

Minnesota Attorney General: Administrative Rules Proceedings

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Version 3
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STATE OF MINNESOTA

COUNTY OF HENNEPIN

BEFORE THE MINNESOTA COMMISSIONER OF HEALTH AND THE MINNESOTA WATER AND WASTEWATER OPERATORS CERTIFICATION COUNCIL

In the Matter of Proposed Amendments to Rules Relating to Fees for Journeyman Plumbers and for Water and Wastewater Treatment Plant Operators

JUSTIFICATION

The commissioner of health proposes to amend Minn. Rule MHD 139(c) by increasing the licensing and annual renewal fees for journeyman plumbers from $8.00 to $15.00. The change is proposed to take effect as soon as possible.

The authority of the commissioner to increase these fees is contained in the following statutes:

> 1) "The commissioner of health, by rule...may prescribe reasonable procedures and fees...as prescribed by statute and for the issuance of original and renewal permits, licenses, registrations and certifications issued under his authority...All fees proposed...shall be reasonable. The fees shall be in an amount so that the total fees collected by the commissioner will, where practical, approximate the cost to the commissioner in administering the program." Minn. Stat. § 144.122(1976) as amended by Laws 1977, Chap. 305 § 45.
>
> 2) "The fees fixed for the various accounts for which appropriations are made by law, shall be neither increased nor decreased except with the approval of the commissioner of finance. All such fees shall be reviewed at least once each six months, and such adjustments shall be made to the end that the total fees received shall approximate the amount appropriated for the several funds." Minn. Stats. § 16A.128(1976).

There is a separate allocation made in the Minnesota Department of Health appropriation for operation of the plumbing unit. The above quoted statutes establish the general authority by which fees may be increased. There is even more specific authority for the commissioner of health to increase plumbers' fees which is found in the following:

> "License fees shall be in an amount prescribed by the commissioner of health pursuant to § 144.122." Minn. Stats. § 326.42(1976) as amended by Laws 1977, Chap. 305 § 45.

A departmental review of the costs of administering the plumbers' licensing program has revealed the following information:

Fiscal Year 1978

Estimated annual expenditures		$126,571.00
Estimated annual receipts		
1,918 master plumbers @ $40 per year	$ 76,720.00	
3,476 journeyman plumbers @ $8 per year	$ 27,808.00	
Examination fees @ $25 and late fees	+ $ 10,000.00	
		$114,528.00
Estimated annual deficiency		$ 12,043.00

These figures demonstrate that there is a need to increase the revenue coming from the plumbers' licensing program.

The increase which is proposed would apply to licensing and renewal fees for journeyman plumbers only, for the following reasons:

1) The present examination fee is $25.00. The fee would have to be doubled in order to produce income sufficient to eliminate the existing deficiency. Such a doubling did not seem to be justified in view of the fact that in comparison to all the other fees imposed, that for journeyman plumbers was, in proportion, so much lower than the examination fee;

2) If we assume that the issuance of a license and the annual renewal therefor take a similar amount of time, whether the license is for a journeyman or a master plumber, then there is good reason to make the fees for the two types of license more comparable. Further, under the existing fee schedule 3,476 journeyman licensees make up 64% of all the licensed plumbers, yet they contribute only 27% of the revenue generated by the licensing portion of the program. It is generally known that the average salary of journeyman plumbers is certainly more than one-fifth of the salary paid to master plumbers, yet the existing fee schedule requires that journeyman plumbers pay a license fee which is only one-fifth of that paid by the master plumbers.

If the proposed increase takes effect, the revenue generated therefrom will increase the journeyman's share of the unit's receipts from 27% to 40%. This increased share would more closely match the 60% proportion of journeymen to the total number of licensed plumbers.

The proposed increase would provide additional estimated annual revenues of $24,332 which would clearly offset the existing $12,043 deficiency. In addition, the increased revenue would provide a "cushion" of a little less than 10% of the estimated annual revenue to cover increases in costs of administration which are very likely to occur during the next few years. Further, since the number of persons taking the examination has been gradually declining each year, the revenue derived from this source will decrease in the future. The amounts noted above do not reflect this possible decline in revenue.

