

STATE OF MINNESOTA

DEPARTMENT OF AGRICULTURE

In the Matter of the Proposed)
Rules of the Department of)
Agriculture Governing Agricultural)
Development Grants (Minnesota)
Rules 1552.0010 - 1552.0110)

STATEMENT OF
NEED AND
REASONABLENESS

I. INTRODUCTION

The subject of this rulemaking is the proposed adoption of permanent rules governing the administration of the Agricultural Development Grant Program. Minnesota Statutes, Section 17.101, Subd. 2 authorizes the Department to establish rules for the administration of the Agricultural Development Grant Program.

The Commissioner of Agriculture has determined that the proposed permanent rules would be non-controversial in nature based upon the following:

- (1) The successful administration of this program over the past year. Emergency rules were adopted in January, 1984, and the program was governed by those rules over the past year;
- (2) Public comments and reactions to the proposed emergency rules were favorable. An extensive consultation process was conducted with legislative staff, potential grantees and other applicable resource people during the drafting of the emergency rules. Following the drafting of the proposed emergency rules, an equally extensive review and comment process was conducted through mailings and public meetings;
- (3) The proposed rules are similar in nature and content to existing rules which govern other grant programs; and
- (4) The proposed permanent rules are similar to the emergency rules with the exceptions noted below.

The nature of the proposed rule-making is the adoption of permanent rules which largely contain the previously adopted emergency rules that have been in effect since January, 1984. However, the following new provisions were added:

First, projects that develop, expand, or promote private label, trademark products are ineligible for this program. Secondly, the criteria for approval section has been rewritten to provide a clearer statement upon which to weigh one application with another; and thirdly, a provision is added which requires that state assistance be acknowledged in all material published pursuant to an agricultural development grant.

The Statement of Need and Reasonableness was completed prior to publication of the Notice of Intent to Adopt Rules Without a Public Hearing in accordance with Minnesota Statutes, Section 14.23.

II. OVERVIEW

This program was authorized and funded by the Legislature in 1983 (Laws of Minnesota 1983, Chapter 293, Sections 5 and 29). Since this was a new program for the Department, emergency rules were adopted on January 23, 1984, to provide for the administration of this program for F.Y. 1984 and F.Y. 1985; the emergency rules were extended until January 18, 1985. Since the existing emergency rules cannot be extended again, it is necessary to adopt permanent rules to govern the continued administration of this program.

The purpose and intent of this program is to increase the sale of Minnesota agricultural products that are produced and/or processed by Minnesota agricultural firms - from farm operator to agribusiness firms. Minnesota

farmers depend heavily upon exports, with approximately one-third of all farm products going directly into export channels. A major determinant of farm income is Minnesota's ability to keep existing markets as well as expand its market share of both domestic and foreign markets.

The beneficiaries of the program will be these firms as well as the support and service business that are associated with Minnesota agriculture. Minnesota producers will benefit indirectly, but in substantial ways if the program is successful.

III. NEED FOR AND REASONABLENESS OF THE PROPOSED RULES

For the sake of brevity, the complete content of each of the rules will not appear here, but rather the number of each rule will be provided for reference.

1552.0010 PURPOSE AND AUTHORITY

This part is necessary and reasonable as a statement of purpose and authority to administer this program. The authority to promulgate these rules is contained in Laws of Minnesota for 1983, Chapter 293, Section 29, subd. 2 (MS 17.101, subd. 2)

1552.0020 DEFINITIONS

This part is necessary and reasonable for the administration of this program and to clarify terms used throughout the rule.

1552.0030 GENERAL TERMS AND CONDITIONS OF GRANTS

This part is necessary and reasonable to fulfill the requirements of the statute which directs the Commissioner to promulgate rules for the administration of grants and contracts.

Subparts 1 and 3 are specified in the statute which states, "Contracts entered into by the Commissioner pursuant to this subdivision shall not exceed 75 percent of the cost of the project supported by the Commissioner's grant. In any biennium, no organization shall receive more than \$70,000 in grants from the Commissioner."

Subparts 2 and 4 are necessary and reasonable to assist potential applicants in their planning and the Department to conduct an orderly program.

1552.0040 ELIGIBILITY OF PROJECTS AND APPLICANTS

This part is necessary and reasonable to fulfill the requirements of the statute which directs the Commissioner to establish rules governing eligibility criteria (M.S. 17.101, subd. 2). The department has established both project and applicant eligibility criteria.

Subpart 1 recites the statute which states, "...the Commissioner of Agriculture shall encourage and promote the marketing of these products by means of:

- (a) Advertising Minnesota agricultural products;
- (b) Assisting state agricultural commodity organizations;
- (c) Developing methods to increase processing and marketing of agricultural commodities including commodities not being produced in Minnesota on a commercial scale, but which may have economic potential in national and international markets.
- (d) Investigating and identifying new marketing technology and methods to enhance the competitive position of Minnesota agricultural products;
- (e) Evaluating livestock marketing opportunities;
- (f) Assessing and developing national and international markets for Minnesota agricultural products;
- (g) Studying the conversion of raw agricultural products to manufactured products including ethanol;
- (h) Hosting the visits of foreign trade teams to Minnesota and defraying the teams' expenses;
- (i) Assisting Minnesota agricultural businesses desiring to sell their products in national and international markets; and
- (j) Other activities the Commissioner deems appropriate to promote Minnesota agricultural products in national and international markets.

