and farms, and for farm certification for other than Grade A dairy farms. This rule is proposed for adoption pursuant to Laws of Minnesota 1983, chapter 300, section 20 and Minnesota Statutes section 32.394 (subds. 8 and 8b), which authorizes the commissioner to adjust and set fees for dairy inspection and certification services.

Rulemaking on the proposed rule was authorized by the Department on October 24, 1983. Prior to the authorization of rulemaking, the Department determined that the proposed adoption of this rule would be noncontroversial in nature. Because the proposed rule is noncontroversial in nature, the Department directed that the proceedings on the proposed rule be conducted in accordance with the statutory provisions governing the adoption of noncontroversial rules, Minnesota Statutes, sections 14.21-14.28. Thus, no hearing will be conducted on the proposed rule unless on or before December 7, 1983, seven or more persons submit to the Department a written request for a hearing. In accordance with the requirements of Minnesota Statutes, section 14.23, this Statement of Need and Reasonableness was completed prior to November 7, 1983, when the proposed rule was noticed in the State Register.

II. HISTORY OF DAIRY INSPECTION FEES IN MINNESOTA

The inspection program is just one aspect of a comprehensive Grade A dairy program conducted by the Minnesota Department of Agriculture. The Grade A dairy program was designed to provide an informational and inspection service to dairy processors and producers in order to ensure the quality of Grade A milk products. Funding for this program was originally available through the shared efforts of the processor, consumer, and the Department. This "share the burden" concept developed over time to the point that the processor, through licensing and inspection fees, would be responsible for a substantial portion of the program's cost. The processor in turn, could pass on all or part of its expenses from the licensing and inspection fees to the consumer. The extent to which the processor passed on its expenses was held in check by what the market would bear.

Although the statute provides that the commissioner can adjust Grade A plant and farm inspection fees annually, the Department has only adjusted fees on the average every five years since the program began almost 25 years ago. The last adjustment occurred in 1978 by commissioner's order. Laws of Minnesota, chapter 301, section 91 amended Minnesota Statutes section 16A.128, subds. 1 and 2 to require that fees of this nature be set through the Administrative Procedures Act.

Farm certification for other than Grade A is a new inspection and informational program for Minnesota. Due to the potential that Minnesota manufacturing grade milk might again be embargoed by recipient states as occurred in early 1983, Minnesota adopted the federal guidelines governing the production of milk other than Grade A by legislative action in 1983 (Chapter 232).

III. NEED AND REASONABLENESS

This statement of need and reasonableness addresses the proposed rule and the impact it will have on small businesses.

- A. Adjust Grade A dairy plant and farm inspection fees from \$350 to \$400 and from \$40 to \$50, respectively, and set fees for farm certification for other than Grade A farms at \$25.

3 MCAR S 1.1160

Fees for Grade A dairy plants and farms have not been adjusted since 1978. These adjustments proposed in this rule are needed in order for the Department to continue providing inspection service, informational mailings, and test sampling, and to erase a \$90,000 deficit resulting from the inadequacy of the current fee schedule in covering the costs of these services. The services funded, in part, by these inspection fees are essential to the dairy processor's and producer's continued participation in the Grade A market. Through the inspection service the Department is able to determine whether the processor's or producer's facilities and methods conform to federally adopted standards for production of Grade A milk and milk products. The Department's informational mailings are intended to be a continuing educational program for dairy processors and producers. Through these mailings the processors and producers are kept abreast of technical changes in production, sanitation, and export requirements. The test samplings ensure that the milk or milk product is of Grade A quality. All of these services are designed to meet the needs and expectations of both producer and consumer.

The proposed Grade A fees are reasonable in that they are incremental, representing only an average yearly increase of 6% over the past 4 years. The fees are to be assessed on dairy processors, all of which have gross earnings in excess of \$4,000,000. There is no impact on small producers, because the processors absorb these expenses as the cost of doing business in the state.

The fee for certification for other than Grade A farms is needed to ensure that bulk and can producers of manufacturing grade milk are in compliance with the federal standards adopted by Minnesota by statute during the 1983 legislative session. Certification inspections on a regular basis are essential to the producer's staying in business. Since July 1, 1983, the Department has expended \$50,000 in informational mailings and meetings concerning the new certification process. In addition to funding the inspection process, the fee charged producers will be used to offset this educational expense.

This fee is reasonable because like the Grade A fees it too will be assessed against the processors and will enable the Department to provide the services necessary for bulk and can producers to remain in business. In the absence of a well funded certification program, verification of the producers compliance with the federal standard is virtually impossible. Minnesota Statutes 32.394, subd. 8b permits the fee to be set at up to one-half the fee for Grade A dairy farm inspection, and it is anticipated that the proposed fee will cover the cost of inspection, attendant administrative overhead of the Department and set up a reserve fund as is practice of the Minnesota Department of Finance.