Because the legislature requires that licensing fees provide revenue sufficient to cover the costs of administering a licensing program and because the plumbers' licensing unit is currently operating at a deficit, an increase in certain license fees for plumbers is necessary. Because journeyman plumbers pay license fees which are disproportionately small when compared to those paid by master plumbers while the licensing of journeymen demands a disproportionately large amount of the unit's administrative resources, imposing the increase on journeyman plumbers is only reasonable. The amount of the proposed increase is also reasonable because it will offset the existing deficiencies and hopefully will preclude the need to seek another increase in the 1980-1981 biennium.

STATE OF MINNESOTA

COUNTY OF HENNEPIN

BEFORE THE MINNESOTA COMMISSIONER OF HEALTH AND THE MINNESOTA WATER AND WASTEWATER OPERATORS CERTIFICATION COUNCIL

In the Matter of Proposed Amendments to Rules Relating to Fees for Journeyman Plumbers and for Water and Wastewater Treatment Plant Operators

STATEMENT OF NEED

The above-captioned rules are amendments to the rule of the commissioner of health, MHD 139(c), and to that of the Council of Water and Wastewater Operators Certification, WWOB-1(i).

Minn. Stats. § 144.122, 326.42 and 16A.128(1976) require that the commissioner of health set license fees which approximate the cost of administering the plumbers' licensing program. The revenue generated pursuant to the existing fee schedule is considerably less than the current cost of administering the plumbers' licensing program. Therefore an increase in the plumbers' fees prescribed in MHD 139(c) is necessary and MHD 139(c) must be amended to that effect.

Minn. Stats. § 115.77 and 16A.128 (1976) require that the council establish certification fees which are related to the actual cost of the certification program. The costs of administering the certification program far exceed the revenue generated under the fee schedule prescribed in WWOB-1(i). As a result the certification fees are no longer related to the costs of the program. Therefore an increase in the fees for water and wastewater operators certification is necessary and WWOB-1(i) must be amended to that effect.

STATE OF MINNESOTA

COUNTY OF HENNEPIN

In the Matter of Proposed Amendments to Rules Relating to Fees for Journeyman Plumbers and for Water and Wastewater Treatment Plant Operators	* * * * * * *	AFFIDAVIT OF MAILING

Carol H. Egan, being first duly sworn, deposes and says:

That on the 27th day of September, 1977, at the City of Minneapolis, County of Hennepin, State of Minnesota, she served the attached Notice of Hearing by depositing in the United States mail at said City of Minneapolis, a true and correct copy thereof, properly enveloped, with postage prepaid, to all persons and associations at the addresses listed on the Certificate of the Secretary of State attached and made a part hereof as Exhibit A, to all persons and associations at the addresses listed on Exhibit B, attached and made a part hereof, as well as to all members of the Minnesota Legislature as of the date of mailing.

Carol H. Egan

CAROL H. EGAN

Subscribed and sworn to before me

this 28 day of SEPT., 1977.

Christine A. Kuletska

RAMSEY CO., MINNESOTA

My Commission Expires Nov. 4, 1978.

STATE OF MINNESOTA

COUNTY OF HENNEPIN

BEFORE THE MINNESOTA
COMMISSIONER OF HEALTH AND
THE MINNESOTA WATER AND
WASTEWATER OPERATORS
CERTIFICATION COUNCIL

In the Matter of Proposed *
Amendments to Rules Relating *
to Fees for Journeyman *
Plumbers and for Water and *
Wastewater Treatment Plant *
Operators *

CERTIFICATE

I hereby certify that the 492 general labels and 17 page list for the Minnesota State Department of Health and the Minnesota Pollution Control Agency, all of which are attached and made a part hereof, constitute the complete lists of persons, associations, and other interested groups who as of 10:30 o'clock A.m., this 26th day of September, 1977, have requested pursuant to Minn. Stat. § 15.0412 subd. 4 (1976), that their names be placed on file with the Secretary of State for the purpose of receiving notice of public hearing on proposed rules and amendments thereto on the subject captioned above.