It is the department's judgement that these criteria are sufficient to define the types of projects for which the legislature wished the funds to be used.

Subpart 2 is necessary and reasonable to obtain the greatest public good from these program funds. This subpart is to prevent the use of public funds for purely private gain.

Subpart 3 is necessary and reasonable to obtain bona fide applicants. Since the statute limits state assistance to 75% of the total cost of a project, the grantee must be able to provide the 25% share that is required. It is also necessary that potential grantees demonstrate their ability to conduct the proposed project.

1552.0050 APPLICATION PROCEDURES

The statute directs the Commissioner to establish application procedures (M.S. 17.101, subd. 2). The four subparts are necessary and reasonable to assist potential applicants to define what they plan to do, how they are going to achieve their objectives, identify the type and amount of resources necessary to achieve their objectives, and to specify the expected results and beneficiaries of the project. Without the required information, the department cannot make an informed decision on the proposals it receives.

These subparts are also necessary and reasonable requirements to provide the Department with an objective basis upon which to weigh one application with another to obtain the greatest public good from the use of these public funds.

1552.0060 APPLICATION REVIEW; APPROVAL; AND NOTIFICATION

Subpart 1 is necessary and reasonable to provide for the use of an Advisory Committee, which is provided for in the statute which states, "The Commissioner may establish an ad hoc advisory group to assist him in evaluating grant requests made pursuant to subdivision 2."

Subpart 2 is necessary and reasonable to fulfill the requirements of the statute which states, ".....the Commissioner shall make.....(c) Provision for application review....." Since funds appropriated for this program are limited it is also necessary and reasonable to weigh and compare all grant applications, one with another, to attempt to achieve the greatest public benefit from these limited funds.

Subpart 3 is necessary and reasonable to fulfill the requirements of the statute which states, ".....the Commissioner shall make.....(c) Provisions for.....project approval." The criteria for approval provides an objective, analytical standard, or foundation upon which to base the approval of a grant application.

Subpart 4 is necessary and reasonable to inform each application of the results of the Commissioner's review and decision.

Over the past two years, the Department has received nearly 100 applications requesting nearly \$4.0 million in funding assistance. This is four times the current budget, hence the need of having an objective analytical basis upon which to evaluate each application.

1552.0070 GRANT ADMINISTRATION

M.S. 17.101, subd. 2, directs the Commissioner to promulgate rules governing the administration of "grants and contracts." These subparts are necessary and reasonable to provide a mechanism to accomplish the objectives of the applicants awarded grants.

Subpart 1 is necessary and reasonable to fulfill the requirements of the statute which state that, "the Commissioner.....may enter into contracts to carry out those programs and projects." This provision states the terms under which the grantee and Department can accomplish the objectives of the grantees' project.

Subpart 2 is necessary and reasonable to require the grantee to promptly return the signed contract.

Subpart 3 is necessary and reasonable to prevent the expenditure of public funds prior to the execution of a contract, thereby protecting both the grantee and the Department.

Subpart 4 is necessary and reasonable to fulfill the requirements of the Statute which states, "the contracts may not include the acquisition of land or buildings....." It is equally necessary and reasonable to state clearly what the grant funds may be used for in order to assist the grantee in the formulation of his project budget.

1552.0080 EXTENSIONS

This part is necessary and reasonable as a contingency to allow the grantee additional time to successfully complete the grant project.

1552.0090 MONITORING AND REVIEW

Subpart 1 is required by statute which states, "The books, records, documents and accounting procedures and practices of any organization receiving a grant from the Commissioner under the provisions of subdivision 2 shall be subject to examination by the Department. The Commissioner may prescribe uniform methods of accounting to be used by grant recipients."

Subpart 2 is necessary and reasonable to document progress that is accomplished during the life of the contract and to provide an incentive to the grantee to maintain the schedule of work tasks specified in the project statements.

Subpart 3 is necessary and reasonable to ensure that grant funds are being expended for the purposes of the grant and to determine the progress that is being made to accomplish project objectives.

Subpart 4 is necessary and reasonable to provide authority to take action to protect the public interest in the use of grant funds.

Subpart 5 is necessary and reasonable to assess the accomplishments of this grant and to provide for a final accounting of these funds.

1552.0100 TERMINATION OF CONTRACT

This part is necessary and reasonable to provide for the means to bring a completed project to an end and to make provisions for any unexpended funds.

1552.0110 MISREPRESENTATION BY APPLICANT OR GRANTEE

This part is necessary and reasonable to provide authority to take action to protect public interest in the use of these funds.

IV. SMALL BUSINESS IMPACT

Minnesota Statutes, Section 14.115, requires that the impact on small business be addressed concerning the proposed Minnesota Rules 1552.0010-1552.0110.

Small business was notified of the proposed rule and the probable impact of the rule in the Notice of Intent to Adopt Rules Without a Public Hearing, published in the State Register on December 24, 1984.

Statement of Need
Ag Development Grant Rules
01/09/85
Page Eight

The impact will be positive and beneficial. The intent of this program is to increase the sale of Minnesota agricultural products that are produced and/or processed by Minnesota agricultural firms - from farm operators to agribusiness firms. The impact of increased sales will be felt throughout the economy of Minnesota.