

August 30, 1999

Carol Milligan
Commissioner's Office
Department of Agriculture
90 West Plato Boulevard
St. Paul, Minnesota 55107

RE: Review of Adopted Permanent Rules of the Department of Agriculture Relating to Seed Potatoes and Repeal of Rules Relating to Food Packaging and Labeling, Cold Storage Warehouses, Food Definitions, and Standards, Minn. R. Ch. 1555. OAH Docket No. 77-0400-12487-1

Dear Ms. Milligan:

This is to inform you that the above-referenced rule has been approved as to legality on August 30, 1999. The approval for legality includes a finding of harmless error for two procedural errors. The agency's SONAR is dated on the same day as the Notice of Intent to Adopt Rules Without a Hearing. Pursuant to Minn. R. 1400.2070, subp. 3, the SONAR must be prepared before the agency orders publication of its notice. Also, the Department did not include in its SONAR a list of witnesses and a summary of their testimony pursuant to Minn. R. 1400.2070, subp. 1, item C. Including a list of potential witnesses is required regardless of the type of notice that is published. The administrative law judge has determined that the above omissions did not deprive any person or entity of an opportunity to participate meaningfully in the rulemaking process and this constitutes harmless error under Minn. Stat. § 14.26 (3)(d)(1).

With the approval of the adoption of the rule, our office has closed this file and is returning the rule record to you so that your agency can maintain the official rulemaking record in this matter as required by Minn. Stat. § 14.365. Our office will file three copies of the adopted rule with the Secretary of State, who will forward one copy to the Revisor of Statutes and one copy to the Governor. You will then receive from the Revisor's Office three copies of the Notice of Adoption of your rule.

Your next step is to arrange for publication of the Notice of Adoption in the State Register. You should submit two copies of the Notice of Adoption that you received from the Revisor's Office to the State Register for publication. A permanent rule without

Page 2 of 2
Carol Milligan
August 30, 1999

a hearing does not become effective until five working days after a Notice of Adoption is published in the State Register in accordance with Minn. Stat. § 14.27.

If you have any questions regarding this matter, please contact Catherine Anderson at 612/341-7666.

Sincerely,

BRUCE H. JOHNSON
Administrative Law Judge
612/341-7607

Enclosures

cc: Office of the Attorney General
Legislative Coordinating Commission
Revisor of Statutes