SECRETARY OF STATE

JOAN ANDERSON GROWE

Joan Anderson Growe

By Cheri L. Mattson

STATE OF MINNESOTA

COUNTY OF HENNEPIN

BEFORE THE MINNESOTA COMMISSIONER OF HEALTH AND THE MINNESOTA WATER AND WASTEWATER OPERATORS CERTIFICATION COUNCIL

In the Matter of Proposed Amendments to Rules Relating to Fees for Journeyman Plumbers and for Water and Wastewater Treatment Plant Operators

AFFIDAVIT OF RECEIPT OF THE SECRETARY OF STATE'S LIST

Carol H. Egan, being duly sworn upon oath, deposes and says:

1. That she is an employee of the Minnesota Department of Health.

2. That on the 26th day of September, 1977, she called the Minnesota Secretary of State's office and requested a current list of all representatives of associations or other interested groups or persons who had registered their names with the Secretary of State for the purpose of obtaining notices of public hearings relating to the promulgation of rules or amendments thereto pursuant to Minn. Stat. § 15.0412 subd. 4 (1976).

3. That on the 26th day of September, 1977, in response to the above request, the Secretary of State provided her with such a list, a photocopy of which is attached hereto and incorporated by reference.

Further affiant sayeth not.

Carol H. Egan

Subscribed and sworn to before me
this 26 day of September, 1977.

Louise K. Kaniuk

LOUISE K. KANIUK
NOTARY PUBLIC-MINNESOTA
HENNEPIN COUNTY
My Comm. Expires Nov. 22, 1984

STATE OF MINNESOTA

COUNTY OF HENNEPIN

BEFORE THE MINNESOTA COMMISSIONER OF HEALTH AND THE MINNESOTA WATER AND WASTEWATER OPERATORS CERTIFICATION COUNCIL

In the Matter of Proposed Amendments to Rules Relating to Fees for Journeyman Plumbers and for Water and Wastewater Treatment Plant Operators

NOTICE OF HEARING

Notice is hereby given that a public hearing in the above-entitled matter will be held pursuant to Minn. Stat. § 15.0412 subd. 4 (1976), in the Board Room, Minnesota Department of Health Building, 717 Delaware Street Southeast, Minneapolis, Minnesota, on Monday, October 31, 1977, commencing at 9:00 a.m.

All interested or affected persons will have an opportunity to participate concerning the adoption of the proposed Amendments to Minn. Rule MHD 139 and WWOB-1(i) captioned above. Statements may be made orally and written material may be submitted. In addition, whether or not an appearance is made at the hearing, written statements or material may be submitted by mail to Steve M. Mihalchik, Hearing Examiner, at Room 300, 1745 University Avenue, Saint Paul, Minnesota 55104, telephone 612/296-8112, either before the hearing or within five (5) days after the close of the hearing. All such statements will be entered into and become part of the record. Testimony or other evidence to be submitted for consideration should be pertinent to the matter at hand. For those wishing to submit written statements or exhibits, it is requested that at least three (3) copies be furnished. In addition, it is suggested, to save time and avoid duplication, that those persons, organizations, or associations having a common viewpoint or interest in these proceedings join together where possible and present a single statement in

behalf of such interests. The conduct of the hearing shall be governed by the rules of the Office of Hearing Examiners.

If adopted, the proposed amendments would impose increased fees for the following:

	Present Fee	Increased Fee
Journeyman Plumbers:	$ 8.00	$15.00
Water and Wastewater Operators:		
Application for examination	$ 5.00	$15.00
Issuance of certificate	$ 5.00	$15.00
Re-examination resulting from failure to pass an examination	$ 5.00	$15.00
Renewal of certificate	$ 5.00	$15.00
Re-instatement or reciprocity certificate	$10.00	$20.00

Copies of the proposed amendments are now available and at least one free copy may be obtained by writing to the Commissioner of Health, 717 Delaware Street Southeast, Minneapolis, Minnesota 55440. Additional copies will be available at the door on the date of the hearing.