Estimates of revenue to be generated by the proposed fees and approval of fee increases by the Minnesota Department of Finance are contained in Attachment A.

B. Small business impact of the proposed rule.

As prescribed by Laws of Minnesota 1983, chapter 188, section 1, subds. 1 and 2, the Department has considered the degree of impact the proposed changes will have on small Grade A dairy processors and producers. The Department has determined that only the Grade A producers are small businesses within the statutory definition of section 1, subd. 1 and they will not be affected. The producer's inspection fee is assessed against and paid by the larger Grade A plants (processors). The same situation is the case for producers of manufacturing grade milk. These fees will also be assessed against processors who do not meet the statutory definition of small businesses.

MINNESOTA DEPARTMENT OF AGRICULTURE
MILK INSPECTION SERVICE ACCOUNT
FEE REVIEW FOR F.Y. 1984

	<u>Grade A</u>	<u>Dairy Plant</u>	<u>Other Than Grade A</u>
Present Fee	\$ 40.00	\$ 350.00	\$ -0-
Number Paying Fee	10,300	14	15,000 (1)
Estimated Revenue	\$412,000	\$ 4,900	\$ -0-
Less: Anticipated Costs	\$573,500	\$ 5,600	\$200,000
Current Difference	(\$161,500)	\$ (700)	(\$200,000)
Accumulated Difference	(\$1,700)	\$ (700)	(\$200,000)
Fee Requested	\$ 50.00	\$ 400.00	\$ 25.00
Additional Revenue	\$103,000	\$ 700	\$375,000
Adjusted Accumulated Difference	\$101,300	\$ -0-	\$175,000
Reserve At Year End (2)	\$175,000 (2)	\$ -0- (2)	\$175,000 (2)

- (1) Other than Grade A Inspection would begin to have fees deposited during F.Y. 1984. It is estimated that for F.Y. 1985 this budget may expand to the Grade A level.
- (2) Reserve at Year End is the amount that is felt should always be available for reserve purposes to enable the account to respond to changing demands, cash flow, and layoff costs.

Prepared By: Accounting Division

Date: June 13, 1983



Minnesota State Department of Agriculture
 90 West Plato Boulevard, St. Paul, Minnesota 55107

OFFICE OF THE COMMISSIONER

Telephone: (612) 297-2200

ORDER FOR ADJUSTMENT OF FEES

Pursuant to the authority vested in me under Minnesota Statutes 32.394, Subdivision 8, as amended by Laws of Minnesota for 1983, Chapter 300, Section 20, I hereby find the need to set fees and hereby order that the fees be set for the production of Grade A milk. These fees are effective on or after June 15, 1983, and are payable by the processor to the Commissioner of Agriculture.

SCHEDULE OF FEES

<u>Fee Description</u>	<u>Fee</u>
Grade A Dairy Plant Inspection Fee	\$ 400.00
Grade A Farm Inspection Fee	\$ 50.00

Dated: June 13, 1983

Jim Nichols
 Jim Nichols
 Commissioner of Agriculture

Approved: Commissioner of Finance

by *Allen A. Young*Date 6-15-83

STATE OF MINNESOTA
 DEPARTMENT OF STATE
 FILED
 JUN 15 1983
Joel Anderson Howe
 Secretary of State



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90 West Plato Boulevard, St. Paul, Minnesota 55107

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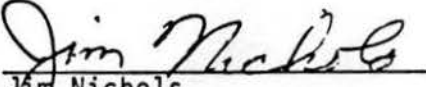
ORDER FOR ADJUSTMENT OF FEES

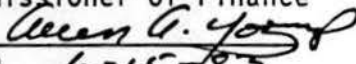
Pursuant to the authority vested in me under Minnesota Statutes 32.394, Subd. 8 and 8b as amended by Laws of Minnesota for 1983, Chapter 300, Section 20, I hereby find the need to set fees and hereby order that the fees be set for a farm certification inspection for the production of other than Grade A milk. These fees are effective on or after June 15, 1983, and are payable by the processor requesting this inspection to the Commissioner of Agriculture.

SCHEDULE OF FEES

<u>Fee Description</u>	<u>Fee</u>
Farm Certification Inspection Fee for other than Grade A	\$ 25.00

Dated: June 13, 1983


Jim Nichols
Commissioner of Agriculture

Approved: Commissioner of Finance
by 
Date 6-15-83

STATE OF MINNESOTA
DEPARTMENT OF STATE
FILED
JUN 15 1983

Secretary of State