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Department : Agriculture

STATE OF MINNESOTA
Office Memorandum

Date : November 29, 1995

To : Maryanne Hruby, Director
LCRAR

From : Carol Milligan *CM*
Agriculture Planning Division

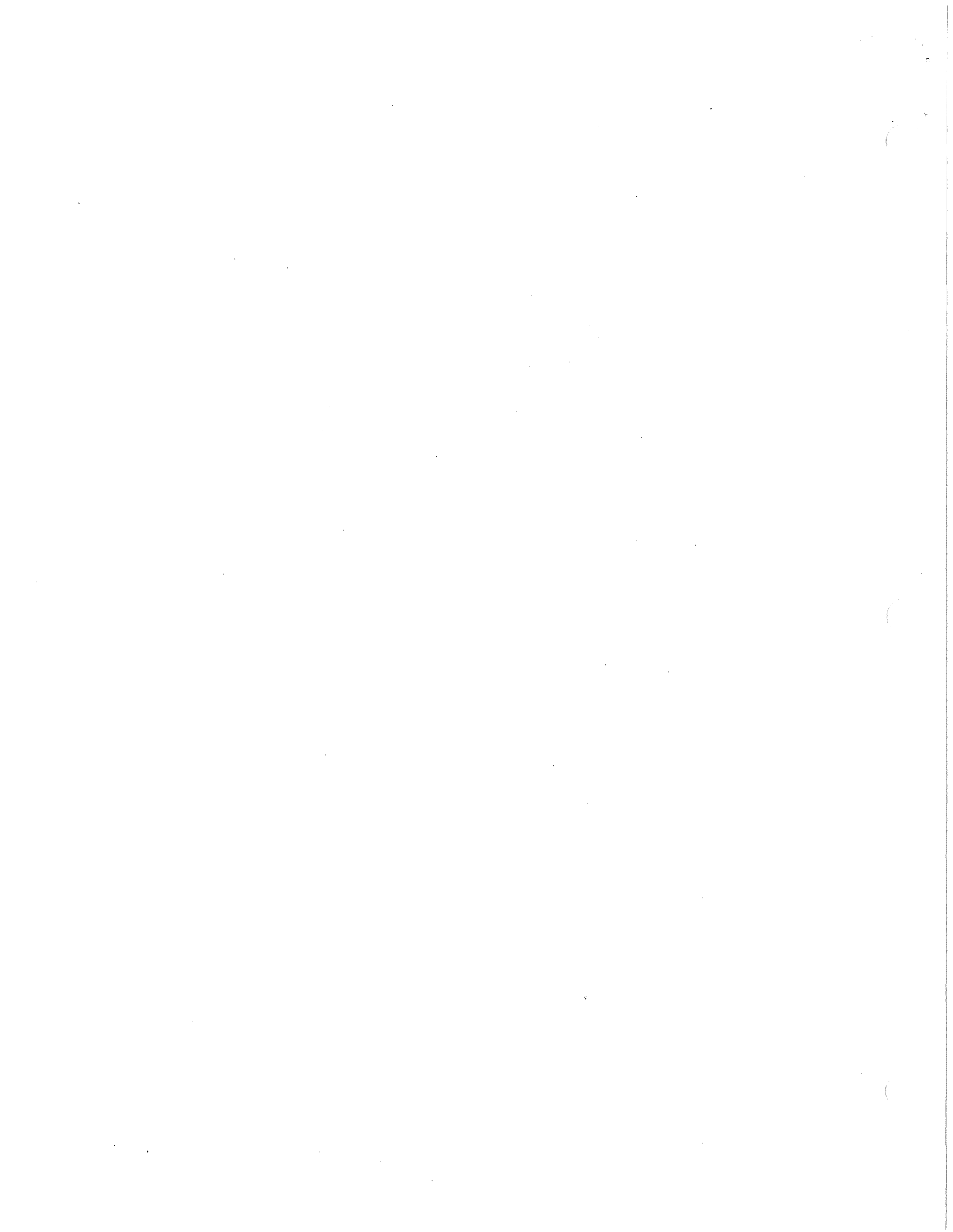
Phone : 296-6906

Subject : **Submittal of Statement of Need and Reasonableness**

As required by Minnesota Statutes, sections 14.131 and 14.23, attached is the Statement of Need and Reasonableness for rules governing general storage warehouse bonds. The Notice of Intent to Adopt Rules and the rules will be published in the *State Register* on 12/18/95.

Please call me if you have any questions.