A Statement of Need explaining the position of the Commissioner of Health relative to the necessity for the proposed amendments and a Statement of Evidence outlining the testimony and evidence which will be introduced by the Commissioner in support of the proposed amendments will be filed with the Hearing Examiner's Office at least twenty-five (25) days prior to the hearing and will be available for public inspection. The statutory authority of the Commissioner of Health to promulgate and adopt these rules is contained in Minn. Stats. § 144.122 (1976), and that of the Water and Wastewater

Operators Certification Council is contained in Minn. Stats. § 115.77 subd. 1 (1976).

In addition, please be advised that Minn. Stat. ch. 10A requires each lobbyist to register with the State Ethical Practices Board within five (5) days after he commences lobbying. Lobbying includes attempting to influence rule making by communicating or urging others to communicate with public officials. A lobbyist is generally any individual who spends more than $250 per year for lobbying or any individual who is engaged for pay or authorized to spend money by another individual or association and who spends more than $250 a year or five (5) hours per month for lobbying. The statute provides certain exceptions. Questions should be directed to the Ethical Practices Board, 41 State Office Building, Saint Paul, Minnesota 55155, telephone 612/296-5615.

Dated: September 2, 1977

STATE OF MINNESOTA
WATER AND WASTEWATER OPERATORS
CERTIFICATION COUNCIL

PAUL B. JOHNSON
Secretary

STATE OF MINNESOTA

WARREN R. LAWSON, M.D.
Commissioner of Health

STATE OF MINNESOTA

COUNTY OF HENNEPIN

BEFORE THE MINNESOTA COMMISSIONER OF HEALTH AND THE MINNESOTA WATER AND WASTEWATER OPERATORS CERTIFICATION COUNCIL

In the Matter of Proposed Amendments to Rules Relating to Fees for Journeyman Plumbers and for Water and Wastewater Plant Operators *

ORDER FOR HEARING

To effectively implement Minn. Stat. § 144.122 and § 115.77 (1976), the Commissioner of Health and the Water and Wastewater Operators Certification Council deem it necessary to consider adoption of the proposed amendments to Minn. Rule MHD 139 and WWOB-1(i) captioned above pursuant to the authority vested in them by Minn. Stat. § 144.122 and § 115.77 (1976).

NOW, THEREFORE, IT IS ORDERED this 2nd day of September, 19 77, that a public hearing on the proposed rules captioned above be held in the Board Room, Minnesota Department of Health Building, 717 Delaware Street S.E., Minneapolis, Minnesota, on October 31, 19 77, commencing at 9:00 a.m., and continuing until all persons or representatives of associations or other interested groups have had an opportunity to be heard.

IT IS FURTHER ORDERED, that notice of said hearing be published in the State Register and be given to all persons or representatives of associations or other interested groups who have registered their names with the Secretary of State for that purpose and to all persons who are presently members of the Minnesota Legislature.

STATE OF MINNESOTA

WARREN R. LAWSON, M.D.
Commissioner of Health

STATE OF MINNESOTA
WATER AND WASTEWATER OPERATORS
CERTIFICATION COUNCIL

PAUL B. JOHNSON
Secretary

STATE OF MINNESOTA

COUNTY OF HENNEPIN

BEFORE THE MINNESOTA
COMMISSIONER OF HEALTH

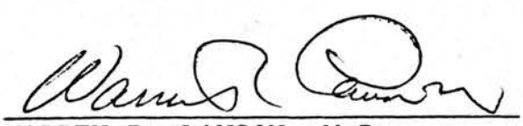
In the Matter of Proposed Amendments to Rules Relating to Fees for Journeyman Plumbers

FINDINGS AND CONCLUSIONS

The above-entitled matter came on for hearing before me on the 31st day of October, 1977 at 9:00 a.m. in the Board Room of the Minnesota Department of Health building, after proper notice as required by Minn. Stats. § 15.0412 Subd. 4 (1976) had been served upon all persons, associations and other interested groups registered with the Secretary of State for that purpose.