Attachment



**STATE OF MINNESOTA
DEPARTMENT OF AGRICULTURE**

IN THE MATTER OF PROPOSED RULES OF THE)	
DEPARTMENT OF AGRICULTURE GOVERNING)	STATEMENT OF NEED
GENERAL MERCHANDISE STORAGE WAREHOUSE)	AND REASONABLENESS
BONDS MINNESOTA RULES, PART 1560.8800)	

I. INTRODUCTION

The subject of this rule making is the adoption of proposed rules by the Minnesota Department of Agriculture (MDA) governing the setting of bond limits for warehouses other than grain and cold storage. Minnesota Statutes, section 231.17, authorize MDA to promulgate rules necessary to set bonding limits for general merchandise storage warehouses.

The department has directed that the rule making proceedings be conducted in accordance with statutory provisions governing the adoption of noncontroversial rules, Minnesota Statutes, section 14.22 to 14.28. Accordingly, the rule making proceedings on the proposed rules are governed by the statute and no hearing will be conducted on the proposed rule unless 25 or more persons submit to the department a written request for such a hearing. In accordance with the requirements of Minnesota Statutes, section 14.23, this Statement of Need and Reasonableness was completed prior to the date the proposed new rules were published in the State Register.

II. GENERAL OVERVIEW

The purpose of Minnesota Statutes, chapter 231, is to govern the activities of warehouses other than grain and cold storage warehouses. The statute protects users of these warehouses by providing oversight of the facilities used as warehouses and of the rates charged for services provided by operators of such warehouses. As a protection to depositors, the department requires that warehouses have surety bonds that protect depositors from losses arising from the actions of the warehouse operator.

Regulation of these warehouses was first the province of the Railroad and Warehouse Commission, then the Public Service Commission and, now, the Department of Agriculture. Statutory language was first enacted in 1915, with subsequent revisions occurring in 1925, 1927, 1939, 1941, 1943 1947, 1971, 1973, 1975, 1981, 1983, 1984, 1985,

1986 and 1993. Regulation of these warehouses was assumed by the Department of Agriculture in 1981.

Having warehouses licensed and regulated by the State allows for uniform application of regulations for warehouse companies operating in more than one city. This is a benefit for the industry.

M.S. 231 does not specify bond amount requirements for licensed warehouses, except to set a minimum amount. The Department was instructed by the legislature to write rules setting bond amounts. With the proposed revision of M.R., part 1560.8800, the Department will do so.

III. SMALL BUSINESS IMPACT OF PROPOSED RULES

The MDA has considered the impact of the proposed rules on small businesses as required by Minnesota Statutes, section 14.115, subdivision 1 and 2. Some of the businesses impacted by these proposed rules are small businesses. However, the rules would have no detrimental effects on these businesses as these rules would not add any new reporting requirements, deadlines, or performance standards. The rules would make the maintenance and the filing of a bond easier. The bond amounts would not necessarily change.

IV. COST TO PUBLIC BODIES STATEMENT

This rule will not result in the expenditure of public money by local public bodies.

V. NEED FOR AND REASONABLENESS FOR THE PROPOSED RULES

Part 1560.8800 Bonds

Subpart 1. Bonds are necessary, at general merchandise storage warehouses, in order to protect depositors of goods against losses that may occur due to the actions of the warehouse operator, losses that may not qualify for insurance reimbursement.

Subpart 2. Stating the duration of the bond is necessary to relieve warehouse operators from filing a new bond each license year.

The requirement of 90 days written notice before a bond is canceled is necessary to allow warehouse operators an opportunity to acquire replacement bonding before the lack of a bond would force the operator to cease operations.

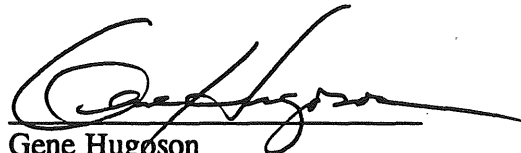
Subpart 3. Allowing the Department to accept other security in lieu of a bond is necessary because insurance companies offering bonding are often unwilling to write bonds for new operators or small scale operators. In addition, the bonding companies can require collateral equivalent to the bond amount before a bond is written.

Subpart 4. The required bond amount based on the warehouse operator's storage capacity is reasonable because a warehouse's potential for loss would increase with the volume of goods it can store. Since 1990, there have been relatively few losses that have resulted in claims being filed against General Merchandise Storage bonds, the largest of which did not exceed \$35,000 in a warehouse that exceeded 70,000 square feet in storage capacity.

At the same time, the current bonding levels provide no difference in the bonding required for a 5,000 square foot warehouse or for a warehouse that has a capacity exceeding 100,000 square feet.

As a majority of general merchandise storage warehouses licensed by the Department have a capacity of 10,000 square feet or less, the impact of this provision will have the most effect on multiple location warehouses that already file have bonds exceeding \$10,000.

11/28/85
Date


Gene Hugoson
Commissioner