After affording interested persons an opportunity to present written and oral data, statements and arguments, having heard all of the testimony, having considered all of the evidence adduced and upon the records, files and proceedings herein, and applicable statutory standards and criteria, and having confirmed the need for the above-captioned amendments, I hereby adopt as my own the Findings and Conclusions contained in the report submitted by the Hearing Examiner, on December 6, 1977 , a copy of which is attached hereto and made a part hereof.

STATE OF MINNESOTA



WARREN R. LAWSON, M.D.
Commissioner of Health

Dated:
December 13, 1977

STATE OF MINNESOTA
OFFICE OF HEARING EXAMINERS

FOR THE MINNESOTA COMMISSIONER OF HEALTH

In the Matter of Proposed Amendments to Rules Relating to Fees for Journeyman Plumbers	* * * *	REPORT OF THE CHIEF HEARING EXAMINER

WHEREAS, a hearing was held on October 31, 1977 before Steve M. Mihalchik, a Hearing Examiner of the State Office of Hearing Examiners, on the above-entitled matter in compliance with Minn. Stat. § 15.0412 subd. 4; and

WHEREAS, the Report of Hearing Examiner made pursuant to Minn. Stat. § 15.052 subd. 3 was issued to the Commissioner of Health on December 6,1977; and

WHEREAS, the Commissioner of Health has now determined to adopt rules pursuant to Minn. Stat. § 15.0412 subd. 4; and

WHEREAS, the Commissioner of Health has submitted said rules to the Chief Hearing Examiner for review pursuant to Minn. Stat. § 15.052 subd. 4 and Rule HE 107;

WHEREAS, the Chief Hearing Examiner finds that there are no substantial changes in said rules as originally proposed:

NOW, THEREFORE, upon receipt of this Report, the Commissioner of Health has the responsibility of submitting the complete hearing record and the rules as adopted by him to the Attorney General and to publish in the State Register, all pursuant to Minn. Stat. § 15.0412 subd. 4.

Dated this 13th day of December, 1977.

DUANE R. HARVES
Chief Hearing Examiner

STATE OF MINNESOTA
COUNTY OF HENNEPIN

BEFORE THE MINNESOTA
COMMISSIONER OF HEALTH

In the Matter of Proposed Amendments to Rules Relating to Fees for Journeyman Plumbers

STATEMENT OF COMPLIANCE WITH MANUAL OF RULE MAKING PROCEDURES

I, Special Assistant Attorney General William G. Miller, do hereby declare that I have examined the above-referenced rules and all related documents thereto, and that, based upon them and my personal familiarity with the applicable procedures, the Manual of Rule Making Procedures and the provisions of the Administrative Procedure Act related thereto have been followed.

Dated: December 13, 1977

WILLIAM G. MILLER
Special Assistant
Attorney General

STATE OF MINNESOTA

COUNTY OF HENNEPIN

BEFORE THE MINNESOTA
COMMISSIONER OF HEALTH

In the Matter of Proposed Amendments to Rules Relating to Fees for Journeyman Plumbers

ORDER ADOPTING AMENDMENTS

The above-entitled matter came on for hearing before me on the 31st day of October, 1977 at 9:00 a.m. in the Board Room of the Minnesota Department of Health building, after proper notice as required by Minn. Stats. § 15.0412 Subd. 4 (1976) had been served upon all persons, associations and other interested groups registered with the Secretary of State for that purpose.

After affording interested persons an opportunity to present written and oral data, statements and arguments, having heard all of the testimony, having considered all of the evidence adduced and upon the records, files and proceedings herein, and applicable statutory standards and criteria, and having confirmed the need for the above-captioned amendments,

NOW, THEREFORE, IT IS ORDERED that the Minnesota Rule 139(c) be amended to read as follows:

> "Any applicant who receives a passing grade on the examination may submit an application for license on forms provided by the State Board of Health. The application shall be accompanied by a fee of $15.00 for a journeyman plumbers license or $40.00 for a master plumbers license."

this 13th day of December, 1977, pursuant to authority vested in me by Minn. Stats. § 326.42 (1976) as amended by Laws 1977, Chap. 305 § 45.

STATE OF MINNESOTA

Warren R. Lawson

WARREN R. LAWSON, M.D.
Commissioner of Health